



FEDERAL ACT IMPLEMENTING REGULATION (EU) 2024/3005 ON
THE TRANSPARENCY AND INTEGRITY OF ENVIRONMENTAL,
SOCIAL AND GOVERNANCE (ESG) RATING ACTIVITIES, AND
AMENDING REGULATIONS (EU) 2019/2088 AND (EU) 2023/2859
(ESG-RATING-VERORDNUNG-VOLLZUGSGESETZ)

ESG Ratings Regulation Enforcement Act (ESG-Rating-
Verordnung-Vollzugsgesetz)

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TEXT

Purpose of this Act

Article 1. This Federal Act serves the purpose of implementing Regulation (EU) 2024/3005 on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities, and amending Regulations (EU) 2019/2088 and (EU) 2023/2859.

Competent Authority

Article 2. Pursuant to Article 30 (1) of Regulation (EU) 2024/3005, the FMA shall be the competent authority for monitoring compliance with this Federal Act and the purposes of Regulation (EU) 2024/3005.

Obligations and Powers of the FMA

Article 3. (1) The FMA shall be required to provide assistance to ESMA, where requested to do so pursuant to Article 33 (4) of Regulation (EU) 2024/3005, when general investigations are being conducted in Austria.

(2) The FMA as well as other persons authorised or appointed by the FMA shall actively assist ESMA, where requested to do so by ESMA pursuant to Article 34 (5) of Regulation (EU) 2024/3005 in an on-site inspection conducted in Austria.

(3) Where requested to do so by ESMA to conduct the specific investigative activities stated in Article 34 (6) and Article 33 (1) of Regulation (EU) 2024/3005 the FMA shall perform such activities and to conduct on-site inspections of behalf of ESMA. The powers stated in Article 34 and Article 33 (1) of Regulation (EU) 2024/3005 shall be conferred upon the FMA.

(4) The FMA shall provide ESMA with the necessary assistance in the conducting of on-site inspections pursuant to Article 34 (7) of Regulation (EU) 2024/3005, where ESMA determines a person opposes an on-site inspection as ordered in accordance with Article 34 of Regulation (EU) 2024/3005. 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 along with the relevant files.

(5) Pursuant to Article 43 (1) of Regulation (EU) 2024/3005, the FMA shall be authorised to conduct the following supervisory tasks pursuant to the ESMA Guidelines issued in accordance with Article 16 of Regulation (EU) No 1095/2010, where they have been conferred upon it by ESMA:

1. the power to request information pursuant to Article 32 of Regulation (EU) 2024/3005,

2. the power to conduct investigations and on-site inspections pursuant to Articles 33 and 34 of Regulation (EU) 2024/3005.

Cooperation

Article 4. (1) The FMA shall cooperate with the competent authorities of other Member States and ESMA in enforcing this Federal Act and Regulation (EU) 2024/3005.

(2) Where the FMA determines that a rating provider breaches this Regulation in Austria or in another Member State, then the FMA shall be required to inform ESMA of this pursuant to Article 45 (1) of Regulation (EU) 2024/3005. Where the FMA deems it appropriate for the purposes of investigations, it may suggest to ESMA to make use of the powers pursuant to Article 32 of Regulation (EU) 2024/3005.

(3) If the FMA considers that an ESG rating provider listed in a register pursuant to Article 14 of Regulation (EU) 2024/3005 whose ESG ratings are used in Austria has breached Regulation (EU) 2024/3005 in a manner that significantly impairs investor protection or the stability of the Austrian financial system, the FMA may request ESMA to suspend the provision of ESG ratings by the ESG rating provider concerned pursuant to Article 45 (3) of Regulation (EU) 2024/3005. The FMA shall inform ESMA about all reasons that justify its request.

Exchange of information

Article 5. Pursuant to Article 44 of Regulation (EU) 2024/3005, the FMA shall provide ESMA with all information that it requires for carrying out its duties under Regulation (EU) 2024/3005 or its respective supervisory powers and mandates.

Enforcement of ESMA administrative penalties

Article 6. Pursuant to Article 38 (3) of Regulation (EU) 2024/3005, the FMA shall enforce fines and periodic penalty payments in Austria imposed by ESMA. The enforcement shall occur in accordance with the provisions of the Administrative Enforcement Act 1991 (VVG; *Verwaltungsvollstreckungsgesetz 1991*), published in Federal Law Gazette no. 53/1991.

Professional secrecy

Article 7. (1) The obligation of professional secrecy pursuant to Article 46 (1) of Regulation (EU) 2024/3005 shall apply to the FMA.

(2) All information that the FMA exchanges within the scope of Regulation (EU) 2024/3005 with ESMA, EBA and EIOPA, as well as the European Systemic Risk Board established by Regulation (EU) 1092/2010 and that concern business or operational conditions or other economic or personal matters, shall be considered confidential pursuant to Article 46 (2) of Regulation (EU) 2024/3005, except where:

1. the FMA, ESMA or another authority or body states at the time of communicating the information, that such information may be disclosed;
2. the disclosure of such information is necessary for legal proceedings;
3. the disclosed information is used in a summary or in an aggregate form, from which individual financial market participants are unable to be identified.

Gender-neutral use of language

Article 8. 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 9. (1) Where reference is made in this Federal Act to other Federal Acts, then such references shall apply to the version currently in force.

(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) 2024/3005 on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities, and amending Regulations (EU) 2019/2088 and (EU) 2023/285; OJ L 2024/3005, 12.12.2024;
2. Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, OJ L 331, 15.12.2010, p. 84;
3. Regulation (EU) No 1092/2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board, OJ L 331, 15.12.2010, p. 1.

Entry into force

Article 10. This Federal Act shall enter into force on 02 July 2026.

Enforcement

Article 11. The Federal Minister of Finance shall be responsible for enforcing this Federal Act.