

# Transparency and integrity of Environmental, Social and Governance (ESG) rating activities

2023/0177(COD) - 24/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 464 votes to 115, with 13 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the proposal as follows:

## *Subject-matter and scope*

This Regulation introduces a common regulatory approach to enhance the integrity, transparency, comparability where possible, responsibility, reliability, good governance, and independence of ESG rating activities, contributing to the transparency and quality of ESG ratings and to the sustainable finance agenda of the Union.

The Regulation is based on the concept of '**operating in the Union**', distinguishing between cases where ESG rating providers are established within or outside the Union.

In the first case, **providers established in the Union** should be deemed to operate in the Union when they issue and publish their ESG ratings on their website or through other means, or when they issue and distribute their ESG ratings through subscription or other contractual relationships to regulated financial undertakings in the Union, to undertakings falling under the scope of Directive 2013/34/EU of the European Parliament and of the Council, to undertakings under the scope of Directive 2004/109/EC of the European Parliament and of the Council, in particular with respect to third-country issuers whose securities are admitted to trading on EU regulated markets, or to Union's or Member States' public authorities.

In the second case, **providers established outside the Union** should only be considered operating in the Union when they issue and distribute their ratings by subscription or other contractual relationships to the same entities as for ESG rating providers established in the Union.

## *Requirements to operate in the Union*

Any legal person that wishes to operate as an ESG rating provider in the Union should be subject to any of the following: an authorisation issued by ESMA; an implementing decision; an authorisation for endorsement and a recognition. A temporary regime should be introduced to facilitate the market entry of smaller ESG rating providers and support the development of existing smaller ESG rating providers already operating in the Union before the entry into force of this Regulation.

Within **25 working days** of receipt of the application, ESMA should assess whether the application is complete. After having assessed whether an application is complete, ESMA should notify the applicant of the result of that assessment. Within 90 working days of the notification, ESMA should adopt a fully reasoned decision to authorise or refuse authorisation. ESMA may extend the period to 120 working days.

## *Equivalence decision*

An ESG rating provider established **outside the Union** that wishes to operate in the Union should only be able to do so where: (i) the provider is a legal person, is authorised or registered as an ESG rating provider in the third country concerned, and is subject to supervision in that third country; (ii) the provider has notified ESMA that it wishes operate in the Union and has submitted to ESMA the proof of the authorisation or registration. ESMA should establish cooperation arrangements with the competent authorities of third countries whose legal framework and supervisory practices have been recognised as equivalent.

An ESG rating provider established **in the Union** and authorised may **endorse ESG ratings** provided by an ESG rating provider established outside the Union and belonging to the same group, provided that all of the following conditions have been met:

- it has own premises or premises for its exclusive use in a Member State; it has at least one active bank account of its own in the Union; and it has appropriate analytical and decision-making presence in the Union considering the nature, scale or complexity of its activities in the Union;
- the ESG rating provider established in the Union has verified and is able to demonstrate on an on-going basis to ESMA that the issuance and distribution of endorsed ESG ratings fulfils requirements which are at least as stringent as the requirements of this Regulation;
- the ESG rating provider established in the Union has the necessary expertise to effectively monitor the ESG ratings by the ESG rating provider established outside the Union, to manage any associated risks.

#### ***Disclosure of the methodologies, models, and key rating assumptions used***

ESG rating providers should disclose on their website, as a minimum, the methodologies, models and key rating assumptions they use in their ESG rating activities. **Separate E, S and G ratings** should be provided rather than a single ESG metric that aggregates E, S and G factors. ESG rating providers should provide the disclosures separately for each factor.

#### ***Complaints-handling mechanism***

ESG rating providers should: (i) have in place and publish on their website procedures for receiving, investigating and retaining records concerning complaints made by users of ESG ratings, rated items and issuers of rated items; (ii) clearly provide information on their website about their complaints-handling mechanism and contact details; (iii) have in place procedures for receiving reasoned concerns by stakeholders.

#### ***Independence and avoidance of conflicts of interest***

ESG rating providers should put in place robust governance arrangements. If there is a risk of a conflict of interest in an ESG rating provider, ESMA should take action. If a conflict of interest is not adequately managed through specific risk mitigation measures, ESMA should require the ESG rating provider to put an end to the breach.

#### ***ESMA***

ESMA should publish annually on its website a list of ESG rating providers listed in the register, indicating their total market share in the Union. It may also take one or more supervisory measures towards any person operating in the Union.