

1. September 2023

## **Position of the Association of German Public Insurers<sup>1</sup> on the regulation for the transparency and integrity of Environmental, Social and Governance (ESG) rating activities**

The Association of Public Insurers welcomes the European Commission's initiative to create a legal framework for environmental, social and governance (ESG) ratings. As the second largest German primary insurance provider with a strong regional presence, the group explicitly supports the goal of a more sustainable economy. Public insurers share the European Commission's analysis that ESG ratings and data are an enabler for the European Green Deal and Sustainable Finance and that they are increasingly used in risk management.

The public insurers are signatories to the “Principles for Responsible Investment” (PRI) and consider ESG criteria in all their investment decisions. From this point of view, public insurers support the approach to improve the functioning of the ESG ratings market. The Sustainable Finance Disclosure Regulation (SFDR) requires insurers to extensively document the sustainability aspects of their investments. The Taxonomy Regulation, in particular Art. 8, requires the disclosure of further sustainability indicators. Public insurers also expect the Corporate Sustainability Reporting Directive (CSRD), in combination with the EU Single Access Point (ESAP<sup>2</sup>) for corporate information, to ensure that this data is made available in an immediately usable form and free of charge in a public database.

To improve the proposed legislation on environmental, social and governance ratings and sustainability risks in credit ratings, the association makes proposals in three areas:

- 1. Appropriate scope of application**
- 2. Stronger proportionality in practice**
- 3. A balance between level I and level II**

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<sup>1</sup> The Association of German Public Insurers (Verband öffentlicher Versicherer, VöV, [www.voev.de](http://www.voev.de)) is the umbrella organisation of the German public insurance companies and a corporation established under public law. Founded in 1911, it represents 9 primary insurers across Germany that are deeply embedded in their regions. The group is the second-largest primary insurance provider in the German market, with more than EUR 152 billion of investments under management, thereby making a significant contribution to the European economy. The group is committed by law to support the public good. It has 52 million insurance contracts and pays out more than billion each year to its clients.

The public insurers employ 30,000 people. Through 17,500 own branches and offices of their partners, they offer advice and protection across most insurance sectors (health, life, pension, motor, indemnity, fire, etc.) for retail clients of all income groups and for professional clients, with a specific focus on small and medium-sized companies.

The Association of German Public Insurers represents the interests of its members at the national and the European level through its head offices in Berlin and Düsseldorf and its liaison office in Brussels.

<sup>2</sup> See the position of public insurers at <https://www.voev.de/european-single-access-point>.

## 1. Appropriate scope of application

The preparation of ESG ratings as well as the provision of ESG data are subject to strong economies of scale. As the importance of ESG ratings and data continues to grow, a natural monopoly could develop. The present draft of the regulation correctly addresses this problem for ESG ratings, but not for ESG data, although this market is subject to the same dynamics. The Association of Public Insurers therefore proposes to broaden the scope of application appropriately. In the definition of terms in Article 3, the term "ESG rating" should be defined more broadly, e.g. as "ESG information". The public insurers specifically suggest including all ESG information other than primary data provided by companies under the CSRD or equivalent disclosures. In perspective, with the finalisation of ESAP, there should be two categories of ESG information:

- i. **ESG raw data under statutory ESG disclosures (esp. CSRD)** that are publicly and digitally accessible via the ESAP - these would not be within the scope of the Regulation.
- ii. **Any other ESG data points and ratings** not found in the ESAP - these would be within the scope of the Regulation.

In this way, the quality of ESG information could be ensured and investor confidence strengthened. Either the ESG information comes from the statutory ESG reporting (in particular CSRD) and its quality and consistency is thereby ensured (in the context of CSRD even by an auditor). Or the ESG information is subject to the present regulation and thus fulfils the necessary quality requirements.

## 2. Stronger proportionality in practice

Article 20 correctly enables exemptions for SME providers. They would be disadvantaged by the fixed costs of implementing the regulation compared to larger providers. Proportionality is important to strengthen competition and reduce high market concentration. According to the proposal, ESMA can, at the request of an SME provider, exempt it from certain requirements on a discretionary basis. From the point of view of the public insurers, these exemptions should already be explicitly found in the level 1 text of the regulation. Experience with proportionality measures in existing financial market regulations shows that supervisors tend to be overly cautious in the practical implementation of proportionality. The leeway, intended by the lawmakers to be used for small and medium-sized market participants with lower risks, rarely gets fully used. In order to ensure strong proportionality in supervisory practice, specifications should therefore already be found in the level I text.

### 3. A balance between level I and level II

Following on from the second proposal, the public insurers generally propose to reduce the number and scope of delegated acts. The Association of Public Insurers sees an increasing tendency in the current financial market dossiers to locate regulatory aspects at level II. On the one hand, this is due to the increased technical requirements of the regulation. Nevertheless, the public insurers see the need and the possibility to use delegations more sparingly and at least specify as much as possible on level I. In the present regulation, for example, the disclosure requirements for the public (Art. 21) and for the rated entities (Art. 22) could be combined. In principle, the European Commission should continuously examine the necessity of delegated acts and give preference to legislation at level I in order to ensure the highest possible degree of democratic participation by the European Parliament and the Council on the contents. The mode of tacit approval or outright rejection of delegated acts does not do this any justice.

The public insurers support the European Commission in the implementation of this ambitious project and look forward to further exchanges on sustainable finance.

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