

Measures towards Ease of Doing Business for ESG Rating Providers (ERPs)

1. Objective

1.1. This Board Memorandum proposes amendments to the SEBI (Credit Rating Agencies) Regulations, 1999 ("**CRA Regulations**") to introduce measures for Ease of Doing Business ("**EoDB**") for ERPs.

1.2. This Board Memorandum also proposes to apprise the Board of the guidelines to be issued by SEBI by way of circular to give effect to EoDB measures for ERPs.

2. Background

2.1. SEBI introduced a regulatory framework for ERPs, under Chapter IVA of the CRA Regulations, in terms of an amendment notified on July 04, 2023. Under the extant framework, ERPs are required to follow either an issuer-pays business model or a subscriber-pays business model.

2.2. As on December 01, 2024, the following ERPs are registered with SEBI:

S. No.	Name of ERP	Date of Registration	Business Model
1	CARE ESG RATINGS LIMITED	May 02, 2024	Issuer-pays
2	CFC FINLEASE PRIVATE LIMITED	Aug 21, 2024	Subscriber-pays
3	CRISIL ESG RATINGS & ANALYTICS LIMITED	Apr 25, 2024	Subscriber-pays
4	ECORATINGS FINTECH SOLUTIONS PRIVATE LIMITED	Oct 18, 2024	Issuer-pays
5	ESG RISK ASSESSMENTS & INSIGHTS LIMITED GLOBETREND CLIMATE IMPACT PRIVATE LIMITED	Apr 29, 2024	Subscriber-pays

S. No.	Name of ERP	Date of Registration	Business Model
6	GLOBETREND CLIMATE IMPACT PRIVATE LIMITED	Jul 03, 2024	Issuer-pays
7	ICRA ESG RATINGS LIMITED	Apr 29, 2024	Issuer-pays
8	IIAS SUSTAINABILITY SOLUTIONS PRIVATE LIMITED	May 08, 2024	Subscriber-pays
9	MSCI ESG RATINGS AND RESEARCH PRIVATE LIMITED	Sep 19, 2024	Subscriber-pays
10	NSE SUSTAINABILITY RATINGS & ANALYTICS LIMITED	Aug 13, 2024	Subscriber-pays
11	PGS IMPACT PRIVATE LIMITED	Jun 06, 2024	Subscriber-pays
12	RESURGENT ESG SERVICES PRIVATE LIMITED	Aug 30, 2024	Issuer-pays
13	RHEAA ESG EXCELLENCE PRIVATE LIMITED	Sep 26, 2024	Issuer-pays
14	SES ESG RESEARCH PRIVATE LIMITED	Apr 25, 2024	Subscriber-pays
15	SHESH ENVIRO SOLUTIONS PRIVATE LIMITED	Aug 13, 2024	Issuer-pays

2.3. SEBI has received representation from ERPs, inter alia, seeking clarification on the applicability of certain provisions prescribed in the Regulations for ERPs following a subscriber-pays model. Further, ERPs have also sought clarification with regard to ESG rating of issuers/ products other than listed issuers/ securities.

2.4. Pursuant to internal deliberations on the proposals received from ERPs, SEBI issued a consultation paper titled “Consultation Paper on proposals for Ease of Doing Business by ESG Rating Providers (ERPs)” seeking comments / views / suggestions from the public on the proposed measures.

3. Consultation

3.1. A total of 21 entities responded to the consultation paper with their views/ inputs/ suggestions. The respondents include industry associations, market participants, practicing company secretaries and investors ERPs, Stock Exchanges, listed entities, Mutual Funds, Life insurance company, non-Banking finance companies, think tanks, advisory firms, university AIFs and industry associations. The respondents are broadly in agreement with the proposed measures and a summary of the respondents agreeing / partially agreeing / disagreeing to the proposals made in the consultation paper is as under:

Proposals		Responses of Entities (in numbers and in %)				
S. No	Proposal Description	Agree/ Strongly agree	Partially Agree	Disagree / Strongly disagree	Neutral/ No comments	Total Count
1	Whether ERPs following a subscriber-pays model should share their report with the subscribers and the rated issuer at the same time?	11	1	7	2	21
		53%	5%	33%	9%	100%
2	Whether there should be a restriction on the rated entity/ issuer itself and its group companies or associates to be a subscriber to ESG rating and/ or rating	5	1	12	3	21
		24%	5%	57%	14%	100%

	of securities of the rated entity/ issuer?					
3	Whether ERPs following a subscriber-pays model should grant an opportunity of representation to the rated issuer?	13	2	4	2	21
		63%	9%	19%	9%	100%
4	Whether the process specified in the Consultation Paper for dealing with comments/ clarifications received from the rated entity is appropriate and adequate? Should a rated entity/ issuer seeking clarification be provided a facility in some specific form and manner?	10	2	4	5	21
		48%	9%	19%	24%	100%
5	Whether ERPs following a subscriber-pays model may dispense with the disclosure of the	14	1	3	3	21
		67%	5%	14%	14%	100%

	ESG ratings to the stock exchange(s) where the issuer or the security is listed?					
6	Whether the proposed amendments for instituting Activity Based Regulation for ERPs are appropriate and adequate?	10	5	2	4	21
		48%	24%	9%	19%	100%

3.2. The proposals submitted by the ERPs, along with public comments on the same and SEBI's views thereon were placed before the SEBI Corporate Bonds and Securitisation Advisory Committee (CoBoSAC).

3.3. The suggestions received from the ERPs, feedback received pursuant to public consultation, recommendations made by CoBoSAC on the same and views of SEBI thereon are summarized at **Annexure A**. The reference to relevant tables of Annexure A has been made in the proposals mentioned in subsequent paras.

4. Requirement of sharing draft ESG rating report with the issuer in case of ERPs following a subscriber-pays model (Table No. 1)

4.1. Extant Regulatory Provision

4.1.1. Regulation 28L(1)(j) of the CRA Regulations stipulates that *“An ESG rating provider shall... share the draft ESG rating report with the rated issuer or the issuer whose securities are being rated, before publication of the same...”*

4.2. Rationale for proposed amendment:

4.2.1. ERPs have represented that sharing of ESG rating report with the rated entity/ issuer results in divulging a considerable amount of information, which would obviate the need for any subscription by such rated entities, thereby resulting in loss of business for ERPs following subscriber-pays model. However, in the interest of fairness and transparency, it may be appropriate to offer the rated entity an opportunity to provide relevant clarifications/ response on any inaccuracies related to the data/ assumptions considered by the ERP in their rating report. Therefore, in line with the relevant guidelines also specified for Proxy Advisors, ERPs following a subscriber-pays model may share the ESG rating report with the rated issuer and the subscribers at the same time.

4.2.2. Further, while the extant regulatory framework allows for the rated entity/ issuer to subscribe to its, it is felt that the same may result in a hybrid business model, which is not envisaged in the regulatory framework. Therefore, in case of ERPs following a subscriber-pays model, it may not be permitted for the rated entity/ issuer or its group companies or associates to be a subscriber to rated entity/ issuer's own ESG rating/ ESG rating on securities issued by rated entity/ issuer.

4.3. Proposal

4.3.1. It is proposed to amend CRA Regulations to provide that the ERPs following a subscriber-pays business model shall:

4.3.1.1. share their report with the subscribers and the rated issuer at the same time.

Further, this sharing policy should be disclosed by the said ERPs on their website.

4.3.1.2. ensure that if a rated entity/ issuer is a subscriber to its ESG rating and/ or ESG rating of securities issued by it, the fee paid by the rated entity/ issuer to the ERP is the lowest fees payable/ paid among all the subscribers. Group companies or associates of the rated entity whose core business requires ESG ratings and that are regulated by financial sector regulator(s) may

subscribe to the ESG rating, which should be without subsistence of any conflict of interest or any potential or actual abuse/ misuse.

4.3.1.3.ensure that the ESG rating assigned shall be based only on publicly available information.

4.3.2. Currently, the definition of “group companies” in the CRA Regulations refers to the definition in the Monopolies and Restrictive Trade Practices Act, 1969. Since the said Act has been repealed, it is proposed that the definition of “group companies” in the CRA Regulation may be amended and specified as defined under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. Further, it may be specified in the Regulations by way of an explanation that the word “associate” in relation to the rated entity shall have the meaning as defined under the Companies Act, 2013.

5. Dealing with appeal and representation by the rated issuer in case of ERPs following a subscriber-pays model (Table No. 2)

5.1. Extant Regulatory Provision

5.1.1. Regulation 28L(1)(j) of the CRA Regulations stipulates that “...*the ESG rating provider shall grant an opportunity of appeal and representation, if requested for by the issuer.*”

5.2. Rationale for proposed amendment

5.2.1. ERPs have represented that since the ratings assigned by ERPs following a subscriber-pays model are based on information available in public domain, including the sustainability disclosures made by the issuers, and not solicited by the issuer, the requirement for an appeal process may be dispensed with.

5.2.2. However, it is felt appropriate to offer the rated entity an opportunity to make representation and provide relevant clarifications/ response on any inaccuracies related to the data/ assumptions considered by the ERP in their rating report.

5.3. Proposal

5.3.1. It is proposed to amend CRA Regulations to provide that the ERPs following a subscriber-pays business model shall:

5.3.1.1. provide 2 working days to the rated entity/ issuer to provide its comments, pursuant to sharing of the ESG rating report with the said entity. All comments/ clarifications received from the rated entity within the specified timeline shall be included by the ERP as an addendum to the rating report. If the rated issuer has a different viewpoint on the data/ assumptions stated in the rating report of the ERP, then the ERP, after taking into account the said viewpoint, may either revise the rating report in the addendum report or issue an addendum to the report with its remarks, for circulation to all its subscribers as considered appropriate by the ERP.

5.3.1.2. provide a facility to the rated entity/ issuer to seek any clarification on, inter alia, the ESG rating methodology or assumptions.

5.3.2. It is proposed to specify the following by way of issuance of Circular:

5.3.2.1. The rated entity/ issuer shall provide its comments on the ESG rating report to the ERP in a standardised format as devised by the ERP industry association in consultation with SEBI.

5.3.2.2. The ERP Association shall, in consultation with SEBI, frame the standards for the clarification to be provided by the ERP to the rated entity, balancing the minimum information that is to be provided while maintaining confidentiality of intellectual property of ERPs.

6. Dispensing with the requirement to disclose the ESG ratings to the stock exchange(s) where the issuer or the security is listed in case of ERPs following a subscriber-pays model (Table No. 3)

6.1. Extant Regulatory Provision

6.1.1. Regulation 28L(1)(d) of the CRA Regulations stipulates that *“An ESG rating provider shall promptly disclose the ESG rating assigned to any issuer or security, and any changes in ESG ratings or reviews, after periodic review or otherwise, to the stock exchange(s) where the issuer or the security is listed, and on its website, and issue press releases for the information of the investors”*.

6.2. Rationale for proposed amendment

6.2.1. Considering that ERPs following a subscriber-pays model assign ratings based on information available in public domain and not pursuant to any agreement with/ solicitation from the issuer, it may not be appropriate to mandate the ERP to report the ESG ratings to the stock exchange(s) where the rated issuer/ security is listed.

6.2.2. Further, ERPs are already required to publicly disclose all ESG ratings on their website.

6.3. Proposal

6.3.1. It is proposed to amend CRA Regulations to provide that the ERPs following a subscriber-pays business model shall be exempted from disclosing the ESG rating assigned and any changes in the ESG ratings or reviews to the stock exchange(s) where the issuer or the security is listed. Such ERPs should ensure that it is not in possession of and has not used any non-public information for assigning ESG ratings.

6.3.2. ERPs shall disclose the ESG ratings assigned and any changes in the ESG ratings on their website as per the format formulated by the ERP Association in consultation with SEBI. It is proposed to specify the same by way of issuance of Circular.

7. Specifying Activity Based Regulation for ERPs (Table No. 4)

7.1. Extant Regulatory Provision

7.1.1. Regulation 28B(1)(c) of the CRA Regulations define “ESG rating provider” as *“a person which is engaged in, or proposes to engage in, the business of issuing ESG ratings”*.

7.1.2. Further, Regulation 28B(1)(b) defines “ESG ratings” as *“rating products that are marketed as opinions about an issuer or a security, regarding its ESG profile or characteristics or exposure to ESG risk.....issued using a defined ranking system of rating categories, whether or not these are explicitly labelled as “ESG ratings””*.

7.2. Rationale for proposed amendment

7.2.1. Since the definition of ESG ratings/ ERP does not refer to the listing status of the rated issuer/ listed security, any person/ entity undertaking ESG rating or scoring (even for an unlisted entity/ instrument) may be required to seek registration from SEBI as an ERP. However, extant Regulations permit ERPs to provide ESG ratings to only listed/ proposed to be listed issuers/ securities and to undertake such activities as SEBI may notify.

7.2.2. Further, the CRA Regulations do not include the enabling provision for ERPs to undertake ESG rating of other products/ issuers, under the respective guidelines of a financial sector regulator or any authority, as may be specified by SEBI.

7.2.3. It is necessary to specify an Activity Based Regulation framework for ERPs in order to address the industry need for ESG rating of products/ issuers under the purview of other financial sector regulators/ authorities. Further, while enabling ERPs to undertake such activities, it is also imperative to avoid the misperception of regulated entities working in areas beyond the regulatory purview.

7.3. Proposal

7.3.1. It is proposed to amend CRA Regulations to provide for the following:

7.3.1.1. An enabling provision in the CRA Regulations for ERPs to undertake ESG rating of other products/ issuers under the respective guidelines of a financial sector regulator or authorities as may be specified by SEBI.

7.3.1.2. SEBI-registered ERPs undertaking rating of products/ issuers regulated by other financial sector regulators or authorities shall explicitly specify the regulator/ authority under whose purview such ratings are undertaken and do so in adherence to the rules or regulations or guidelines issued by such regulator/authority. Non-regulated activities shall be hived off to a separate entity. The entity undertaking non-regulated activities may share resources such as personnel, IT infrastructure, etc. with the ERP but shall not use the brand name of the ERP.

7.3.1.3. Entities that do not propose to undertake SEBI-regulated ERP activities are not required to seek registration with SEBI.

8. Proposal to the Board:

8.1. The Board is requested to:

8.1.1. consider and approve the proposals as detailed under sub-para no. 3 of para numbers 4 to 7 above and the consequent draft amendment notifications placed at **Annexure B**;

8.1.2. authorize the Chairperson to make consequential and incidental changes and take necessary steps to give effect to the decisions of the Board.

Annexure A

Table 1: Requirement of sharing draft ESG rating report with the issuer in case of ERPs following a subscriber-pays model (Para 4 of Board memorandum)

S. No.	Proposal in Consultation Paper	Public Comments	Recommendation of CoBoSAC	SEBI's views
1.	ERPs following a subscriber-pays model shall share their report with the subscribers and the rated issuer at the same time. Further, this sharing policy should be disclosed by the said ERPs on their website.	Out of the 21 respondents, 14 have agreed/ are neutral on the proposal. A significant majority of the respondents have endorsed the proposal, inter alia, submitting that the same shall be operationally more efficient for ERPs. The respondents disagreeing with the proposal (7 in number) have submitted that sharing of rating report with the rated entity by a subscriber pays model ERP may result in issuers not engaging the services of an issuer pays model ERP. It has been suggested to mandate ERPs to publish a disclaimer that “the data and information	CoBoSAC agreed with the proposals made in the consultation paper. To address the concern expressed by respondents against the proposal, it was also suggested that rating assigned by the subscriber-pay ERPs shall be based only on publicly available information.	Agree with the CoBoSAC and proposals in this regard have been made in Para 4.3.1 of the Board Memorandum.

S. No.	Proposal in Consultation Paper	Public Comments	Recommendation of CoBoSAC	SEBI's views
		used in the assessment are derived solely from publicly available sources and have not been obtained in consultation with the rated entity”.		
2.	ERPs following a subscriber-pays model shall ensure that the rated entity/ issuer itself or its group companies or associates are not permitted to be a subscriber to ESG rating and/ or rating of securities of the rated entity/ issuer.	Out of the 21 respondents, 9 have agreed/ are neutral on the proposal. The respondents disagreeing with the proposal (12 in number) have, inter alia, submitted that the proposal could restrict AMCs, banks, and NBFCs from subscribing to ratings of their group entities/ associates. AMCs required by regulations to disclose ESG ratings in portfolios would struggle to meet compliance if they or their holdings are part of the rated group.	CoBoSAC agreed with the proposals made in the consultation paper. Some committee members suggested that group entities of an issuer/rated entity that undertake asset management or insurance could be permitted to be subscribers subject to such norms as SEBI may specify.	Agree with the CoBoSAC and proposals in this regard have been made in Para 4.3.1 and 4.3.2 of the Board Memorandum.

**Table 2: Dealing with appeal and representation by the rated issuer in case of ERPs following a subscriber-pays model
(Para 5 of Board memorandum)**

S. No.	Proposal in Consultation Paper	Public Comments	Recommendation of CoBoSAC	SEBI's views
1.	ERPs following a subscriber-pays model shall also grant an opportunity of representation to the rated issuer.	Out of the 21 respondents, 17 have agreed/ are neutral on the proposal. A significant majority of the respondents have endorsed the proposal. The respondents disagreeing with the proposal (4 in number) have submitted that providing an opportunity to the issuer to make a representation or appeal against the ESG Ratings issued by a subscriber-pays model ERP will open an avenue for the rated entity to share information which is not generally available in public domain SPM therefore can turn into hybrid model whereby on one hand the revenue is	CoBoSAC agreed with the proposals made in the consultation paper. Further, if the rated entity/ issuer desires clarification, inter alia, on the methodology or assumptions, the ERP should provide such a facility.	Agree with the CoBoSAC and proposals in this regard have been made in Para 5.3.1 and 5.3.2 of the Board Memorandum.

		generated from subscriber but on the other hand the ERPs will be able to access information provided by the rated entity and provide ESG rating akin to a manner in which issuer-pays model ERPs will issue the rating.		
2.	In this regard, ERPs shall define a timeline to receive comments from the rated entity/ issuer pursuant to sharing of the ESG rating report with the entity. All comments/ clarifications received from the rated entity within the specified timeline shall be included by the ERP as an addendum to the rating report. If the rated issuer has a different viewpoint on the data/ assumptions	Out of the 21 respondents, 16 have agreed/ are neutral on the proposal. A significant majority of the respondents have endorsed the proposal. The respondents disagreeing with the proposal (5 in number) have suggested that SEBI should consider adding specific timelines and standardized templates for representations to make the process more structured and efficient.	CoBoSAC agreed with the proposals made in the consultation paper. Accordingly, ERPs following a subscriber-pays model shall provide 2 working days to the rated entity/ issuer to provide its comments, pursuant to sharing of the ESG Rating Report with the rated entity.	Agree with the CoBoSAC and proposals in this regard have been made in Para 5.3.1 and 5.3.2 of the Board Memorandum.

	stated in the rating report of the ERP, then the ERP, after taking into account the said viewpoint, may either revise the rating report in the addendum report or issue an addendum to the report with its remarks, for circulation to all subscribers as considered appropriate. .		Further, the industry association may devise a standardised format for the rated entities to provide their response/ feedback on the ESG rating report.	
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Table 3: Dispensing with the requirement to disclose the ESG ratings to the stock exchange(s) where the issuer or the security is listed in case of ERPs following a subscriber-pays model (Para 6 of Board memorandum)

S. No	Proposal in Consultation Paper	Public Comments	Recommendation of CoBoSAC	SEBI's views
1.	It is proposed to dispense with the requirement for	Out of the 21 respondents, 18 have agreed/ are neutral on the proposal.	CoBoSAC agreed with the proposals made in the consultation paper.	Agree with the CoBoSAC and proposals in this regard have been made in Para 6.3.1 and

	disclosure of the ESG rating assigned and any changes in ESG ratings or reviews to the stock exchange(s) where the issuer or the security is listed, in case of ERPs following a subscriber-pays model. Such ERPs should affirm lack of any non-public information being in their possession or being harnessed for ESG Ratings.	A significant majority of the respondents have endorsed the proposal. The respondents disagreeing with the proposal (3 in number) have submitted that excluding subscriber-pays ERPs from reporting ratings to the stock exchanges may be detrimental to transparency and accessibility to investors since a centralized reporting of ESG ratings and updates on the stock exchange would create a one-stop shop for all of them.	Further, it was suggested that such ERPs should affirm lack of any non-public information being in their possession or being harnessed for ESG Ratings.	6.3.2 of the Board Memorandum. To address the concern expressed by respondent(s) in respect of centralized reporting of ESG ratings and updates on the stock exchange, it is proposed that ERPs shall disclose the ESG ratings assigned and any changes in the ESG ratings on their website as per the format formulated by the ERP Association in consultation with SEBI.
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Table 4: Specifying Activity Based Regulation for ERPs (Para 7 of Board memorandum)

S. No	Proposal in Consultation Paper	Public Comments	Recommendation of CoBoSAC	SEBI's views
1.	Enabling provision may be added in the CRA Regulations for ERPs to undertake ESG rating of other products/ issuers, including unlisted issuers/ securities, under the respective guidelines of a financial sector regulator or authorities as may be specified by SEBI. SEBI-registered ERPs rating other products/ issuers should not project themselves as SEBI-regulated ERPs and explicitly specify the	Out of the 21 respondents, 19 have agreed/ are neutral on the proposal. A significant majority of the respondents have endorsed the proposal. The respondents disagreeing with the proposal (2 in number) have suggested that detailed specific reporting requirements for ERPs engaging in non-SEBI regulated activities should be specified by SEBI which would enable SEBI to maintain oversight of the broader ESG. It has further been submitted that ERPs should have an option to rate unlisted entities or fixed income securities as from users perspective and research for all asset classes can be procured from a single entity and that ERPs	CoBoSAC agreed with the proposals made in the consultation paper.	Agree with the CoBoSAC and proposals in this regard have been made in Para 7.3.1 of the Board Memorandum.

S. No .	Proposal in Consultation Paper	Public Comments	Recommendation of CoBoSAC	SEBI's views
	regulator/ authority under whose purview such ratings are undertaken and do so in adherence to the rules or regulations or guidelines issued by such regulator/authority. Entities that do not propose to undertake SEBI-regulated activities need not seek registration with SEBI.	should also be allowed to rate products or issuers that are not regulated by any financial regulator too.		

Annexure B

Draft Notification

Amendments shall be notified after following the due process