



March 4, 2025

VIA E-MAIL - environmentalclaims-declarationsenvironnementales@cb-bc.gc.ca

Deceptive marketing practices Directorate
Competition Bureau
50 Victoria Street
Gatineau, Quebec
K1A 0C9

**Re: Public consultation on the Competition Bureau's proposed guidance:
*Environmental Claims and the Competition Act***

OVERVIEW

The Portfolio Management Association of Canada (**PMAC**) is pleased to have the opportunity to submit the following comments regarding the Public consultation on the Competition Bureau's (**Bureau**) proposed guidance: *Environmental Claims and the Competition Act* (**Guidance**).

PMAC represents over 320 investment management firms registered to do business in Canada as portfolio managers (**PMs**) with members of the [Canadian Securities Administrators](#) (**CSA**). In addition to this primary registration, most of our members are also registered as investment fund managers (**IFMs**) and/or exempt market dealers (**EMDs**). PMAC's members encompass both large and small firms managing total assets in excess of \$3.5 trillion for institutional and private client portfolios.

Some of our member firms manage mutual funds or pooled products offered in Canada to retail and institutional investors, and others manage separately managed accounts on behalf of high-net-worth individuals and families, or institutional clients such as pension plans and foundations. PMAC's members include asset managers that operate globally under a plurality of other legal and regulatory requirements, and firms that operate solely within Canada. Many of our members are members and signatories to environmental, social and governance (**ESG**) related organizations, frameworks and commitments, and integrate ESG into their investment decision-making processes.

PMAC's mission statement is "advancing standards". We are consistently supportive of measures that increase investor protection and meaningfully contribute to investor understanding and transparency.

BACKGROUND

In [our September 27, 2024 response to the public consultation](#) on the *Competition Act* greenwashing provisions, we explained that our member firms are subject to regulation by members the CSA. Registered firms and individuals owe a statutory obligation to exercise their duties honestly and in good faith and in the best interests of their clients, or, as applicable, the funds they manage.¹ In addition to this statutory standard of care, registrants are subject to other requirements under provincial securities legislation and regulations, including [National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations](#) (**NI 31-103**).

In our September 2024 letter, we indicated our support for the Bureau's goals of reducing greenwashing in the commercial sphere but noted the significant challenges the *Competition Act* greenwashing provisions represent for the investment sector. We urged the Bureau to create a carve-out for disclosures that are overseen by the CSA and global entities that supervise voluntary disclosure frameworks.

Our key concern is that the *Competition Act* requirements will have unintended consequences, including limiting the quality of disclosures that corporate and other issuers provide to investors with respect to sustainability metrics and goals, for fear of legal and regulatory repercussions. This disclosure is essential for asset managers to make informed investment decisions, and in some cases is required by provincial securities laws, regulation and guidance.

We recommended that where environmental disclosures are mandated, discussed, negotiated or governed by another regulator or governing body in Canada or in another country, such disclosures should be exempt from competition law liability. The Bureau should defer the assessment of such disclosures to those regulators or governing bodies that oversee them.

COMMENTS ON THE PROPOSED GUIDANCE

We have had the opportunity to review the [response to the public consultation](#) on the Guidance provided by the Canadian Coalition for Good Governance (**CCGG**) dated February 27, 2025. We agree with the comments provided in the letter and endorse all of the CCGG's recommendations therein. In addition to our September 2024 letter and the CCGG's response to the Bureau's guidance, we reiterate two of our previous comments below

¹ *Securities Act* (Ontario), R.S.O. 1990, c. S.5, [s. 116](#):

Standard of care, investment fund managers

116 Every investment fund manager,

- (a) shall exercise the powers and discharge the duties of their office honestly, in good faith and in the best interests of the investment fund; and
- (b) shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

See also [section 159.3](#) of the Québec Act; [section 125](#) of the B.C. Act; [subsection 75.2\(3\)](#) of the Alberta Act; subsection 33.1(2) of the [Saskatchewan Act](#); [subsection 154.2\(1\)](#) of the Manitoba Act; [subsection 26.2\(3\)](#) of the Newfoundland Act; subsection 90(1) of the [P.E.I. Act](#); subsection 39A(3) of the [N.S. Act](#); subsection 54(3) of the [N.B. Act](#); subsection 90(2) of the [Yukon Act](#), [N.W.T. Act](#) and [Nunavut Act](#).

regarding the scope of representations and the interpretation of the term “internationally recognized methodology”.

Scope of representations

The Guidance appears to provide a limited exception for representations made in the regulatory context (“to investors and shareholders in the context of securities filings”, for example). This clarification is appreciated, but we remain concerned that promotional communications, which are under the supervisory authority of members of the CSA, may still be the subject of scrutiny under the *Competition Act*, which represents a regulatory risk for corporations and investment funds that may lead to green hushing.

Internationally recognized methodology

We previously expressed concern with the term “internationally recognized methodology” and urged the Bureau to take a principles-based approach in its interpretation. In our view, the Guidance does not provide clarity about the application of this requirement and may cause further confusion. We urge the Bureau to reconsider its approach to internationally recognized methodologies and to consult further with stakeholders on how best to interpret this requirement.

CONCLUSION

While we appreciate the Bureau’s attempt to qualify the scope of the *Competition Act* greenwashing provisions in the Guidance, we do not believe the Guidance goes far enough and believe this may lead to unintended consequences such as green hushing. We do not believe the Guidance with respect to the term “internationally recognized methodology” provides necessary clarity or certainty, and urge the Bureau to further consult with stakeholders on this issue. We agree with all of the recommendations in the CCGG response letter dated February 27, 2025, and urge the Bureau to adopt these recommendations.

If you have any questions regarding the comments set out above, please do not hesitate to contact Katie Walmsley at (416) 504-7018 or Victoria Paris at (416) 802-4347.

Yours truly,

PORTFOLIO MANAGEMENT ASSOCIATION OF CANADA

“Katie Walmsley”

Katie Walmsley

President

“Warren M. Rudick”

Warren M. Rudick

Chair, PMAC Industry, Regulation and Tax Committee

VP & Chief Counsel, Wealth and Asset Management Canada, & Global Chief Counsel, Distribution Law

Manulife Investment Management