



Federal Act transposing Regulation (EU) 2023/2631 on European Green Bonds and optional disclosures for bonds marketed as environmentally sustainable and sustainability-linked bonds (European Green Bond Regulation Enforcement Act (EuGB-VVG; EuGB-Verordnung-Vollzugsgesetz))

EUROPEAN GREEN BOND REGULATION ENFORCEMENT ACT (EUGB-VVG)

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TABLE OF CONTENTS

Article 1.	Purpose of this Federal Act
Article 2.	Competent Authority
Article 3.	European Single Access Point (ESAP) disclosure obligations
Article 4.	Powers of the FMA
Article 5.	Administrative penalties
Article 6.	Exercising of supervisory and sanctioning powers
Article 7.	Publication of decisions
Article 8.	Notification of administrative penalties and administrative measures to ESMA
Article 9.	Cooperation and exchange of information
Article 10.	Right of appeal
Article 11.	Professional secrecy
Article 12.	Special procedural provisions
Article 13.	Costs
Article 14.	Gender-neutral use of language
Article 15.	References
Article 16.	Transposition Note
Article 17.	Entry into force
Article 18.	Enforcement

TEXT

Purpose of this Federal Act

Article 1. This Federal Act transposes Regulation (EU) 2023/2631 on European Green Bonds and optional disclosures for bonds marketed as environmentally sustainable and for sustainability-linked bonds.

Competent Authority

Article 2. (1) Pursuant to Article 44 (1) of Regulation (EU) 2023/2631, the FMA shall be the competent authority for supervising compliance with this Federal Act and Regulation (EU) 2023/2631.

(2) Pursuant to Article 44 (2) of Regulation (EU) 2023/2631, the FMA shall be the competent authority for supervising the compliance of originators with their obligations under Title II, Chapter 2, and Articles 18 and 19 of Regulation (EU) 2023/2631.

Note for the following provision

See Article 17 para. 2 about the time frame for applicability

European Single Access Point (ESAP) disclosure obligations

Article 3. (1) In accordance with Article 15a (4) of Regulation (EU) 2023/2631, the FMA is the competent collection body pursuant to Article 2 no. 2 of Regulation (EU) 2023/2859 for the publication of information pursuant to Articles 20 and 21 of Regulation (EU) 2023/2631 in the European Single Access Point (ESAP) that is being established pursuant to Regulation (EU) 2023/2859.

(2) The FMA shall be the collection point pursuant to Article 3 (2) of Regulation (EU) 2023/2859 for the collection of information stated in Regulation (EU) 2023/2631 submitted on a voluntary basis.

(3) The FMA may determine by means of a Regulation a specific format, additional meta data to be included, and the submission modalities for the submission of data pursuant to Article 15a (1) point b of Regulation (EU) 2023/2631, if this appears expedient taking into consideration rules under European Union law.

(4) The FMA shall be empowered as the controller under data protection law pursuant to Article 4 point 7 of Regulation (EU) 2016/679 (General Data Protection Regulation) in conjunction with the tasks pursuant to paras. 1 and 4 for processing personal data as defined in Regulation (EU) 2016/679.

Powers of the FMA

Article 4. (1) The FMA shall be authorised at all times in relation to the monitoring of the observance of the regulations contained in this Federal Act, in Regulation (EU) 2023/2631 as well as any delegated acts issued on the basis of this Regulation irrespective of the powers conferred upon it in other Federal Acts:

1. to require issuers to publish the factsheets for European Green Bonds listed in Article 10 of Regulation (EU) 2023/2631 or to include the information listed in Annex I of Regulation (EU) 2023/2631 in such factsheets;
2. to require issuers to publish reviews and assessments;
3. to require issuers to publish annual allocation reports or include in annual allocation reports the information referred to in Annex II of Regulation (EU) 2023/2631;
4. to require issuers to publish an impact report or include in the impact report the information referred to in Annex III of Regulation (EU) 2023/2631;
5. to require issuers to notify the publication of the documents listed in Article 15 (1) of Regulation (EU) 2023/2631 pursuant to Article 15 (4) of Regulation (EU) 2023/2631;
6. to require issuers that use the common templates provided for in Article 21 of Regulation (EU) 2023/2631 to include the elements referred to therein in their periodic post-issuance disclosures;
7. to require the statutory auditors and senior management of the issuer to provide information and documents;
8. to suspend an offer or admission to trading on a regulated market of European Green Bonds for a maximum of 10 consecutive working days on any single occasion where there are reasonable grounds for suspecting that the issuer has failed to comply with an obligation pursuant to Title II, Chapter 2, or Article 18 or 19 of Regulation (EU) 2023/2631;
9. to prohibit an offer or admission to trading on a regulated market of European Green Bonds where there are reasonable grounds for suspecting that the issuer continues to fail to comply with an obligation pursuant to Title II, Chapter 2, or Article 18 or 19 of Regulation (EU) 2023/2631;
10. to suspend advertisements for a maximum of 10 consecutive working days, or require issuers of European Green Bonds or financial intermediaries concerned to suspend advertisements for a maximum of 10 consecutive working days on any single occasion where there are reasonable grounds for suspecting that the issuer has failed to comply with an obligation pursuant to Title II, Chapter 2, or Article 18 or 19 of Regulation (EU) 2023/2631;
11. to prohibit advertisements, or require issuers of European Green Bonds or financial intermediaries concerned to cease advertisements where there are reasonable grounds for suspecting that the issuer continues to fail to comply with an obligation pursuant to Title II, Chapter 2, or Article 18 or 19 of Regulation (EU) 2023/2631;
12. to make public the fact that an issuer of European Green Bonds fails to comply with Regulation (EU) 2023/2631, and to require that issuer to publish that information on its website;
13. to prohibit an issuer from issuing European Green Bonds for a period not exceeding one year in the event that an issuer has repeatedly and severely infringed Title II, Chapter 2, or Article 18 or 19 of Regulation (EU) 2023/2631;

14. following a three-month period after the requirement pursuant to no. 12 to make public the fact that the issuer of European Green Bonds no longer complies with Article 3 of Regulation (EU) 2023/2631 as regards the use of the designation ‘European Green Bond’ (*europäische grüne Anleihe*) or ‘EuGB’, and to require that issuer to publish that information on its website;
15. to carry out on-site inspections or investigations at sites other than the private residences of natural persons, and for that purpose to enter premises in order to access documents and other data in any form, where a reasonable suspicion exists that documents and other data related to the subject-matter of the inspection or investigation may be relevant to prove an infringement of Regulation (EU) 2023/2631. Articles 119 to 122 of the Code on Criminal Procedure 1975 (*StPO; Strafprozeßordnung 1975*), published in Federal Law Gazette no. 631/1975, shall apply accordingly; where the affected party opposes the FMA’s intended measure, the Federal Administrative Court (*BVwG; Bundesverwaltungsgericht*) shall decide by means of a resolution about the FMA’s request, applying the principle of legality and proportionality in accordance with Article 5 StPO. The FMA shall be required to justify its request for an inspection and the submit it to the Federal Administrative Court (*BVwG; Bundesverwaltungsgericht*) along with the relevant files.
16. to issue a public statement where a sufficiently well-grounded suspicion exists that an issuer of European Green Bonds fails to comply with the obligations set out in this Federal Act, in Regulation (EU) 2023/2631 as well as any delegated legal acts issued on the basis of that Regulation where informing the public is necessary, and is also proportionate with regard to potential detriments for the affected party;
17. administrative penalties shall be imposed pursuant to Article 5 against an issuer of European Green Bonds in accordance with Regulation (EU) 2023/2631.

(2) The FMA shall conduct the tasks and powers listed in para. 1 in any of the following ways:

1. directly;
2. in cooperation with other authorities;
3. under their responsibility by delegation of tasks to the authorities stated in no. 2;
4. by application to the competent judicial authorities.

(3) If a natural or legal person makes information available to the FMA in accordance with Regulation (EU) 2023/2631, it shall not be considered as a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to such notification.

Note for the following provision

See Article 17 para. 2 about the time frame for applicability

Administrative penalties

Article 5. (1) Any person who,

1. breaches the obligations in relation to the factsheet about green bonds and the pre-issuance review pursuant to Article 10 of Regulation (EU) 2023/2631, especially
 - a. by publishing materially false or misleading information, or conceals adverse facts that are significant for investors, or
 - b. failing to ensure that a completed factsheet is subjected to a pre-issuance review in a timely manner and that there is a favourable opinion by an external reviewer,
2. breaches the obligations in relation to allocation reports and post-issuance reviews of allocation reports pursuant to Article 11 of Regulation (EU) 2023/2631, especially
 - a. failing to draw up an allocation report or drawing up such a report in a manner that is inaccurate or incomplete or that fails to fulfil the rules in another manner,
 - b. failing to submit an allocation report to a post-issuance review,
 - c. failing to change an allocation report, or changing it in an incomplete manner or in a manner that fails to fulfil the rules, if following the publication of the allocation report a correction was undertaken in using the proceeds,
 - d. failing to ensure the timely publication of an allocation report or a review, or
 - e. failing to ensure has at least 90 days to review an allocation report,
3. breaches the obligations in relation to the European Green Bond impact report pursuant to Article 12 of Regulation (EU) 2023/2631, and thereby either fails to publish the impact report, or publishes it incompletely or in a manner that fails to fulfil the rules,
4. breaches the obligations to draw up a prospectus for European Green Bonds pursuant to Article 14 of Regulation (EU) 2023/2631, especially by
 - a. publishing a prospectus that fails to meet these requirements, or
 - b. publishing a prospectus that the does not contain or only contains an incomplete summary of the CapEx plan, despite the obligation to prepare one pursuant to Article 7 of Regulation (EU) 2023/2631,
5. breaches the obligations in relation to publication on the issuer's website and notification to ESMA and the FMA pursuant to Article 15 of Regulation (EU) 2023/2631, especially by
 - a. failing to publish, or publishing in an incomplete manner or in a manner that fails to fulfil the rules,
 - b. failing to make available the factsheet, the pre-issuance review of the factsheet, in the event of prospectus being published the link to the website where the prospectus may be downloaded, the allocation reports, the post-issuance reviews, the impact report, the CapEx plan despite the obligation to prepare one pursuant to Article 7 of Regulation (EU) 2023/2631 or the impact report review, or
 - c. failing to make or failing to make the necessary notifications about the respective publications in a timely manner,
6. breaches the obligations in relation to the exclusion of certain securitised exposures pursuant to Article 18 of Regulation (EU) 2023/2631, especially by
 - a. including forbidden exposures,

- b. including forbidden exposures in the pool of securitised exposures,
 - c. failing to include the necessary explanations in the factsheet , or
 - d. failing to provide the FMA with proof at the latter's request,
7. breaches the obligations in relation to additional disclosure obligations in relation to securitisations pursuant to Article 19 of Regulation (EU) 2023/2631, especially by
 - a. drawing up a prospectus without attaching the prescribed statement,
 - b. drawing up a prospectus that does not contain the necessary information, or
 - c. failing to include the necessary information in the factsheet or the allocation report,
 8. breaches the obligations regarding the periodic disclosure of information by issuers of bonds marketed as environmentally sustainable or sustainability-linked bonds pursuant to Article 21 of Regulation (EU) 2023/2631 including the delegated act issued pursuant to Article 21 (4) of Regulation (EU) 2023/2631,
 9. failing to cooperate with the FMA during an investigation or review pursuant to Article 4,
 10. breaching another requirement pursuant to Article 4 para. 1,
 11. using the designation "European Green Bond" (*europäische grüne Anleihe*) or "EuGB" for a bond, without meeting the requirements pursuant to Article 3 in conjunction with Title II of Regulation (EU) 2023/2631,
 12. breaching the obligation to submit information pursuant to Article 15a (1) of Regulation (EU) 2023/2631 to the competent collection body pursuant to Article 2 (2) of Regulation (EU) 2023/2859 as the same time as publishing it, or
 13. breaching the obligation to obtain a legal entity identifier (LEI) pursuant to Article 15a (2) of Regulation (EU) 2023/2631,

commits an administrative offence and shall be punished by the FMA with a fine of up to twice the amount of the profits realised or losses avoided because of the breach, where those can be determined, or where they are unable to be determined to be punished with a fine of up to EUR 50 000.

(2) The FMA may impose fines against legal persons, if natural persons who acted individually or as part of a body of a legal person and who have a managerial role within the legal person on the basis of:

1. a power of representation of the legal person,
2. an authority to take decisions on behalf of the legal person, or
3. an authority to exercise control within the legal person

have breached the obligations listed in para. 1.

(3) Legal persons may also be held responsible for breaches listed in para. 1, if such breaches by a natural person acting for the legal person were made possible by a lack of supervision or control by one of the persons referred to in para. 2. The fine imposed against a legal person shall be up to EUR 500 000 or 0.5 % of the total annual turnover of that legal person according to the most recent available financial statements approved by the management body.

(4) The total annual turnover shall be determined on the basis of the most recently adopted annual financial statement. Where the legal person is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Directive 2013/34/EU, the relevant total annual turnover or the corresponding type of income in accordance with the relevant Union law in the area of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking; Where the FMA is unable to determine or calculate the bases for the total revenues, then it shall estimate them. In so doing, all relevant circumstances shall be taken into account that are relevant for the estimate.

(5) The FMA also has the power in the case of breaches pursuant to para. 1 to take the following actions:

1. to publicly disclose the names of the responsible natural or legal person and the manner of the breach pursuant to Article 4 para. 1 no. 12;
2. to order by means of an administrative decision (*Bescheid*) the natural or legal person responsible to cease the conduct that constitutes the breach.
3. to prohibit the natural or legal person by means of an administrative decision (*Bescheid*) the issuance of European Green Bonds for a period of up to one year.

Exercising of supervisory and sanctioning powers

Article 6. (1) When determining administrative penalties or other administrative measures and when calculating the amount of a fine pursuant to Article 5, as appropriate, the FMA shall take the following circumstances into account:

1. the severity and duration of the breach;
2. the degree of responsibility of the natural or legal person responsible;
3. the financial strength of the responsible natural or legal person as indicated, for example, by the total sales of the responsible legal person or the annual income of the responsible natural person;
4. the impact of the breach on investors' interests;
5. the amount of the gains realised or losses avoided by the responsible natural or legal person, provided that these amounts can be determined;
6. the level of cooperation of the natural or legal person responsible for the breached with the competent authority, without prejudice to the need to ensure disgorgement of profits realised or losses avoided by that person;
7. previous breaches by the responsible natural or legal person;
8. measures taken after the breach by the person responsible for the breach to prevent its recurrence.

(2) When exercising its powers to impose administrative penalties or other sanctions under administrative law in accordance with Article 5 the FMA shall cooperate closely with the competent

authorities of other Member States to ensure that the exercising of their supervisory and investigative powers as well as the administrative penalties and other administrative sanctions pursuant to Regulation (EU) 2023/2631 are effective and appropriate.

Publication of decisions

Article 7. (1) A decision imposing a sanction under administrative procedural law or another measure under administrative procedural law for a breach against this Federal Act, Regulation (EU) 2023/2631 or a delegated act issued upon the basis of that Regulation, shall be published by the FMA on its website without delay, once the natural or legal person subject to that decision has been informed of that decision. This publication includes details about the type of the breach and identifying the persons responsible.

(2) Where FMA arrives at the conclusion that the publication of the identity of the legal entities, or identity or personal data of natural persons, is disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where such publication would jeopardise the stability of financial markets or an on-going investigation, then the FMA shall:

1. defer the publication of the decision to impose a administrative penalty or other administrative sanction until such a time where the reasons for non-publication cease to exist;
2. publish the decision to impose an administrative penalty or another administrative sanction on an anonymous basis in a manner that conforms with other statutory provisions, where such anonymous publication ensures an effective protection of the personal data concerned;
3. decide not to publish the decision to impose a administrative penalty or another administrative sanction, if it believes the options pursuant to no. 1 or 2 are not sufficient to ensure that:
 - a. the stability of the financial markets is not jeopardised, or
 - b. the publication of such a decision is also proportionate for minor sanctions.

In the case of a decision to publish an administrative penalty or other administrative sanction on an anonymous basis, as referred to in para. 2 no. 2, the publication of the relevant data may be deferred for a reasonable period where it is foreseen that within that period the reasons for anonymous publication shall cease to exist.

(3) If an appeal is made before the courts or other authorities against a decision to a impose an administrative penalty or other administrative sanction, the FMA shall also publish such information immediately on its official website as well as any subsequent information on the outcome of such an appeal. Moreover, any decision annulling a previous decision to impose an administrative penalty or another administrative sanction shall also be published.

(4) The FMA shall ensure that every announcement as well as any amendment shall be accessible on its website from the point of time of its publication for a period of five years. Personal data contained

in the publication shall however only be allowed to remain visible on the FMA's website, for the period that is permissible under the applicable data protection provisions.

Notification of administrative penalties and administrative measures to ESMA

Article 8. (1) The FMA shall submit aggregated information to ESMA on an annual basis about all administrative penalties and other administrative sanctions imposed pursuant to the Federal Act.

(2) Where the FMA has published administrative penalties or other measures under administrative procedural law, then it shall simultaneously report them to ESMA.

(3) The FMA shall inform ESMA about all administrative penalties or other sanctions under administrative procedural law that have been imposed but not published in accordance with Article 7 para. 2 no. 3, including any appeals in relation thereto and the outcome of the appeal procedure.

Cooperation and exchange of information

Article 9. The FMA shall cooperate and exchange information with the competent authorities of other Member States and ESMA in enforcing this Federal Act and Regulation (EU) 2023/2631.

Right of appeal

Article 10. (1) The legal right of appeal to the Federal Administrative Court (*BVwG; Bundesverwaltungsgericht*) exists against any FMA decision on the imposing of administrative penalties or other administrative sanctions based on a breach of Regulation (EU) 2023/2631.

(2) The party affected by the publication pursuant to Article 4 para. 1 nos. 12, 14 and 16 or pursuant to Article 7 para. 1 may file a request to the FMA to review the lawfulness of such a publication in a procedure concluded by means of an administrative decision (*Bescheid*). In this case, the FMA shall announce the initiation of such proceedings in a similar manner. If, in the course of this review, it is found that the publication was unlawful, the FMA shall correct the publication or, at the request of the person subject to this publication, either revoke it or remove it from its website. If an appeal brought against an administrative decision (*Bescheid*) that was made public pursuant to Article 4 para. 1 nos. 12, 14 and 16 or pursuant to Article 7 para. 1 is granted suspensory effect before courts of public law, the FMA shall make this known in the same manner. The publication shall either require to be corrected or at the request of the concerned party either revoked or removed from the FMA's Internet presence, if the administrative decision (*Bescheid*) has been repealed.

Professional secrecy

Article 11. Valid provisions in accordance with other Federal Acts regarding the obligation to maintain professional secrecy shall not be affected by the provisions of this Federal Act.

Special procedural provisions

Article 12. Fines imposed by the FMA pursuant to this federal act shall flow to the Federal Government.

Costs

Article 13. The costs of the FMA from its activity as the competent authority shall be assigned to the appropriate accounting group, pursuant to Article 19 of the Financial Market Authority Act (*FMABG*; *Finanzmarktaufsichtsbehördengesetz*), published in Federal Law Gazette I no. 97/2001, or where sub-accounting groups are to be established within the accounting group in accordance with the Federal Act to that sub-accounting group to which the performance of supervisory duties in accordance with the supervisory laws listed in Article 2 para. 3 FMABG is to be allocated.

Gender-neutral use of language

Article 14. Where designations stated in this Federal Act relating to persons are given only in the masculine form, they shall refer equally to all genders. The respective gender-specific form shall be used when applied to specific persons.

References

Article 15. (1) Where references to other federal acts are made in this Federal Act, those acts are to be applied in their respective current versions.

(2) Where references to the following legal acts of the European Union are made in this federal act, those acts shall be applicable, unless instructed otherwise, in the following version:

1. Regulation (EU) 2023/2631 on European Green Bonds and optional disclosures for bonds marketed as environmentally sustainable and for sustainability-linked bonds, OJ L 2023/2631, 30.11.2023 as amended in Regulation (EU) 2023/2869, OJ L 2023/2869, 20.12.2023;
2. Regulation (EU) 2023/2859 establishing a European single access point providing centralised access to publicly available information of relevance to financial services, capital markets and sustainability, OJ L 2023/2859, 20.12.2023, in the version amended by Directive (EU) 2024/1760, OJ L 2024/1760, 05.07.2024;
3. Regulation (EU) 2016/679 amending certain regulations on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 04.05.2016, p. 1, in the version of the corrigendum OJ L 74, 04.03.2021, p. 35;
4. Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC and repealing Directives 78/660/EEC and 83/349/EEC, OJ L 182, 29.06.2013, p. 1, most recently amended by Directive (EU) 2024/1306, OJ L 2024/1306, 08.05.2024;

Transposition Note

Article 16. This Federal Act serves to transpose Directive (EU) 2023/2631 and the effective enforcement of Regulation (EU) 2023/2859.

Entry into force

Article 17. (1) This Federal Act shall enter into force on the following day after publication.

(2) Article 3 and Article 5 para. 1 nos. 12 and 13 in the version of the Federal Act published in Federal Law Gazette I No. 5/2026 shall apply from 10 January 2030. The FMA shall inform ESMA by 9 January 2030 that it is the collection body pursuant to Article 15a (4) of Regulation (EU) 2023/2631 and that it is the collection body pursuant Article 3 (2) of Regulation (EU) 2023/2859 for the collection of information on a voluntary basis listed in Directive (EU) 2023/2631.

Enforcement

Article 18. The Federal Minister of Finance shall be responsible for enforcing this Federal Act.