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Targeted consultation on the functioning of the ESG ratings market in the European Union and on the consideration of ESG factors in credit ratings

Fields marked with * are mandatory.

Introduction

The first part of the consultation aims to inform the Commission on the functioning of the ESG ratings market, on its potential shortcomings and on the need for EU intervention.

The second part of the consultation aims to inform the Commission on possible shortcomings in relation to the consideration of sustainability factors in credit ratings, on disclosures made by Credit Rating Agencies and on the need for EU intervention.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-esg-ratings@ec.europa.eu.

More information on

- this consultation
- the consultation document
- the call for evidence accompanying this consultation
- EU labels for benchmarks (climate, ESG) and benchmarks' ESG disclosures
- credit rating agencies
- the protection of personal data regime for this consultation

About you

*Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
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- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

*I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen

- ( ) Environmental organisation
- ( ) Non-EU citizen
- ( ) Non-governmental organisation (NGO)
- (•) Public authority
- ( ) Trade union
- ( ) Other

* First name

* Surname

* Email (this won't be published)

* Scope

- ( ) International
- ( ) Local
- (•) National
- ( ) Regional

* Level of governance

- ( ) Parliament
- (•) Authority
- ( ) Agency

* Organisation name

255 character(s) maximum

Autorité des marchés financiers

* Organisation size

- ( ) Micro (1 to 9 employees)
- ( ) Small (10 to 49 employees)
- ( ) Medium (50 to 249 employees)

- (selected) Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

* Country of origin

Please add your country of origin, or that of your organisation.

- Afghanistan
- Åland Islands
- Albania
- Algeria
- American Samoa
- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- (selected) France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macau
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Saint Martin
- Saint Pierre and Miquelon
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands

- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands

- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d’Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

* Field of activity or sector (if applicable)

- ESG rating provider
- Auditing
- Banking
- Credit rating agency

- [ ] Insurance
- [ ] Pension provision
- [ ] Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- [ ] Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)
- [ ] Social entrepreneurship
- [ ] Listed companies
- [ ] SME
- [ ] Benchmark administrator
- [ ] Other financial services (e.g. advice, brokerage)
- [ ] Trade repositories
- [ ] Organisation representing consumers' interests
- [x] Supervisory authority
- [ ] Other
- [ ] Not applicable

* Role in the ESG rating / Credit rating market

Please select as many answers as you like

- [ ] ESG rating provider
- [ ] User of ESG ratings (investor)
- [ ] User of ESG ratings (company)
- [ ] User of ESG ratings (other)
- [ ] Credit rating agency
- [ ] User of credit ratings
- [ ] Rated (as a company)
- [ ] Auditor
- [x] Supervisor
- [ ] Other

The Commission will publish all contributions to this targeted consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **Fo r the purpose of transparency, the type of respondent (for example, 'business association, 'consumer association', 'EU citizen') is always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

*** Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- ( ) **Anonymous**
  Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.
- (•) **Public**
  Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☑ I agree with the personal data protection provisions

Part A – ESG Ratings

Background information

ESG ratings are used by a wide variety of investors as part of their sustainable investment strategy to take into account risks and opportunities linked to ESG issues. Consequently, these ratings have an increasingly important impact on the operation of capital markets and on confidence of investors in sustainable financial products. For the purposes of this consultation the term ESG ratings is based on the definition provided in the International Organization of Securities Commissions' (IOSCO) final report on environmental, social and governance (ESG) ratings and data products providers .

> **ESG ratings**: refer to the broad spectrum of ratings products that are marketed as providing an opinion regarding a entity, a financial instrument or a product, a company's ESG profile or characteristics or exposure to ESG, climatic environmental risks or impact on society and the environment that are issued using a defined ranking system of ratir categories, whether or not these are explicitly labelled as "ESG ratings".

Due to the importance and growth of this market, and potential issues identified as to its functioning, in the action plan on sustainable finance, published in March 2018, the Commission announced a study to be conducted to dig further into the specifics of this market.

The study on sustainability-related ratings, data and research ('the study') was published in January 2021. The study identified a number of issues pertaining to the functioning of the market of ESG ratings providers, in particular on transparency around data sourcing and methodologies, as only few firms disclose the underlying indicators or their actual weights of their assessment. The study also highlighted issues in terms of timeliness, accuracy and reliability of

ESG ratings. Another issue identified related to biases, based on the size and location of the companies. Finally, it highlighted potential conflicts of interest associated with certain aspects of their work, including where providers both assess companies and offer paid advisory services or charge companies to see their own reports.

As part of the consultation on the renewed sustainable finance strategy, which took place in early 2021, the Commission asked stakeholders about their views on the quality and relevance of ESG ratings for their investment decisions, on the level of concentration in the market for ESG ratings and need for action at EU level. This confirmed the conclusions of the study, Stakeholders indicated that better comparability and increased reliability of ESG ratings would enhance the efficiency of this fast growing market, thereby facilitating progress towards the objectives of the EU green deal.

This consultation will directly feed into an impact assessment that the Commission will prepare in the year 2022 in order to assess in detail the impacts, costs and options of a possible EU intervention. This consultation should help further clarifying and quantifying the main findings from the study and input received from market participants.

On 3 February 2022, the European Securities and Markets Authority (ESMA) published a call for evidence, complementary to this consultation, in order to support the exercise and provide a mapping of ESG rating providers operating in the EU. The call for evidence also looks at possible costs of supervision would these providers become subject to some supervision.

Subject to the result of this impact assessment, the Commission would propose an initiative to foster the reliability, trust and comparability of ESG ratings by early 2023.

This consultation also seeks views from market participants on the use of other types of tools that can be offered by sustainability-related providers, including research, controversy alerts, rankings, etc.

I. Use of ESG ratings and dynamics of the market

The study identified a rapid growth in global assets committed to sustainable and responsible investment strategies over the last decade, which is forecast to continue as sustainable investing becomes fully integrated into asset management.

This leads to higher demand by investors for ESG ratings to help them decide on particular investment strategies.

The study identified two key trends over the past five years - being consolidation and reinforcement of the established ESG ratings providers, and growth in the overall number of providers due to new market entrants.

The study also highlighted that it is challenging for new market entrants to replicate and compete with the larger providers due to high initial level of investment needed to cover a broad range of ESG issues, with as many as a thousand data points, across thousands of companies.

Questions for investors, asset managers and benchmark administrators

Do you use ESG ratings?

- Yes, very much
- Yes, a little
- No
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Which type of ESG ratings do you use?

ESG ratings providing an opinion on companies:

Please select as many answers as you like

- [ ] ESG ratings providing an opinion on opportunities
- [ ] ESG ratings providing an opinion on the compliance of companies with frameworks and rules
- [ ] Exposure to and management of ESG risks
- [ ] ESG ratings providing an opinion on a company performance towards certain objectives
- [ ] ESG ratings providing an opinion on the impact of companies on the society and environment
- [ ] ESG ratings providing an opinion on the ESG profile of the company
- [ ] Other

ESG ratings providing an opinion on:

Please select as many answers as you like

- [ ] investment funds
- [ ] other financial products

To what degree do you use ESG ratings in investment or other financing decisions on the a scale of from 1 to 10?

(1 = very little, 10 = decisive)

- ( ) 1 - very little
- ( ) 2

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 - decisive
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you use overall ESG ratings or ratings of individual Environmental, Social or Governance factors?

- Overall ESG ratings
- Ratings of an individual Environmental, Social and Governance factors
- Ratings of specific elements within the Environmental, Social and Governance factors,
- Other types
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you buy ESG ratings as a part of a larger package of services?

- Yes
- No
- Don’t know / no opinion / not applicable

If you responded yes to the previous question, do you consider that buying ESG ratings as a part of a larger package would give rise to potential conflicts of interests?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

What are you using ESG ratings for?

Please select as many answers as you like

- as a starting point for internal analysis
- as one of many sources of information that influence the investment decisions
- to meet regulatory or reporting requirements
- as a decisive input into an investment decision
- as a reference in financial contracts and collaterals
- for risk management purposes
- other(s)

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As a benchmark administrator, how do you take into account ESG ratings for the construction of a benchmark and/or in disclosures around a benchmark?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you refer to ESG ratings in any public documents or materials?

- Yes
- No
- Don't know / no opinion / not applicable

What do you value and need most in ESG ratings?

Please select as many answers as you like

- [ ] transparency in data sourcing and methodologies
- [ ] timeliness, accuracy and reliability of ESG ratings
- [ ] final score of individual factors
- [ ] aggregated score of all factors
- [ ] rating report explaining the final score or aggregated score
- [ ] specific information, please explain
- [ ] data accompanying rating
- [ ] other aspects

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

To what degree to you consider the ESG ratings market to be competitive and allows for choice of ESG rating providers at reasonable costs?

(1 = not competitive, 10 = very competitive)

- 1 - not competitive
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 - very competitive
- Don't know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Questions for companies subject to ratings

Do you have access to ESG ratings of your own company?

- Yes
- No
- Don't know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

To what degree do you use ESG ratings to assess the way you manage sustainability risks and opportunities and your impact on the outside world?

(1 = not determinant, 10 = very determinant)

- 1 - not determinant
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 - determinant
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

If you do not use ratings, what do you use to assess the way you manage sustainability risks and opportunities and your impact on the outside world?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Does this vary between individual E, S and G factors?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you provide information on ESG ratings you have received in any of your public documents?

- Yes
- No
- Don’t know / no opinion / not applicable

Questions for all respondents

Do you consider that the market of ESG ratings will continue to grow?

- (selected) Yes
- No
- Don’t know / no opinion / not applicable

If you responded ‘yes’ to the previous question, to what extent do you expect the following factors to be decisive, on a scale from 1 to 10?

(1 = not at all, 10 = very much)

	1	2	3	4	5	6	7	8	9	10
Growth in demand from investors in ratings of companies for their investment decisions										X
Growth in demand from companies in ratings including on rating future strategies					X					
Further standardisation of information disclosed by companies and other market participants							X			
Other								X		

Please specify what other reason(s) you see for this market to continue to grow:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The ESG rating and other ESG data and services market is expected to continue to grow at a rapid pace, supported by a continuous increase in investors' needs, a broadening of the demand from different stakeholders and the continuous innovation of its players. A 2020 UBS study estimated global revenues generated by ESG data and services could double by 2025 up to $5,1bn. In 2022 Opimas confirmed such tendencies in identifying an impressive 28% annual growth rate for the global market for ESG data over the past five years and a global market surpassing $1bn for the first time in 2021.

Investors' demand for ESG products, including ESG ratings, should remain one of the key components of the growth of this market (10). The recent International Regulatory Strategy Group (IRSG) report indicated that by the end of 2021 investors with over $120 trillion in combined assets had signed an agreement to integrate ESG information into their investment decisions, leading way for new demands on Investors' side. Global enhanced commitments towards mitigating climate change also participate to this tendency.

However predominant the investor-paid structure of the market remains for ESG products today, recent developments indicate that a complementary growing demand could also come from companies subject to ESG ratings (5). Such demand could in particular take a strong uptake in case these ratings are progressively incorporated into the framing of companies' public communication or used as KPIs for their strategic or operational needs and decision-making process. For example, ESG products and rating are used by companies to benchmark themselves from peers, to promote action and monitor performance internally in meeting specific targets (such as transition plan to carbon neutrality in accordance with Paris agreement), or to link their directors' remuneration to sustainable objectives, etc. The strong uptake of sustainability-linked investment products (including sustainability debt instruments such as green, social and transition bonds) also participates in the important development of ESG products (rising demand from both investors and issuers).

The progressive development of a European regulatory sustainability framework (8) with disclosure requirements applicable both to issuers and financial market participants, and the correlative development of new ESG products by ESG product providers will also fuel demands. Such demand is also fed by ever-extending lines of products (8), as providers continue to design new products such as taxonomy-related tools or specialised scorings (such as the recently developed Fitch climate vulnerability scores) to meet investors' multiple needs.

Are you considering to use more ESG ratings in the future?

- ○ Yes, to a large degree
- ○ Yes, to some degree
- ○ No
- ◉ Don't know / no opinion / not applicable

Do you mostly use ESG ratings from bigger or larger market players?

- ○ Exclusively from large market players
- ○ Mostly from larger market players
- ○ Mixed

- Mostly from smaller market players
- Exclusively from smaller market players
- Don’t know / no opinion / not applicable

Do you consider there is a sufficient offer of ESG ratings from providers located in the European Union?

- Yes
- No
- Don’t know / no opinion / not applicable

If you responded ‘no’ to the previous question, please explain why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The AMF takes the opportunity of this question to first reiterate the key position developed in the 2020 AMF-AFM non paper as regards the scope of analysis to be considered. Indeed, the AMF and the AFM are of the view that the analysis should cover the diversity of ESG-related products/services since market players tend to offer diversified types of products and identified risks apply not only for ESG rating services, but also for the related services (e.g. provision of ESG data, scorings, controversies, scenario analysis, taxonomy-related tools, and screenings).

The ESG data, rating and services market appears concentrated around non-EU reference players. The concentration move witnessed over the last 20 years, and at an even greater pace during the last decade, led to the constitution of reference players with greater financial resources, resulting from the acquisition of historical and mainly EU-players by predominantly non-European traditional financial actors (eg. data aggregators, market operators or credit rating agencies). In its 2020 mapping of stakeholders, products and services, the AMF noted that 80% of the 25 players of its sample had their registered office outside the European Union, mainly in the United States, and to a lesser extent, in Switzerland or the United Kingdom. The large majority of markets players offer diversified ranges of products, including ESG ratings. In its 2022 study, Opimas also identified that three ESG data providers, namely MSCI, ISS ESG and Sustainalytics, account for about 60% of the market.

In the recent years, growing market concentration could have led to higher levels of proficiency, but also present higher risks of dependence upon a limited number of providers. Associated risks are: higher prices, barriers to entry, lower competition, reduced innovation and poor coverage of smaller issuers. The risk of conflicts of interests also increased in a context where market players develop ever-extending lines of products addressed both at investors and issuers to meet markets demands (please also refer to AMF answer on conflicts of interests).

As the European Union progressively structures its sustainability reporting framework, dependence vis-à-vis non-EU players could create some bias in how sustainability issues are considered and factored in ESG ratings and ESG products. Differences in approaches as regards materiality is a good example of such divergences. Reliance on ESG raters that do not apply the European sustainability framework (based on double materiality perspective, as opposed to financial materiality in other jurisdictions) could have an impact on investment allocations and engagement policies of investors and asset managers.

Finally, do you use other types of ESG assessment tools than ESG ratings (e.g. controversy screening, rankings, qualitative assessments, etc.)?

- ◯ Yes
- ◯ No
- ◉ Don't know / no opinion / not applicable

Do you believe that due diligences carried out by users of ESG research are sufficient to ensure an acceptable level of quality?

- ◯ Yes
- ◉ No
- ◯ Don't know / no opinion / not applicable

If you replied 'no' to the previous question, would you see merit in refining the current definition of research under Directive 2014/65/EU?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As a preliminary remark, the AMF would like to share its concerns as regards the formulation of these two questions. In particular, no clear definition is given for ESG research products and it is not clear what level of quality it is referred to. For the purpose of this question, the AMF considers that ESG research products cover the widest range of ESG services and products, which include in particular ESG data, ratings and scoring, controversies research, screening and taxonomy-related tools.

However sufficient diligence should be ensured by all users of sustainability-related products, ensuring due diligence is made on users' side will not be sufficient to address the different issues and risks identified in relation to the market of ESG data, ratings and services. Several EU regulations require investors to carry out due diligence in the selection and monitoring of their investments. In particular, Art. 23 of the UCITS Directive 2010/43 and Art. 18 of the AIFMD Delegated Regulation 231/2013 both introduce mandatory due diligences for UCITS management companies and AIFMs in the selection and monitoring of investments. However, UCITS management companies and AIFMs are not the only users of ESG data, ratings and services and such provisions will hence not encompass the complete scope of users. Moreover, the fact that some types of users are required to carry out due diligences should by no means exempt ESG data, products and services providers from providing minimum transparency to enable such users to perform these due diligences.

Insufficient transparency on methodologies and underlying data as well as on the management of conflicts of interests limit the capacity of users to proceed with their due diligences. A mandatory regulatory framework is needed at European level to address the specific features of the ESG data, analysis and services market. Greater transparency on methodologies, and management of conflicts of interest should be the cornerstone of this regulation.

Finally, we do not believe that refining the definition of research under Directive 2014/65/UE represents a viable solution to address the deficiencies of the market for ESG products and services. First because MiFID 2 only applies to investment firms which the majority of players in the ESG data are not. Besides, MiFID 2 rules do not address the methodology underpinning the production of research. We do not consider MiFID2 to be the right legal vehicle to address the shortcomings of the market for ESG products and services. Instead, an ad hoc regulation with an appropriately defined scope (i.e. any entity who operate 'on a professional and commercial basis' (similar to the regulation of proxy advisors) providing ESG data, products or services) should be developed and regulated entities that offer such ESG products and services should also be subject to this regulation for the provision of those services/products.

Do you further believe that ESG research products have reached a sufficient level of maturity and comparability to allow users to fully understand the products they use?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The AMF addresses this question in considering that "ESG research products" covers the wide range of ESG data and services offered; indeed the issues identified are common to all categories of ESG products and services. The AMF study published in 2020 identified more than 10 categories of products including: scenario analysis, screening lists, carbon data, ESG benchmarks and taxonomy-related products.

The definition and measurement of nonfinancial performance are not yet mature and providers tend to adopt different and evolving approaches to ESG performance in their products. The definition and measurement of nonfinancial performance are also multifaceted and evolve in time. Consequently, providers tend to adopt different methodological choices as regards the concepts to embrace, how to measure them and how to weigh all the underlying indicators in a final score - sometimes adding together Environmental, Social and Governance evaluations in a single final score or rating. Providers can also have different specialisations (e.g. labour conditions or environmental footprint), leading to different weights and degrees of qualities within the analysis. All the different concepts and approaches retained also try to address the varying client needs and demands. In addition, providers' constant reassessments of what ESG performance is leads to frequent modifications of ESG ratings.

Limited transparency on underlying methodology and data limits the capacity of users to understand, assess and "compare" ESG products. Investors' expectations are threefold: to determine whether a given ESG rating matches their own interpretation of ESG, to assess the quality and robustness of ratings, and to make appropriate investment decisions, including when comparing ESG ratings from different providers. This information is also necessary for regulators to be able to monitor the markets. Several cases (eg. Orpea, Boohoo) have recently shed light on the limitations associated with the limited transparency ensured by providers on the objectives of their products and on their methodologies. The clarity made on the financial approach (as opposed to impact approach or double materiality approach) of MSCI ESG ratings recently demonstrated to what extent more information is needed for the market to adequately refer to ESG products that have progressively gained a key role in financial markets.

Ensuring transparency on methodologies and underlying data is one of the key to the comparability of ESG products. Alongside the limited transparency on methodologies, users report harmful opacity on the nature and source (reported by the entity, provided by a third party, estimated) and up-to-date nature of the underlying data. It is indeed common for ESG product providers to deal with data gaps and estimated data can play an important role in the final ratings when methodologies rely on an extended number of data-points (some actors include up to a thousand) or on specific actors of regions with less data available. It is therefore key that providers of ESG data, ratings and services clarify the sources of the information they collect (e.g. use of public information and/or questionnaires sent to companies and/or meetings with rated entities and/or the future European database, or private database), the nature of such collected information (e.g. qualitative and/or qualitative including or not controversies and "early signals", regulatory information or entity-specific KPI, etc.) as well as the proportion of estimates used and how those estimates have been calculated. The recently published FTSE conclusions on the significant divergences observed between estimated and reported corporate carbon emissions are yet another example of the necessity to ensure clarity on what data ESG products are based on.

Comparability between providers and products should nevertheless not lead to standardization of the methodologies. Transparency should help increase comparability of providers' methodologies while leaving the latter with a large degree of flexibility in designing those methodologies. Comparability could in particular be sought as regards: the objectives of the product (financial / double materiality), the nature of the analysis (environmental, social or governance or ESG), the nature of the underlying information and the use of judgements or estimates, the weighting of factors, and how such weighting has been set, the consideration of qualitative factors (taking into account for example the severity or the frequency of claims/controversies, etc.) etc. Indeed, the current plurality of views offers the market the possibility to develop more sophisticated and multi-faceted approaches of the ESG performance of an investment and should be valued. Some investors do resort to several providers to benefit from this plurality.

II. Functioning of the ESG ratings market

The study identified several issues on the functioning of the ESG ratings market that may hamper its further development.

In particular, there is an overall demand for greater transparency of objectives sought, methodologies adopted and quality assurance processes in place ESG rating providers.

The timeliness, accuracy and reliability of the output from ESG ratings providers were also identified as issues for the good functioning of this market.

Another issue identified in the study concerns the existence of biases and low correlation across ESG ratings.

The potential for conflicts of interest, particularly associated with providers both evaluating companies and offering paid advisory services, was further highlighted. The study stressed that providers selling multiple products require an appropriate separation between departments to avoid potential conflicts of interest.

This section aims to inform on the functioning of the ESG ratings market and potential issues that hamper its development and trust by market participants.

How do you consider that the market of ESG ratings is functioning today?

- ○ Well
- ◉ Not well
- ○ Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The 2020 AMF-AFM position paper “Call for a European Regulation for the provision of ESG data, ratings, and related services” develops the reasons why a European regulation is needed. Amongst the weaknesses identified, the lack of transparency on methodologies and objectives of the products as well as on the underlying data stand out as major difficulties that could entail risks of misallocation and missed opportunity as referred to in the responses to previous questions.

Such risks will be all the more acute than the product offer will continue to develop and be incorporated in different investment products, paving way to possible contagious effects and overreliance risks. ESG ratings lie at the basis of the production of ESG indexes and benchmarks in particular. This business segment enjoys significant development potential since many institutional investors implement ESG policy through passive management (Bennani et al (2018), Grillet-Aubert (2020)). Given the large amounts of investments driven by these products, ensuring proper functioning of this market is essential. In fact, the 2022 Opimas report estimated that the ESG indices segment had grown at the rapid pace of 38% a year over the past five years and surpassed $300M in 2021. Eurosif also identified in its 2022 letter to ESMA on “ESG Ratings and their role in the market for sustainable investment products” that ESG ratings are highly relevant for the application of the SFDR and in particular for the categorization of products as promoting environmental and /or social characteristics or, pursuing sustainable investment as their objective.

Several recent scandals illustrate that the lack of transparency on the objectives and methodologies of ESG products and services lead to mismatches between the expectations and understanding of users and the actual ESG performance of the investments. The recent case of Orpea, a European operator of nursing homes, is only one in many examples of companies which experienced an ESG scandal whereas all major ESG data providers had previously awarded them good ratings. In this case, a journalistic investigation published in France early 2022 revealed dubious working conditions of employees and living conditions of resident customers in the group's facilities. Such internal issues were not reflected in the ESG ratings the group reported in its 2021 HY report (rated medium risk by Sustainalytics and Prime by ISS ESG; Sustainalytics rating later reviewed to high risk as of April 2022). The UK Bohoo case serves as another illustration: in 2020 the Sunday Times accused the British ESG funds’ favourite fashion company Bohoo of modern-day slavery and raised questions as to the capacity of ESG ratings to give a real appreciation of the sustainability of companies.

The very strong development of the demand for ESG products and the high innovation capacity of the players also present risks of conflicts of interest. ESG rating providers can assume different roles such as consultant, data provider or rating agency, and represent diverse interests from issuers’ to investors’. It is therefore important that potential conflicts of interest are managed and averted, ensuring an appropriate level of market transparency.

To what degree do you consider that the following shortcomings / problems exist in the ESG ratings market, on a scale of from 1 to 10?

(1 = very little, 10 = important)

	1	2	3	4	5	6	7	8	9	10	D kn op a c
Lack of transparency on the operations of the providers	○	○	○	○	○	○	○	◉	○	○	
Lack of transparency on the methodologies used by the providers	○	○	○	○	○	○	○	○	○	◉	
Lack of clear explanation of what individual ESG ratings measure	○	○	○	○	○	○	○	○	○	◉	
Lack of common definition of ESG ratings	○	○	○	○	○	○	○	○	○	◉	
Variety of terminologies used for the same products	○	○	○	○	○	○	◉	○	○	○	
Lack of comparability between the products offered	○	○	○	○	○	○	○	○	○	◉	
Lack of reliability of the ratings	○	○	○	○	○	○	○	◉	○	○	

Potential conflicts of interests	○	○	○	○	○	○	○	○	●	○
Lack of supervision and enforcement over the functioning of this market	○	○	○	○	○	○	○	○	●	○
Other	○	○	○	○	○	○	○	○	○	●

If you responded ‘other’ to the previous question, please explain which ones:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Lack of transparency on underlying data and on methodologies constitute an important shortcoming of the ESG products and services market. Many recent academic studies demonstrate the impact of underlying data in the final ESG ratings. The Berg et al (2020) study, for example, confirms that the main reasons for rating divergence lies in the differences between what is measured and what enters into the scope of the rating ("Scope effect"), but especially the way in which the rating is measured ("Measurement effect"). Conversely, some other studies reveal that differences in the choice of weighting ("weight effect') only marginally explain differences in ratings. Finally, some also identify sources of non-correlatifon in ratings in the quantity of non-financial information published by companies (Christensen, Serafeim and Sikochi (2019)) or in relation to the rating universe and the treatment of data gaps (Kotsantonis and Serafeim (2019)).

ESG data is a key element of ESG ratings. This is all the more true as some players cover a broad range of ESG issues, encompassing as many as a thousand data points, across thousands of companies. To collect this information, most of them use a variety of information vectors and channels: questionnaires sent to companies, use of information published by the entities concerned by the data or by trusted third parties (press agencies, non-governmental agencies), use of data produced by other suppliers of the sector through subscriptions or partnerships. The information collected may be supplemented, specified or corrected through discussions with the companies to which the data pertains. This is the case for most of the traditional players in the sector. Some players such as MSCI, encourage companies to check via a reporting platform to which they are given access and to make corrections if necessary.

Data gaps are common and data estimation plays an important role in ESG ratings. In fact, the proportion of estimates can amount to more than 60% of the underlying data, a proportion that can increase even more in specific cases, where reported data is particularly scarce (eg. due to the geographical localisation of the entity or to its size). This issue is all the more acute that some ESG raters use very large sets of data points including very precise and diverse information (eg. information relating to an entity's governance framework, financial strategy and management expertise, as well as information on physical and transition climate risks). Many possible options exist for ESG raters to address such data gaps. The simplest option consists in neutralising the data gap in the score (its weight is reduced to zero) or, conversely, in assigning a penalty to the company. Other more complex rules can be envisaged, such as the rule of attributing to a company the average value observed at the sectoral level. In the event of a break in the time series, data providers may also choose to use the value observed during the prior period for the period where the value is missing. A third option consists in estimating the data gap using statistical and econometric models. Any methodological choice made to address data gaps will impact differently the ESG ratings, translating in divergences even between products that could have the same objectives and close methodologies; it should be transparently explained.

It is therefore important that providers of ESG data, products and services clarify the sources of the information they collect (e.g. use of public information and/or questionnaires sent to companies and/or meetings with rated entities and/or the future European database), the date of such information and any update that can be made to it as well as the proportion of estimates used and how those estimates have been calculated. Information as regards the up-to-dateness of the information is another important information and any change made to the historical data used to produce a rating should be transparently communicated.

What do you think of the quality of the ratings offered, on a scale from 1 to 10?

(1 = very poor, 10 = very good)

- 1 - very poor
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 - very good
- Don’t know / no opinion / not applicable

Please explain why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you consider that there are any significant biases with the methodology used by the providers?

- (selected) Yes
- No
- Don’t know / no opinion / not applicable

If you responded yes to the previous question, please specify the biases:

- Biases based on the size of the company rated
- Biases based on the location of the company
- (selected) Other biases

- [ ] Don’t know / no opinion / not applicable

If you responded ‘other biases’ to the previous question, please explain which ones:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The quantity of information made available, which could indirectly be linked to the size and geographical location of the rated entity is an observed bias. In case of data gaps, the absence of the information is indeed addressed differently by the ESG raters. For example, missing data for a particular company can be estimated by using data from comparable companies or via a market average, but rating agencies can also choose to give a low score for missing data. Please refer to the previous response made on the lack of visibility of underlying data.

The 2021 ERM study commissioned by the EC (p. 113 & sq.), also reported an industry bias can also be identified, “where sustainability-related ratings providers oversimplify industry weighting and company alignment […] to assume that companies in the same industry face exactly the same risk”.

Do you think the current level of correlation between ratings assessing the same sustainability aspects is adequate?

- [ ] Yes
- [x] No
- [ ] Don’t know / no opinion / not applicable

Please explain your answer to question 1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

However not directly identified as an addressee for this question, the AMF would like to formulate some comments in relation to the issue of observed low correlation of ESG ratings.

In recent years, many academic studies addressed the very little convergence observed between ESG ratings of different providers. The AMF 2020 study counted a certain number of academic studies on the subject and in particular the Berg et al (2020) study that largely influenced the debate on non-correlation of ESG ratings since its release. In fact, the MIT research team that signed the study established an average 0.61 correlation in comparison for 0.99 for credit ratings.

Non-correlation of ESG ratings results from a number of items, including differences in methodologies; however, the impact of underlying data is major. Correlation of ESG ratings and credit ratings are often compared (the latter being close to 100%), although such ratings constitute very different products and little evidence can be drawn from such an analysis. In essence, credit ratings assess a financial product's or an issuer's creditworthiness: these products have a single, specific purpose, for which the analysis and evaluation methods are widely shared. ESG performance, on the contrary, is multidimensional in nature, and there is also currently no common way of assessing such performance. Berg et al (2020) observe that the measurements account for 50.1% of total differences among the ESG ratings, clearly establishing the large impact of underlying data in the ESG rating.

Allowing users and rated entities to understand ratings and the possible origin of their non-correlation is key to avoid risks of misallocation and missed opportunity. Ensuring comparability of ESG ratings through transparency is crucial as such non correlation translates into (a) difficulties for decision-makers to accurately identify outperformers and laggards and as a result for ESG performance to be reflected in financial performance, and (b) confusion on rated entities' side receiving mixed signals from ESG raters about what to focus on and what is valued.

To what degree do you consider that a low level of correlation between various types of ESG ratings can cause problems for your business and investment decision, as an investor or a rated company, on a scale from 1 to 10?

(1 = no problem, 10 = significant problem)

- 1 - no problem
- 2
- 3
- 4
- 5
- 6
- 7
- 8

- (selected) 9
- 10 - significant problem
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please refer to AMF response to the previous question.

How much do you consider each of the following to be an issue, on a scale from 1 to 10?

(1 = no issue, 10 = very significant issue)

	1	2	3	4	5	6	7	8	9	10	D kn N opi N ap ca
There is a lack of transparency on the methodology and objectives of the respective ratings										(selected)	
The providers do not communicate and disclose the relevant underlying information										(selected)	

The providers use very different methodologies	○	○	◉	○	○	○	○	○	○	○
ESG ratings have different objectives (they assess different sustainability aspects)	○	○	○	◉	○	○	○	○	○	○
Other issue(s)	○	○	○	○	○	○	○	○	○	○

Do you consider that a variety of types of ESG ratings (assessing different sustainability aspects) is a positive or negative feature of the market?

- ◉ Rather positive
- ○ Rather negative
- ○ Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The plurality of approaches and methodologies allows for the development of innovation. It is also coherent with the existence of plurality of views and specialities amongst ESG raters and investors. ESG performance is multidimensional in nature, as it aims to capture environmental, social and governance performance at the same time and there is currently no common way of assessing such performances. Differences in ESG ratings in particular reflect the different methodological choices made by providers, as well as their specialisations; ESG ratings also address different objectives such as sustainability risks or sustainability impacts. It appears that investors would in general resort to several providers to benefit from such plurality in views.

Any mandatory regulatory framework at European level should not attempt to curtail the diversity of methodologies but enable innovation by ensuring greater transparency. In this respect – and bearing in mind that credit ratings and ESG ratings are fundamentally different products involving different actors and philosophies – the AMF considers that the credit rating regulation offers a useful precedent as it took care not to interfere with credit rating agencies’ methodologies (CRA R art.23).

The variety of ESG ratings is not a problem in itself as long as sufficient transparency is provided on what aspect is being assessed and how.

To what degree do you consider this market to be prone to potential conflicts of interests on a scale from 1 to 10? (1 = very little, 10 = very much)

- 1 - very little
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- (selected) 10 - very much
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The structure of the market, its dynamics and the strong innovative power of its players are strong indicators of potential conflicts of interest (10). Although the dominant existing business model is an “investor-pays” one, the concentration process as well as the rapid development of the commercial offer of ESG-related product/services increase the risk of potential conflicts of interest. Such services can in particular include consulting services such as portfolio analysis, the provision of certification and second-party opinions as well as advisory services on corporate ESG strategy. Other types of services can include regulatory reporting assistance to comply with new sustainability regulations or advise on how to improve an ESG rating.

The OICV report on ESG ratings and data product providers also identified potential conflicts of interests in situations where ESG ratings and data products providers require companies to pay for something related to rating or assessment processes, especially for the access to the final rating or data products report at the pre-publication phase.

It is therefore important that potential conflicts of interest are managed and averted, ensuring an appropriate level of market transparency. Together with greater transparency on methodologies, management of conflicts of interest should be one of the cornerstone of any regulation of ESG ratings, data and other ESG products.

If you consider that this market is very much prone to conflicts of interests, where do you see the main risks?

Please select as many answers as you like

- [x] Where providers both assess companies and offer paid advisory services
- [x] Where providers charge companies to see their own reports
- [x] In the absence of separation of sales and analytical teams
- [x] With the ownership system of some providers, where the parent company may exert undue pressure or influence on the research and recommendations that a ratings provider offers
- [x] In the lack of public disclosure of the management of potential conflicts of interest
- [ ] Other conflict(s) of interest

To what degree do you consider that the ESG ratings market as it operates today allows for smaller providers to enter the market on a scale from 1 to 10?

(1 = hard to enter, 10 = easy to enter)

- ( ) 1 - hard to enter
- ( ) 2
- ( ) 3
- ( ) 4
- ( ) 5
- ( ) 6
- (•) 7
- ( ) 8
- ( ) 9
- ( ) 10 - easy to enter
- ( ) Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please refer to the below answer.

What barriers do you see for smaller providers?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Access to ESG data is the main barrier to entry in this market. ESG rating is a resource-intensive business; the amount of information available, both in quantity of data points- as in the depth of history available, are key elements that require significant resources.
Please also refer to the response to the question on the number of EU rating providers.

Do you consider that the market currently allows for smaller providers who are already present in this market to remain competitive on a scale from 1 to 10?

(1 = does not allow, 10 = fully allows)

- 1 - does not allow
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 - fully allows
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

To what degree do you consider the fees charged for ESG ratings to be proportionate to the services provided, on a scale from 1 to 10?

(1 = not proportionate, 10 = very proportionate)

- 1 - not proportionate
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10 - very proportionate
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you consider that information on the fees charged by the providers is sufficiently transparent and clear?

- Yes
- (selected) No
- Don’t know / no opinion / not applicable

If you responded no to the previous question, please specify what you consider should be the minimum information to be disclosed:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Entities should ensure that fees charged to their clients for the provision of sustainability-related products/services are not discriminatory. Fees charged for rating services shall in particular not depend on the level of the ESG ratings issued by the providers or on any other result or outcome of the work performed.

III. Questions on the need for EU intervention

In light of the current situation and recent developments of the ESG ratings markets, and the potential issues affecting it, this section aims to gather stakeholder views on the need and type of a possible intervention at EU level.

a) Need for an EU intervention

Taking into account your responses to the previous sections, do you consider that there is a need for an intervention at EU level to remedy the issues identified on the ESG rating market?

- (x) Yes
- ( ) No
- ( ) Don’t know / no opinion / not applicable

Please explain why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In December 2020, based on their regulatory experience and detailed analysis of the ESG data, ratings and services market, the Autorité des marches financiers (AMF) and the Autoriteit Financiële Markten (AFM) jointly called for the definition and implementation of a European regulatory framework for providers of sustainability-related services aimed at preventing misallocation of investments, greenwashing and ensuring investor protection. The position paper deemed such new regulation should become part of the Commission’s renewed sustainable finance strategy to strengthen and expend the overall framework for sustainable finance.

Indeed, ESG data will continue to play a key role in reaching the ambitious targets of the EU Green deal and Sustainable strategy and supporting the shift towards greener economies. Structural steps have been taken to ensure transparency by non-financial and financial companies, and financial market participants through the taxonomy regulation and SFDR, or are currently underway at EU level to ensure the relevance, reliability and comparability of ESG data reported by companies, notably through the legislative action of the CSRD and the definition of common standards by EFRAG. Nevertheless, the role and influence of ESG data, rating and services providers will continue to grow together with the range of products they propose to market participants. Still, these actors remain largely unregulated.

A European mandatory framework, consisting of an ad hoc regulation appears as the best approach. ESMA should be entrusted with the authorisation and supervision of providers of ESG data, ratings and services. This option would ensure uniform supervision of the providers. Centralized supervision is indeed preferable to supervision by national authorities since providers and clients generally operate on a cross-border basis. Authorisation and supervision by ESMA would guarantee a harmonised application of rules as well as uniform supervision. Besides, ESMA staff would be able to leverage on the experience gained from the supervision of credit ratings agencies and trade repositories. Finally, if ESMA becomes competent for the authorisation and supervision of verifiers of green bonds, as is currently envisaged, it would be consistent that it also regulates providers of ESG data, analysis and services providers.

The AMF is also convinced that all issues identified in this consultation must be analysed more globally than just at the perimeter of ESG ratings insofar as the problems identified are common to the various products offered by the players. Cases and scandals that have gradually come to light also do not only concern ESG ratings and confirm the need to address the wide range of products offered. Limiting the scope of any EU intervention to only ESG ratings would also create a high risk of circumvention, similar to IOSCO's observation in its October 2017 report on Other CRA products for credit ratings. The scope should cover the diversity of ESG-related products/services since risks in the market for ESG products providers apply not only for ESG rating services, but also for the related services such as the provision of ESG data, scorings, controversies, scenario analysis, taxonomy-related tools, and screenings. The scope of the regulation should be well-calibrated to take into account the innovation and the diversity of products offered; articulation with other regulated statuses should also be carefully assessed.

The provision of ESG data needs in particular to be included in the scope of this regulation. Indeed, this data is the very root of all ESG-related analysis and services used by market participants and evidence exists of the important impact of such data in the ESG analysis and, as a consequence in all investment products and decisions they compose or inform. Transparency on the methodologies used and the origination of the data, is therefore essential for these services. Failure to provide such transparency, and therefore to guarantee the reliability of the services provided, would weaken the whole system.

Greater transparency on methodologies and management of conflicts of interest should be the cornerstone of such regulation. However, regulation should not interfere with the methodologies. Specific requirements on internal controls and governance should be laid down to ensure reliability and quality of the services provided and proper management of potential conflicts of interest. Such core requirements should also be periodically reviewed taking into account market developments and, where appropriate, complemented by additional measures.

If you responded yes to the previous question, what type of intervention would you consider necessary?

- ○ Non-regulatory intervention (e.g. guidelines, code of conduct)
- ● Legislative intervention
- ○ Don't know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

While a framework consisting merely of a code of conduct could lead to lower compliance costs, no effective supervision of providers or monitoring of their statements of compliance would be ensured. Based on experience gained with credit rating agencies or proxy advisors, this option would not sufficiently address the identified risks.
Similarly an opt-in regime, which would address calls for proportionality, would not ensure harmonisation across Europe and investors would not be provided with the same level of transparency and practices of good governance by all providers. The take-up of such a regime – which is key to the proper functioning of such a framework – would also remain highly uncertain.

In the case of a framework consisting of only partially mandatory requirements, for instance solely with regard to transparency, it can be envisaged that no mandatory registration or authorisation by a national competent authority or European Securities and Markets Authority would be required. However, providers located in third countries would then be exempted from any European supervision, creating an uneven playing field and raising the prospect of highly ineffective regulation.
For these reasons, a mandatory legislative framework is the best approach to addressing the identified risks in the market.

If you responded yes to the previous question, what do you consider should be the prime focus of the intervention?

Please select as many answers as you like

- [x] Improving transparency on the operations of the providers
- [x] Improving transparency on the methodology used by the providers
- [x] Improving the reliability and comparability of ratings
- [x] Clarifying what is meant by and captured by ESG ratings, to differentiate from other tools and services
- [x] Clarifying objectives of different types of ESG ratings
- [x] Improving transparency on the fees charged by the providers
- [x] Avoiding potential conflicts of interests
- [x] Providing some supervision on the operations of these providers
- [x] Other measures

Please specify the other elements the intervention should focus on and explain what solutions and options you would consider appropriate:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Providing clarity on the nature and source of the underlying data ; Providing information on particular ESG standards used and whether and how and to what extent the products comply for example with the European taxonomy ; Ensuring transparency on whether providers of ESG data, analysis and services have /hold dialogues with the companies which are the object of their analysis and with the stakeholders of the company.

Please explain what solutions and options you would consider appropriate in order to improve transparency on the operations of the providers:

5000 character(s) maximum
including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Appropriate organisational and operational functions should be implemented.
Providers that wish to provide services to European companies should be subject to authorisation and supervision by ESMA, and should be required to operate through an establishment located in the European Union to ensure proper enforcement of any regulation.

Please explain what solutions and options you would consider appropriate in order to improve transparency on the methodology used by the providers:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Without interfering with methodologies, more granular information should be provided in the descriptions of methodologies and models (including information on criteria, selection and weighing factors, metrics and proxy used). In this regard, Annex III of Regulation (EU) 2019/2089 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks could provide a suitable source of inspiration. Sufficient transparency should also be ensured as regards the frequency and procedure of revision of the methodologies. Organisational and operational requirements should also be provided for in this area: a review function responsible for periodical review of the provider' methodologies, models and key rating assumptions, and any significant changes or modifications thereto as well as the appropriateness of those methodologies, models and key rating assumptions should in particular be required;

Please explain what solutions and options you would consider appropriate in order to improve the reliability and comparability of ratings:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As regards the underlying data, the following information should in particular be requested: Main source of raw data used or marketed; nature of such data, Processes in place for collecting data; How the/an absence of reported data is managed (no data implemented, absence of data supplemented through: use of peer analysis, data approximation); Controls in place to ensure that the data is reliable, verifiable, up to date and comes from reliable sources;
An obligation to establish a right of recourse for issuers whose data are used for the provision of ESG data, ratings and services should also be required, in order to offer issuers the right to check, if they wish so, the accuracy of the underlying data used by the provider. Such right of recourse should not apply to the output of the analytical process, whose independence should be guaranteed. Providers should ensure that the way they implement this obligation does not generate possible situations of conflicts of interest and sufficient publicity should in particular be made on any recourse taken by an issuer and resulting corrective action. Finally, such right of recourse should be free for issuers.

Please explain what solutions and options you would consider appropriate in order to clarify what is meant by and captured by ESG ratings, to differentiate from other tools and services:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Transparency requirements should cover the description of the products offered and their characteristics, in particular if they retain a sustainability risk or sustainability impact approach and whether or not the providers rely on particular ESG standards and whether and how they refer to the European taxonomy for some of their products;

Please explain what solutions and options you would consider appropriate in order to clarify objectives of different types of ESG ratings:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please refer to AMF response in relation to the objectives of the ESG ratings and the differenciation from other tools and services.

Please explain what solutions and options you would consider appropriate in order to improve transparency on the fees charged by the providers:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Entities should ensure that fees charged to their clients for the provision of sustainability-related products /services are not discriminatory. Fees charged for rating services shall not depend on the level of the ESG ratings issued by the providers or on any other result or outcome of the work performed. The regulation could also provide for the Commission, in close cooperation with ESMA, to prepare a report on how fees charged evolve over time.

Please explain what solutions and options you would consider appropriate in order to avoid potential conflicts of interests:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

To ensure an appropriate level of information on the possible interactions with analysed companies : whether providers of ESG data, analysis and services have/hold dialogues with the companies which are the object of their analysis and with the stakeholders of the company, and, if so, the extent and nature thereof; such transparency provisions could be inspired by the proxy advisors' regime introduced by Directive 2007 /36/EC as regards the encouragement of long-term shareholder engagement (SRD II, Article 3j);
Policy in place regarding the prevention and management of potential conflicts of interest should be described, the activities of subsidiaries and parents companies should also be taken into account where relevant. Establishment of an appropriate and effective organisational and administrative arrangements to prevent, identify, eliminate or manage and disclose any conflicts of interest should be provided for.

Please explain what solutions and options you would consider appropriate in order to provide some supervision on the operations of these providers:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please refer to previous responses.

Do you consider that the providers should be subject to an authorisation or registration system in order to offer their services in the EU?

- (x) Yes
- ( ) No
- ( ) Don't know / no opinion / not applicable

Please explain why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Providers that wish to provide services to European market participants should be subject to authorisation and supervision by ESMA, and should be required to operate through an establishment located in the European Union.

In order to ensure a sound enforcement of the rules and to guarantee that issuers and investors may efficiently interact with the providers, the supervisory regime should require ESG product providers who wish to provide services for European clients to have a permanent establishment in the European Union. The establishment in the EU is indeed the only way for the European regulator to exert its supervisory powers. Such an obligation should not constitute a major obstacle since the 2020 AMF analysis identified that two thirds of the analysed providers operating in the EU already have such an establishment in the EU27. With a view to preserve the level playing field, a corresponding requirement should be envisaged for European clients who wish to make use of these services, to use only authorised actors.

A proportionality regime should be inserted in this regulation and could in particular concern the obligation to operate through an EU establishment. The economic model of many smaller providers remains fragile and it is important to maintain a diversified offer. Proportionality could be achieved on a case-by-case and exceptional basis, as long as the provider is able to demonstrate that the requirements are not proportionate in view of the nature and scale of its business. The regulation should not by definition preclude continued access for European market participants to smaller providers operating outside of the EU, for whom a European establishment would be too burdensome. In such cases, a requirement to register with ESMA should still apply, in order to maintain a level playing field and allow for enforcement of the EU rules.

An endorsement regime for providers located outside the EU could be envisaged. Users of ESG products and services may need to resort to products not offered by supervised actors in the EU, in particular in relation to issuers or financial products located in specific geographical areas; in this case, an endorsement regime could be introduced for providers that are affiliated or work closely with providers established in the European Community, finding inspiration in the CRA regulation. However, it does not seem justified to provide for an equivalence regime at this stage as no equivalent regime exists today to the one supported by the AMF in its responses to this consultation. Consideration of the introduction of an equivalence regime could be justified in the longer term and in the light of the progress made in this field. Indeed, not designing such equivalence could hamper our capacity to innovate in the future. Several jurisdictions have recently initiated reflections on the need to regulate some ESG ratings and data products (eg the UK FCA or the Indian SEBI).

Do you consider that the providers should be subject to an authorisation or registration system in order to provide ESG ratings on EU companies or non-EU companies' financial instruments listed in the EU even if they offer services to global or non-EU investors?

- Yes
- (selected) No
- Don't know / no opinion / not applicable

Please explain why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The AMF considers that the circumstances triggering the obligation for a provider to seek authorisation / registration should be that such provider cumulatively: (a) elaborates ESG ratings on EU companies or on any company whose financial instruments are admitted to trading in the EU, and (b) sells such ESG ratings to users in the EU.

This implies that a provider which exclusively sells its ESG ratings to non-EU investors should not be in the scope of the authorisation / registration requirement.

However, this seems a purely theoretical situation as we do not expect that an ESG data provider could reasonably cut itself from the EU market if it produces ratings in relation to EU companies.

Do you consider that there should be some minimum disclosure requirements in relation to methodologies used by ESG rating providers?

- (selected) Yes
- No
- Don't know / no opinion / not applicable

Please explain why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Defining transparency standards on methodologies should help increase comparability of providers' methodologies while leaving the latter with a large degree of flexibility in designing those methodologies. Without interfering in methodologies themselves, more granular information (including information on criteria, selection and weighing factors, metrics and proxy used) should be provided in the descriptions of methodologies and models. Transparency should also be ensured on availability and processing of data as well as data estimation; providers of ESG data, ratings and services should clarify the sources of the information they collect (e.g. use of public information and/or questionnaires sent to companies and/or meetings with rated entities and/or the future European database) as well as the proportion of estimates used and how those estimates have been calculated. In this regard, Annex III of Regulation (EU) 2019/2089 as regards EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks could provide a suitable source of inspiration.

A lack of transparency indeed increases the risk of mismatches between the expectations of the investor and actual ESG performance of the investment. A related risk is that the opaqueness of services such as ESG ratings could be exploited to present a given investment as ‘greener’ than it actually is (greenwashing). Aside from investor protection risks, ensuing misallocation of investments poses a serious risk to the objectives of the European Commission to channel sufficient private investment to the transition towards a climate-neutral economy.

More generally, a certain number of transparency requirements should be implemented when regulating this market. These include in particular the following information: Description of the products offered and their characteristics ; Main source of raw data used or marketed; nature of such data ; Processes in place for collecting data; How the/an absence of reported data is managed (no data implemented, absence of data supplemented through: use of peer analysis, data approximation); Controls in place to ensure that the data is reliable, verifiable, up to date and comes from reliable sources; Whether providers of ESG data, analysis and services have/hold dialogues with the companies which are the object of their analysis and with the stakeholders of the company, and, if so, the extent and nature thereof; such transparency provisions could be inspired by the proxy advisors’ regime introduced by Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement (SRD II, Article 3j); Whether or not the providers rely on particular ESG standards and whether and how they refer to the European taxonomy for some of their products (or comply with other regulations) ; The frequency and procedure of revision of the methodologies; and, Policy in place regarding the prevention and management of potential conflicts of interest.

Do you consider that the providers should be using standardised templates for disclosing information on their methodology?

- ○ Yes
- ○ No
- ● Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Defining standardized templates for disclosing information on methodologies could participate to guaranteeing an increased comparability. It would also facilitate the access, readability and understanding of the information disclosed by actors, both in human and machine-readable formats

The AMF supports the idea of carrying out a more detailed reflection on how such templates could be defined to gather relevant and useful information for user. Such detailed requirement could be dealt with through level 2 text. The transparency requirements identified in the AMF-AFM position paper and recalled in the AMF answer to the above question could serve as input for such work.

However, the AMF would be more in favour of identifying the key components of a methodology on which comparability should be ensured than to define standardised templates for methodologies. The following elements could in particular be addressed in relation to previously identified issues: objectives of the rating (E,S or G, ESG), type of materiality retained for the analysis, source of the underlying data, percentage of estimated …

Do you consider that the rules should be tailored to the size of the provider and hence have smaller providers subject to a lighter regime?

- (•) Yes
- ( ) No
- ( ) Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The AMF supports the inclusion of a proportionality regime to safeguard innovation and plurality of providers. The economic model of many smaller providers remains indeed fragile and it is important to maintain a diversified offer.

Such proportionality should however be achieved on a case-by-case and exceptional basis, as long as the provider is able to demonstrate that the requirements are not proportionate in view of the nature and scale of its business. The regulation should notably not preclude by definition a continued access for European market participants to smaller actors outside of the EU, for whom a European establishment would in particular be too burdensome. In such cases, a requirement to register with ESMA should still apply, in order to maintain a level playing field and allow for enforcement of the EU rules.

Indeed, the proposed regulatory framework should only set up core requirements that should not be waived even in view of the size of the actor. In fact, greater transparency on methodologies and management of conflicts of interest should be the cornerstone of such regulation. Specific requirements on internal controls and governance should also be laid down to ensure reliability and quality of the services provided and proper management of potential conflicts of interest.

If you responded yes to the previous question, please specify what metric you consider should be used to differentiate between providers:

- ( ) Total revenue
- ( ) Revenue from ESG ratings
- ( ) Number of employees
- ( ) Percentage of EU companies/financial products rated (in the case of providers located outside the EU and not providing services to EU investors but rating EU companies/financial instruments)
- (•) Other metric(s)
- ( ) Don’t know / no opinion / not applicable

Please specify to what other metric(s) you refer and explain:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The preliminary core set of requirements described by the AMF in its response to this consultation should be periodically reviewed to take into account market developments and, where appropriate, be complemented by additional measures. The future definition of additional requirements might require the design of more proportionate provisions to ensure their adequacy for smaller players. Proportionality provisions might then need to be designed. Possible metrics to be take into consideration could then be based on the size of the entity in terms of total revenues or on the proportion of EU users of the ESG ratings or EU companies /financial products analysed by the ESG data, ratings and products provider.

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please refer to the response presented in comment the box above.

Should the providers located outside of the EU, not providing services to the EU investors but providing ratings of the European companies/financial products be subject to a lighter regime?

- ○ Yes
- ● No
- ○ Don't know / no opinion / not applicable

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b) Costs of an EU intervention

Questions for ESG rating providers

Assume that in order to offer services to investors in the European Union or to rate European companies/financial products, ESG rating providers would be subject to an authorisation or registration requirement.

How high would you estimate the one-off cost of applying for such an authorisation/registration?

Please provide an estimate in EUR:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In order to increase transparency, there may be considerations to introduce disclosure obligations on ESG rating providers. This could include, for example, disclosures on websites or annual reports on the operations and methodologies used by ESG rating providers and/or providing more information on how these methodologies were applied to specific ratings.

Please estimate the number of hours needed to produce the following disclosures:

	One-off costs (total hours) for disclosures on the operations and methodologies	**Ongoing costs (hours per week) for disclosures on the operations and methodologies**	**Additional disclosures in ratings (hours per rating)**
Negligible			
Less than 5 hours (but not negligible)			
5 to 9 hours			
10 to 19 hours			
20 to 39 hours			
40 to 79 hours			
80 to 160 hours			

More than 160 hours			

If you chose more than 160 hours in the table above, please provide an indication of how many hours would be needed (for the costs in each column, as applicable). You may also provide any further explanations:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

What percentage of these costs would be incurred even in the absence of legislation?

- 0%
- 1-20%
- 21%-40%
- 41%-60%
- 61%-80%
- 81%-100%
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you see any other costs related to providing these disclosures (e.g. adjustment of IT systems, external consultants, etc.)?

- Yes
- No
- Don’t know / no opinion / not applicable

How many hours of work would you consider necessary to perform tasks that would be linked to granting an authorisation for one ESG rating provider?

- Negligible time
- Less than 5 hours (but not negligible)
- 5 to 9 hours
- 10 to 19 hours
- 20 to 40 hours
- More than 40 hours
- Don’t know / no opinion / not applicable

If there were similar conflict of interest provisions introduced for ESG rating providers as in Article 6 and Annex I to Regulation (EU) 1060/2009 (CRA regulation), would you consider the associated costs to be of similar magnitude?

- Yes
- No
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you expect that you would face any further costs as an ESG rating provider as a result of a possible legal framework besides those mentioned above?

- Yes
- No
- Don’t know / no opinion / not applicable

If yes, please explain what types of costs, whether they would be one-off or ongoing and provide estimates if possible:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you estimate that possible additional compliance costs implied by a minimum requirement framework for ESG ratings would be compensated by the benefits of higher quality and more reliable ratings?

- Not at all
- To some extent
- To a reasonable extent
- To a great extent
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

What other impact(s) of a regulatory and supervisory framework on the operations of ESG rating providers would you see (e.g. potential impacts on competition, SMEs assessed by ratings, users of ratings, sustainable development)?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Questions for supervisors

How many hours of work would you consider necessary to perform tasks that would be linked to granting an authorisation for one ESG rating provider?

- Negligible time
- Less than 5 hours (but not negligible)
- 5 to 9 hours
- 10 to 19 hours
- 20 to 40 hours
- [x] More than 40 hours
- Don't know / no opinion / not applicable

If more than 40 hours, please provide an indication of how many hours would be needed:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

At this stage, the AMF cannot assess the number of hours necessary to perform the tasks linked to the granting of an authorisation for one ESG rating provider but takes the opportunity of this comment box to provide its view on the best-suited organisation for the supervision of ESG data, ratings and services providers.

As mentioned in the previous responses, ESMA should be entrusted with the authorisation and supervision of providers of ESG data, analysis and services. This is preferable to regulation by a national authority since providers and clients generally operate on a cross-border basis. Authorisation and supervision by ESMA would guarantee a harmonised application of rules as well as uniform supervision. Besides, ESMA staff would be able to leverage on their experience gained from the supervision of credit ratings agencies and trade repositories. Finally, if ESMA becomes competent for the authorisation and supervision of verifiers of green bonds, as is currently envisaged, it would be consistent that it also regulates providers of ESG data, analysis and services providers.

The AMF also would like to recall that ESMA directly suggested such centralised supervision in its January 2021 letter to the European commission on ESG ratings.

How many hours per week would you consider necessary to perform supervisory tasks per ESG rating provider?

- Negligible time
- Less than 5 hours (but not negligible)
- 5 to 9 hours

- 10 to 19 hours
- More than 20 hours
- (selected) Don't know / no opinion / not applicable

PART B - Incorporation of ESG factors in credit ratings

The provision of credit ratings is highly regulated in the EU as well as globally. Global standards are established by the I OSCO in its code of conduct for CRAs. The EU legal framework regulates the activities of CRAs with a view to protect investors and financial markets by guaranteeing the transparency, independence and integrity of the credit rating process – thereby enhancing the quality of ratings. All CRAs operating in the EU need to register with ESMA, which is the sole European supervisor. Credit ratings used for the purposes stemming from the EUvlegislation need to be provided by CRAs registered and supervised by ESMA. If a non-EU CRA wants its ratings to be used for regulatory requirements in the EU (i.e. by EU financial institutions), the CRA Regulation provides for two alternatives, certification or endorsement.

There are a number of EU regulatory requirements related to the use of credit ratings. , in particular, in the Capital Requirements Regulation (CRR) and in the Solvency Capital Requirement (SCR). The European Central Bank also makes extensive use of credit ratings in its open market operations.

Both EU legislation (Regulation (EU) No 462/2013) and the IOSCO code of conduct define precisely the objective of the credit rating: 'credit rating means an opinion regarding the creditworthiness of an entity, a debt or financial obligation, debt security, preferred share or other financial instrument, or of an issuer of such a debt or financial obligation, debt security, preferred share or other financial instrument, issued using an established and defined ranking system of rating categories'.

In other words, credit ratings assess the likelihood of the default of the rated entity or security. Credit ratings reply to the question: "what is the likelihood of getting my money back?" They are neither investment recommendations nor they determine the value of the rated entity or instruments.

ESG risks may be relevant for the assessment of creditworthiness depending on the sector, geographical location and the entity itself. CRAs methodologies define which factors, including ESG factors, are considered to be relevant for the assessment of creditworthiness and how they are taken into account in the credit rating process. ESMA supervises the soundness of methodologies, which in accordance with the CRA Regulation need to be rigorous, systematic, continuous, based on historical experience and back-tested. In its Technical Advice provided to the Commission in 2019, ESMA concluded that while it is clear that CRAs are considering E, S or G factors in their credit ratings, the extent to which each factor is considered varies by asset class, according to the importance assigned to that factor by a CRA's methodology. Currently, ESMA is conducting a thorough assessment of how CRA's methodologies incorporate sustainability risks.

The CRA Regulation includes a number of disclosure obligations in relation to the methodologies as well as individual credit ratings. In 2019, ESMA conducted a public consultation on disclosure requirements applicable to credit ratings. Following the finding on the insufficient transparency on the relevance of ESG factors to credit ratings, one of the topics of the consultation, ESMA issued guidelines on disclosure requirements applicable to credit ratings.

These ESMA guidelines expect CRAs to identify in their press releases if ESG factors have been key drivers behind a change in the credit rating. CRAs are asked to identify relevant factors, elaborate on their materiality and provide a reference to the methodology or the associated model. The ESMA guidelines came into effect in April 2020.

A recent assessment of the application of the guidelines revealed that the improvement of transparency has been partial. ESMA has analysed press releases over the period January 2019 – December 2020 and compared the number of references to ESG considerations before and after April 2020. The main findings are that the improvement is partial and not uniform.

This consultation builds on the findings of ESMA and the consultation on renewed sustainable finance strategy.

I. Questions to users of credit ratings

Do you use credit ratings for investment decisions?

- Yes, as a starting point for internal analysis
- Yes, as one of many sources of information that influence investment decisions
- Yes, as a decisive input into an investment decision
- No
- Other
- Don’t know / no opinion / not applicable

Do you use credit ratings for regulatory purposes (e.g. stemming from the Capital Requirements Regulation or Solvency II)?

- Yes
- No
- These requirements don’t apply to me
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Is it important for you to understand to what extent individual credit rating actions have been influenced by sustainability factors?

- Not important at all
- Slightly important
- Important

- Very important
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Do you find information about the extent to which CRAs methodologies or the rating process incorporate sustainability factors sufficiently well disclosed?

- Yes
- No
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Where do you look currently for the information on how ESG factors impact the credit rating?

Please select as many answers as you like

- Press release accompanying credit ratings
- Additional analysis and reports available to subscribers
- Additional information materials available publicly
- Description of methodologies or rating process for specific asset classes, sectors or types of entities
-

Frameworks or documents describing general approach to incorporation of ESG factors in credit rating process
- [ ] I don’t know where to find such information
- [ ] Other

Does the level of disclosure differ depending on individual CRAs?

- Yes
- No
- Don’t know / no opinion / not applicable

What are the trends on the market in relation to disclosure of information as to which credit ratings actions have been influenced by sustainability factors?

Please select as many answers as you like

- [ ] The level of disclosure has improved sufficiently since the entry into effect of ESMA guidelines (April 2020)
- [ ] In general the level of disclosure has improved sufficiently although some CRAs are lagging behind
- [ ] The overall level of disclosure is insufficient although some CRAs have sufficiently improved

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The extent to which CRAs incorporate ESG factors in credit ratings depends on the asset classes methodologies and the importance assigned to the given factor by a CRA's methodology. In addition, some CRAs have developed overall frameworks explaining how they incorporate ESG factors in credit ratings across asset classes, some publish reports reviewing past

credit rating actions or specific sections accompanying credit rating actions.

In your opinion, what are trends in the relation to the incorporation of ESG factors in the credit rating process and methodologies?

- CRAs have sufficiently improved the incorporation of ESG factors in their methodologies and rating process
- In general CRAs have sufficiently improved the incorporation of ESG factors in credit ratings although some CRAs are lagging behind
- In general the development is insufficient although some CRAs have improved the incorporation of ESG factors in their methodologies and rating process
- CRAs have insufficiently improved the incorporation of ESG factors in their methodologies and rating process
- Don't know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

II. Questions to Credit Rating Agencies

Do you explicitly incorporate ESG factors in your methodologies?

- Yes
- Yes, but only for asset classes and sectors where relevant
- Partially
- No
- Don't know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Which individual E, S and G factors do you consider in your methodologies?

Please select as many answers as you like

- [ ] Environmental factors
- [ ] Social factors
- [ ] Governance factors
- [ ] Other sustainability related factors

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In addition to methodologies, do you have a framework or a document describing how you incorporate ESG factors in the credit rating process?

By framework, we mean any general approach to the incorporation of ESG factors in credit rating process, in addition to methodologies for asset classes and sectors:

- Yes
- No
- Other
- Don’t know / no opinion / not applicable

Have you improved disclosure on ESG factors in credit ratings since April 2020 when ESMA guidelines became applicable?

- ○ Yes
- ○ Partially
- ○ No, but we plan to improve
- ○ No, because we have already been disclosing such information
- ○ No
- ○ Don't know / no opinion / not applicable

III. Questions on the need for EU intervention (all respondents)

Do you consider that the current trends in the market are sufficient to ensure that CRAs incorporate relevant ESG factors in credit ratings?

- ○ Yes
- ○ No
- ● Don't know / no opinion / not applicable

Do you consider that the current trends in the market and application of ESMA guidelines on disclosure applicable to CRAs are sufficient to ensure understanding among users as to how ESG factors influence credit ratings?

- ○ Yes
- ● No
- ○ Don't know / no opinion / not applicable

If you responded 'no' to the previous questions, what type of intervention would you consider necessary?

Please select as many answers as you like

- [ ] Further detailing of ESMA guidelines on the disclosure of ESG factors in credit ratings
- [ ] Further supervisory actions by ESMA
- [x] Legislative intervention
- [ ]

While improvements are insufficient, we do not see further scope for EU intervention

- [ ] Other

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The European Commission renewed sustainable strategy noted that stakeholders expressed continuous concerns around the lack of transparency on how credit rating agencies incorporate sustainability factors in their methodologies, in light of the wide use of credit ratings. The AMF supports that such expectation should be met by sufficient transparency requirements.

The conclusions reached by ESMA on the application of the guidelines on the disclosure of ESG factors in credit ratings, synthetized in an article published early 2022, indicate that the update of the disclosure requirements, although in increase, have not yet led to an appropriate level of disclosures from CRAs and call for further improvements. Given the previously mentioned trends and the limitations observed in relation to the application of ESMA guidance, further EU intervention could prove useful to meet the objectives of the sustainable finance strategy (action 3).

Regarding the possible regulatory intervention, what type of requirements do you find relevant?

Please select as many answers as you like

- [x] Press releases: introduce mandatory requirements mirroring the provision of ESMA guidance on the disclosure ESG factors in credit ratings
- [ ] Press releases: in addition to the previous option require CRAs to publish information not only about the impact of ESG factors on credit ratings, but also the lack of it
- [x] Methodologies: require CRAs to explain the relevance of ESG factors in methodologies
- [ ] Methodologies: require CRAs to take into account ESG factors where relevant
- [ ] Other

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

What kind of risks or merits of the EU intervention do you see?

Please select as many answers as you like

- [x] Provide further clarity on the impact of ESG factors on the creditworthiness of creditors and financial instruments
- [x] More coherent approach of CRAs to the incorporation of ESG factors into credit ratings
- [ ] Concerns about too much prominence given to ESG factors
- [ ] Others

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

What would be the consequences of the lack of the EU intervention?

Please select as many answers as you like

- [ ] Market trends are sufficient to meet investors demands for information on the impact of ESG factors on credit ratings
- [ ] CRAs will respond to market pressure and ensure the incorporation of ESG factors in credit ratings
- [x] The existing gap between approaches of CRAs to the incorporation of ESG factors in credit ratings will grow
- [x] Concerns about the insufficient incorporation of ESG factors in credit ratings lack of understanding among investors why certain credit rating actions are not impacted by ESG factors

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Costs of EU intervention - questions for CRAs

Where applicable, what are your costs in EUR to disclose information based on the current guidelines on disclosure of ESG factors in credit ratings?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Would you foresee any additional compliance costs if the current guidelines on disclosure of ESG factors in credit ratings were to become part of the EU legislation?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

To what degree do CRAs overall already follow the guidelines in the absence of an obligation to do so?

- 0%
- 1-40%
- 41%-60%
- 61%-80%
- 81%-90%
- 91%-99%
- 100%
- Don’t know / no opinion / not applicable

Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Would you expect additional compliance costs if EU legislation explicitly required CRAs to take into account ESG factors where relevant in the rating process?

- No or negligible additional costs
- Low additional costs
- Moderate additional costs
- High additional costs
- Don’t know / no opinion / not applicable

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data in the file you upload if you want to remain anonymous**.

The maximum file size is 1 MB.
You can upload several files.
Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Useful links

More on this consultation (https://ec.europa.eu/info/publications/finance-consultations-2022-esg-ratings_en)

Consultation document (https://ec.europa.eu/info/files/2021-esg-ratings-consultation-document_en)

Call for evidence accompanying this consultation (https://ec.europa.eu/info/law/better-regulation/initiatives/plan-2021-12801_en)

More on EU labels for benchmarks (climate, ESG) and benchmarks ESG disclosures (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-climate-benchmarks-and-benchmarks-esg-disclosures_en)

More on credit rating agencies (https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/managing-risks-banks-and-financial-institutions/regulating-credit-rating-agencies_en)

Specific privacy statement (https://ec.europa.eu/info/files/2022-esg-ratings-privacy-statement_en)

More on the Transparency register (http://ec.europa.eu/transparencyregister/public/homePage.do?locale=en)

Contact

fisma-esg-ratings@ec.europa.eu