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Targeted contribution to the Market Integration & Supervisory Package on credit rating agencies and ESG data

Dear Mr Gentner,

Both the German Investment Funds Association (BVI) and the German Insurance Association (GDV) support the continuing effort to further integrate and strengthen Europe's capital markets. Regarding the Market Integration & Supervision Package, targeted improvements are necessary to ensure fair competition, transparency, and efficiency, particularly in the areas of credit rating agencies (CRAs) and ESG data markets.

Both insurers and fund managers, as two of the largest institutional investor groups in the EU, depend heavily on reliable, accessible, and fairly priced credit ratings and ESG data. However, current market structures in both areas create inefficiencies, excessive costs, and risks to market integrity. Addressing these issues is essential to ensure that capital markets can fully deliver on their role in supporting economic growth and sustainable investment.

Credit ratings: Regulate to ensure fair market conditions

Fund managers and insurers in the EU depend on external credit ratings for investment management, risk management and regulatory reporting as well as accounting purposes. In practice, they face a highly concentrated global market, where three US-based dominant providers (S&P, Moody's and Fitch) take inadequate advantage of their oligopoly-like market position to the detriment of institutional investors and overall capital market efficiency. Due to their dominant market

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position, institutional investors are *de facto* forced into licence agreements with these US-based CRAs. Given their market power and the fact that credit ratings must be used by insurers and fund managers due to regulatory requirements under Solvency II, UCITS, AIFMD and MIFID, these CRAs regularly enforce excessive fee increases for their credit rating information.

These increases come in different forms and formats. For a fund manager or an insurer which has licensed ratings data and other products or services (bundled agreements), it is almost impossible to terminate the additional product licenses and retain only the rating data feed. In the past, some agencies have protected their revenue base by asking the same prior fees for the rating data alone.

To date, only the analytical units of rating agencies are supervised and obliged to report annually on fees charged to each client for individual credit ratings and ancillary services as well as their pricing policy, including the fee structure. Accordingly, ESMA has the option of reviewing these reports for appropriateness (“at cost”).

A key gap is that **licensing entities (subsidiaries) within the rating agency groups are not covered by current supervision**, limiting ESMA’s ability to assess whether fees are justified and to take corrective actions, where necessary. This creates a structural disadvantage for EU investors and increases the cost of participating in capital markets.

Targeted action can deliver quick wins:

- Credit rating agencies should be required to give access, on reasonable commercial terms and on a non-discriminatory basis, to the arrangements they employ for making public the information (as it is required in Article 13 MiFIR for trading venues).
- Extend the **CRA framework** to cover licensing activities across the full group structure
- Enable **ESMA** to scrutinise pricing and enforce transparency; in particular, ESMA should collect annual information on pricing, licences, costs, and revenues per types of ratings and ancillary services in addition to fees and costs for rating-related products and services sold by other entities within the group. Particular attention should be paid to any ‘bundled services’, i.e. binding purchase of

credit rating products in the aim of sourcing ESG data.

Furthermore, the **European Rating Platform (ERP)** should be strengthened as a genuinely usable, real-time and accessible data source

→ by obliging credit rating agencies to provide rating information in real time and without any legal constraints to the ERP.

These measures would significantly reduce barriers to entry and support cross-border investment in line with the objectives of the package.

ESG data: Closing a critical gap for sustainable finance

Scaling up sustainable investments across the EU requires **reliable and comparable ESG data**. Yet current rules focus on ESG ratings, while **ESG raw data and data products remain largely unregulated**, despite their central role for investors. Among institutional investors, there is a high demand for reliable and comparable ESG data for the management of sustainability risks and effective implementation of sustainable investment strategies, but also due to regulatory reporting requirements for financial market participants.

Availability of reported ESG data has been critically reduced by Omnibus I with roughly 90 percent of companies being released from scope of CSRD sustainability reporting obligations. This means that asset managers and investors will remain dependent on ESG data sourced from commercial vendors. In this regard, inconsistent methodologies, data gaps diverging approaches to data collection/estimation and limited transparency increase costs and expose data users to greenwashing risks. This fragmentation of the data landscape directly undermines the development of an integrated EU market for sustainable finance. As ESG data is usually offered in the market by the same firms that qualify as ESG rating providers, the EU Regulation on ESG ratings is a suitable framework to address these issues.

The scope of the ESG Ratings Regulation should be extended to ESG raw data and other ESG data products by:

- Adapting Article 2(1) and deleting the exemption in Article 2(2)(c)
- Incorporate the definition for “*ESG data products*” from the IOSCO Report of November 2021 into Article 3 of the ESG Ratings Regulation, which states:

ESG data products: refer to the broad spectrum of data products,

including estimates, that are marketed as providing either a specific E, S, or G focus or a holistic ESG focus on an entity, financial instrument, product or company's ESG profile or characteristics or exposure to ESG, climatic or environmental risks or impact on society and the environment, whether or not they are explicitly labelled as "ESG data products".

- It should be clarified that the definition of ESG data products includes ESG raw data.
- Extending specific obligations under the Regulation such as transparency requirements (Chapter 2) and complaints-handling mechanisms (Article 18) to the provision of ESG data products.

We would welcome the opportunity to discuss these issues in more detail with you and remain at your disposal for any questions you may have.

Yours sincerely



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