



EDPS Formal comments on the draft Commission Delegated Regulation supplementing Regulation (EU) 2024/3005 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included in the application for authorisation as an ESG rating provider and in the application for recognition of an ESG rating provider

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ('EUDPR')¹, and in particular Article 42(1) thereof,

HAS ADOPTED THE FOLLOWING FORMAL COMMENTS:

1. Introduction and background

1. On 26 March 2025, the European Commission consulted the EDPS on the draft Commission Delegated Regulation supplementing Regulation (EU) 2024/3005² of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be included in the application for authorisation as an ESG rating provider and in the application for recognition of an ESG rating provider ('the draft delegated regulation').
2. The objective of the draft delegated regulation is to set out regulatory technical standards to specify the information listed in Annex I of Regulation (EU) 2024/3005 and to set out regulatory technical standards to determine the form and content of the application for recognition of ESG rating providers established outside the Union³.
3. The draft delegated regulation is adopted pursuant to Article 6(3), third subparagraph, and Article 12(9), third subparagraph, of Regulation (EU) 2024/3005.
4. The present formal comments of the EDPS are issued in response to a consultation by the European Commission pursuant to Article 42(1) of EUDPR. The EDPS welcomes the reference to this consultation in Recital 13 of the draft delegated regulation.

¹ OJ L 295, 21.11.2018, p. 39.

² Regulation (EU) 2024/3005 of the European Parliament and of the Council of 27 November 2024 on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities, and amending Regulations (EU) 2019/2088 and (EU) 2023/2859, OJ L, 2024/3005, 12.12.2024, ELI: <http://data.europa.eu/eli/reg/2024/3005/oj>.

³ Recital 2 of the draft delegated regulation.



5. These formal comments do not preclude any additional comments by the EDPS in the future, in particular if further issues are identified or new information becomes available, for example as a result of the adoption of other related implementing or delegated acts⁴.
6. Furthermore, these formal comments are without prejudice to any future action that may be taken by the EDPS in the exercise of his powers pursuant to Article 58 of the EUDPR and are limited to the provisions of the draft implementing regulation that are relevant from a data protection perspective.

2. Comments

7. The EDPS notes that the draft delegated regulation would require the sharing of personal data by applicants for authorisation to operate as an Environmental, Social and Governance (ESG) rating provider and by applicants for recognition of an ESG rating provider established outside the Union with the European Securities and Markets Authority (ESMA). In addition to the identification and contact details of the contact person or of the legal representative of an applicant, detailed information about members of the senior management of the applicants would be shared⁵.
8. The EDPS welcomes recital 3 of the draft delegated regulation recalling the applicability of the principle of data minimisation enshrined in Article 4(1)(c) of the EUDPR.
9. The EDPS also welcomes recital 4 of the draft delegated regulation confirming that the processing of personal data for the purposes of the draft delegated regulation should be carried out in accordance with Union law on the protection of personal data, and that any processing of personal data performed by ESMA in application of the draft delegated regulation should be carried out in accordance with the EUDPR.
10. The EDPS notes that Annex II, part F, of the draft delegated regulation would require the applicants to submit in their application sensitive information about each member of their senior management, in particular a proof of the absence of criminal records relating to money laundering, terrorist financing, provision of financial services or data services, acts of fraud or embezzlement, through an official certificate or, where such a document is not available in the relevant Member State, a self-declaration of good repute and the authorisation to the ESMA to request from the authorities concerned information on whether that member has been convicted of a criminal offence in

⁴ In case of other implementing or delegated acts with an impact on the protection of individuals' rights and freedoms with regard to the processing of personal data, the EDPS would like to remind that he needs to be consulted on those acts as well. The same applies in case of future amendments that would introduce new or modify existing provisions that directly or indirectly concern the processing of personal data.

⁵ Article 1, Article 2 and Article 3(2) of the draft delegated regulation.

connection with money laundering, terrorist financing, the provision of financial services or data services or in relation to acts of fraud or embezzlement⁶.

11. The EDPS recalls that, according to Article 11 of the EUDPR processing of personal data relating to criminal convictions and offences must be carried out only under control of official authority or when the processing is authorised by Union law providing for appropriate safeguards for the rights and freedoms of data subjects.
12. Therefore, the EDPS recommends incorporating additional safeguards for the protection of the personal data relating to criminal convictions and offences of members of the applicants' senior management, in particular by specifying in the draft delegated regulation the maximum retention period for such data⁷.

Brussels, 5 May 2026

(e-signed)

Wojciech Rafał WIEWIÓROWSKI

⁶ Recital (6) of the draft delegated regulation clarifies that Members of senior management of ESG rating providers exercise significant influence over the operations of such rating providers and that it is therefore necessary to require that ESG rating providers include in their application for authorisation proof of the good repute of such members and an official certificate or equivalent evidence from each member of senior management as regards the absence of convictions for certain criminal offences.

⁷ Article 4(1)(e) EUDPR.