

And... Score! Asset Managers' Proprietary ESG Scoring Under Pressure from the EU ESG Ratings Regulation

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The European Union's ESG Ratings Regulation (the "Regulation") will apply from 2 July 2026 and establishes a regulatory framework governing the provision of ESG ratings within the European Union. It introduces requirements relating to authorisation, governance, conflicts of interest and transparency, including public disclosures on rating methodologies (for example, via website disclosures).

Although primarily directed at dedicated professional ESG ratings providers "operating in the EU" whether as an EU or non-EU entity, the Regulation has a broader reach than initially anticipated and may capture asset managers that use proprietary ESG scoring methodologies, particularly where these are disclosed in external marketing communications. Against this backdrop, firms should carefully assess how any proprietary ESG methodologies are presented against the Regulation.

The following points may be considered by asset managers as initial checkpoints:

1. Being an asset manager does not preclude being in scope

While ESG scoring carried out and published by asset managers may be ancillary to investment activity and not undertaken on a "professional basis" – and a view could therefore be taken that an asset manager is not acting as a professional ESG ratings provider – the Regulation is not that straightforward. It expressly contemplates that EU-regulated financial services firms, including AIFMs and MiFID investment firms, may fall within scope depending on how ESG ratings are generated and communicated, in particular where they are included in marketing communications. There is also no automatic exclusion where such materials are directed solely at professional investors.

By contrast, the Regulation applies more narrowly to non-EU entities, focusing on “issuing and distributing” ESG ratings by way of subscription or contractual arrangement, rather than the broader concept applicable to EU entities of “issuing and publishing” ESG ratings, including in marketing materials. In practice, this is unlikely to capture most non-EU sponsors, meaning they are more likely to remain outside scope on that basis.

2. If it resembles a score or a rank, it is likely to be treated as a rating

The Regulation encompasses both ESG “scores” and “opinions” where these are based on an established methodology and a defined system of ranking categories.

Importantly, this includes both purely quantitative outputs and assessments incorporating analyst judgement. The use of labels such as “low”, “medium” or “high”, or comparable categorical gradings, could bring a disclosure within scope. Even in the absence of explicit terminology such as “score”, “rating” or “opinion”, a disclosure may still be caught where, in substance, it represents an ESG evaluation grounded in a defined methodology and ranking framework.

3. Case studies can be a trigger point

A key consideration is not the existence of an ESG assessment methodology, but its application to specific, identifiable assets and the external sharing of the resulting output. For example, where a portfolio company is assigned an ESG ranking within a case study or investment example, that entity is likely to constitute a “rated item” for the purposes of the Regulation. There could be more flexibility to stay outside the regulatory regime if the description is limited to how a fund will utilize an ESG rating methodology without disclosure of specific examples of how it has, or will, apply to an investment as then there is no “rated item”.

4. Marketing materials - proceed with caution

The Regulation includes certain helpful exemptions, including for ESG ratings disclosed pursuant to SFDR requirements. However, “marketing communications”, such as pitchbooks, DDQ responses and RFP materials, are more complex to navigate and are more likely to fall within the Regulation’s scope. In practice, these are often the documents where firms are most inclined to showcase ESG credentials, but they are also the materials most likely to give rise to regulatory exposure.

5. Test the disclosures - both by EU and non-EU entities

Firms are recommended to test how ESG ratings are presented across different channels, such as websites and documentation, including the content, format and location of disclosures against the regulatory perimeter. Particular attention should be paid to:

- whether ESG assessments are expressed in a way that implies a ranking system;
- the context in which they are disclosed e.g. website, pitch materials, regulatory disclosures or legal documents; and
- which entity is making the disclosure.

This last point is critical: while both EU and non-EU entities can be caught, the Regulation applies more broadly to EU entities in certain aspects – including the activities of “issuing and publishing”, as well as “issuing and distributing”, whereas non-EU entities are more limited to “issuing and distributing”.

Next steps

EU asset managers, whether operating as a MiFID firm or AIFM, as well as non-EU managers with an EU regulated entity in their structure, that use proprietary ESG methodologies will need to assess whether their ESG-related activities and disclosures fall within the scope of the Regulation, with particular focus on marketing communications. There may need to be consideration of whether they are prepared to comply with the associated transparency requirements for marketing communications, including the publication of methodology disclosures on their websites, or alternatively adjust their approach to remain outside scope.

Early consideration of both scope and disclosure obligations will be key to enabling firms to continue communicating their proprietary ESG methodologies effectively, while remaining on their preferred side of the Regulation’s perimeter.

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