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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 314 final
Subject:	ANNEXES to the Proposal for a Regulation of the European Parliament and of the Council on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities

Delegations will find attached Annexes 1 to 3 to document COM(2023) 314 final.

Encl.: COM(2023) 314 final



EUROPEAN
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Strasbourg, 13.6.2023
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ANNEXES 1 to 3

ANNEXES

to the

**Proposal for a Regulation of the European Parliament and of the Council
on the transparency and integrity of Environmental, Social and Governance (ESG)
rating activities**

{SEC(2023) 241 final} - {SWD(2023) 204 final} - {SWD(2023) 207 final}

ANNEX I
Information to be provided in the application for authorisation

An application for authorisation shall contain all of the following information :

- (a) the full name of the applicant, the address of the registered office within the Union, the applicant's website and, where available, the legal entity identifier (LEI);
- (b) the name and contact details of a contact person;
- (c) the legal status of the applicant;
- (d) the ownership structure of the applicant;
- (e) the identity of the members of the senior management of the applicant and their level of qualification, experience and training;
- (f) the number of the analysts, employees and other persons directly involved in assessment activities, and their level of experience and training working for the applicant and their level of experience and training;
- (g) a description of the procedures and methodologies used to issue and review ESG ratings implemented by the applicant;
- (h) the policies or procedures implemented by the applicant to identify, manage and disclose any conflicts of interests as referred to in Article 14 of the Regulation;
- (i) where applicable, documents and information related to any existing or planned outsourcing arrangements for activities covered by this Regulation;
- (j) where applicable, information about other activities carried out by the applicant, or which the applicant intends to provide.

ANNEX II

Organisational requirements

1. RECORD KEEPING INFORMATION

ESG rating providers shall keep records of all of the following:

- (a) for each ESG rating in the form of an opinion, the identity of the rating analysts participating in the determination of the ESG rating, the identity of the persons who have approved the ESG rating, information as to whether the ESG rating was solicited or unsolicited, and the date on which the ESG rating action was taken;
- (b) for each ESG rating in the form of a score, the identity of the persons responsible for the development of the rule-based methodology, and the identity of the persons who have approved the rating methodology;
- (c) the account records relating to fees received from any rated entity or related third party or any user of ratings;
- (d) the account records for each subscriber to the ESG ratings;
- (e) the records documenting the established procedures and rating methodologies used by the ESG rating provider to determine ESG ratings;
- (f) the internal records and external communications and files, including non-public information and work papers, used to form the basis of any ESG rating decision taken;
- (g) records of the procedures and measures implemented by the ESG rating provider to comply with this Regulation;
- (h) the methodology used for the determination of an ESG rating;
- (i) changes in or deviations from standard procedures and methodologies;
- (j) all documents relating to any complaint, including those submitted by a complainant.

2. OUTSOURCING

Where ESG rating providers outsource to a service provider functions or any relevant services or activities in the provision of an ESG rating, the ESG rating provider shall ensure that the following conditions are met:

- (a) the service provider has the ability, capacity, and any authorisation required by law, to perform the outsourced functions, services or activities reliably and professionally;
- (b) the ESG rating provider takes appropriate action if it appears that the service provider may not be carrying out the outsourced functions effectively and in compliance with applicable law and regulatory requirements;

- (c) the ESG rating provider retains the necessary expertise to supervise the outsourced functions effectively and to manage the risks associated with the outsourcing;
- (d) the service provider discloses to the ESG rating provider any development that may have a material impact on its ability to carry out the outsourced functions effectively and in compliance with applicable law and regulatory requirements;
- (e) the ESG rating provider is able to terminate the outsourcing arrangements where necessary;
- (f) the ESG rating provider takes reasonable steps, including contingency plans, to avoid undue operational risk related to the participation of the service provider in the ESG rating determination process.

ANNEX III

Disclosure requirements

1. MINIMUM DISCLOSURES TO THE PUBLIC

In accordance with Article 12 of the Regulation, ESG rating providers shall, at the minimum, disclose to the public on their website and through the European Single Access Point (ESAP) the following:

- (a) high level overview of the rating methodologies used (and changes thereto), including whether analysis is backward-looking or forward-looking;
- (b) high level overview of data processes (data sources, including if they are public or non-public, and if they are sourced from sustainability statements required by Directive (EU) 2022/2464, estimation of input data in case of unavailability, frequency of data updates);
- (c) information on whether and how the methodologies are based on scientific evidence;
- (d) information on the ratings' objective, clearly marking whether the rating is assessing risks, impacts or some other dimensions;
- (e) the rating's scope – i.e., is it an aggregated rating (aggregating E and S and G factor), or a rating of individual factors or specific issues (e.g., transition risks);
- (f) in the case of an aggregated ESG rating, weighting of the three overarching ESG factors categories (e.g., 33% Environment, 33% Social, 33% Governance), and the explanation of the weighting method, including weight per individual E, S and G factors;
- (g) within the E, S or G factors, specification of the topics covered by the ESG rating/score, and whether they correspond to the topics from the sustainability reporting standards developed pursuant to Article 29b of Directive 2013/34/EU;
- (h) information on whether the rating is expressed in absolute or relative values,
- (i) Where applicable, reference to the use of Artificial Intelligence (AI) in the data collection or rating/scoring process;
- (j) general information on criteria used for establishing fees to clients, specifying the various elements taken into consideration, such as the involvement of data analysts, IT equipment, purchasing data;
- (k) any limitation in data sources used for the construction of ESG ratings.

2. ADDITIONAL DISCLOSURES TO USERS OF ESG RATING AND RATED UNDERTAKINGS IN SCOPE OF DIRECTIVE 2013/34/EU

In addition to the elements referred to in Article 13 of the Regulation, ESG rating providers shall make available the following information to European regulated financial undertakings and to undertakings in the scope of Directive 2013/34/EU that are subject of such rating:

- (a) a more granular overview of the rating methodologies used (and changes thereto), including:
 - (1) where applicable, scientific evidence and assumptions on which the ratings are based,
 - (2) whether the analysis is backward-looking or forward-looking,
 - (3) which metrics have been selected as relevant,
 - (4) the relevant KPIs per E, S and G factor, and weighting method,
 - (5) any potential shortcomings of methodologies,
 - (6) policies for the revision of methodologies,
 - (7) last date of the revision;
- (b) a more granular overview of data processes, including:
 - (1) more detailed explanation of data sources used – including whether public or non-public, mentioning whether derived from the sustainability reporting standards developed pursuant to Article 29b of Directive 2013/34/EU /Taxonomy/SFDR],
 - (2) where applicable the use of estimation and industry average and explanation of the underlying methodology,
 - (3) the policies for updating data and revising historical data, date of last updates of data,
 - (4) data quality controls,
 - (5) any steps taken to address limitations in data sources, where applicable;
- (c) where applicable, information about engagement with rated entities;
- (d) where applicable, an explanation of any AI methodology used in the data collection or rating process;
- (e) in case of a major new information on a rated entity that has the possibility to affect the result of an ESG rating, ESG rating providers shall inform how they have taken that information into account and whether they have amended the corresponding ESG rating.