

FAQs on ESG Rating Providers (ERPs)

1. Considering that ESG ratings are based on a large number of factors, how may an ERP disclose the rating sensitivity factors in the rating rationale?

- ERPs may capture the significant rating sensitivity factors that act as major determinants of the rating, i.e. follow the 80/20 Principle, along with necessary disclosures to this effect, in the rating rationale.

2. What parameters will make a security/ issuer fall in the category of "proposed to be listed" on the stock exchanges?

- ERPs may refer to the SEBI (Prohibition of Insider Trading) Regulations, 2015 for the definition of "proposed to be listed", i.e. -
"proposed to be listed" shall include securities of an unlisted company:
(i) if such unlisted company has filed offer documents or other documents, as the case may be, with the Board, stock exchange(s) or registrar of companies in connection with the listing; or (ii) if such unlisted company is getting listed pursuant to any merger or amalgamation and has filed a copy of such scheme of merger or amalgamation under the Companies Act, 2013.

3. Is the requirement to maintain records of interaction with issuers/ auditors/ bankers, etc. in support of each ESG rating applicable for ERPs following a subscriber-pays business model?

- In case there is any interaction with the issuer, its management, auditors and bankers, the ERP shall maintain the said records.

4. Is the requirement to make periodic disclosures regarding income from issuers applicable for ERPs following a subscriber-pays business model?

- In case the ERP derives any income from a rated issuer, the ERP may make a disclosure to this effect on its website.

5. What constitutes an ESG Rating under the regulatory framework? How do SEBI Regulations define the scope of ESG ratings, particularly where the scores calculation is rules-based and algorithmic?

- 'ESG Ratings' have been defined under Regulation 28B (1)(b) of the CRA Regulations. It is clarified that ESG Ratings include all types of rating and scoring products, encompassing both rule-based and algorithmic scores, calculated in line with a published methodology, as well as those involving some application of judgment or discretion. The same is in alignment with the principles outlined in IOSCO's Report on Environmental, Social and Governance (ESG) Ratings and Data Products Providers¹.

6. Does an ERP need registration from SEBI before functioning in India? How are international ERPs treated under the Indian regulatory framework?

¹ <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD690.pdf>

- Proviso to Regulation 28A, *inter-alia*, provides that the provisions of Chapter IVA of the CRA Regulations, shall only be applicable to ESG rating providers covered in the Fourth Schedule. An extract of the Fourth Schedule is given below:

Sl. No.	Location of ESG Rating Provider	Asset Class in securities market	Location of ESG Rating User	Applicability of regulations
1	India	Indian	India	Yes
2	India	Indian	Outside India	No
3	India	Global	India	Yes
4	Outside India	Indian	India	Yes
5	Outside India	Indian	Outside India	No
6	Outside India	Global	India	No

- Further, Regulation 28D (1) of the said Regulations, *inter-alia*, provides that any person intending to undertake business as an ESG rating provider, on or after Chapter IVA coming into force, shall make an application to the Board for grant of a certificate.
- Regulation 28C of the CRA Regulations, *inter alia*, provides that on and from the date of this regulation coming into force, no person shall act as an ESG rating provider unless it has obtained a certificate from the Board. Provided that a person acting as an ESG Rating Provider on the date of this regulation coming into force, may continue to do so for a period of six months from the date of this regulation coming into force or such other period as may be specified by the Board, or if it has made an application for grant of a certificate for registration within the specified period, till the disposal of such application.
- For ERPs located outside India, applicability of the regulatory framework shall be determined by the Fourth Schedule (Regulations 28A) of the SEBI (CRA) Regulations, 1999 ("Regulations"), depending on the location of the ESG Rating User and the rated asset class (Indian/ Global) in the securities market.
- In order to avoid any ambiguity, it is hereby clarified that the Regulations shall not apply to a foreign ERP outsourcing or using back/ middle office support in India for providing ESG rating services to users outside India.

7. What are the specific local incorporation requirements for overseas ERPs offering products in Indian markets? What are the implications of the regulatory framework for overseas ERPs offering products in Indian markets?

- Overseas ERPs offering ESG rating products covering Indian asset classes to Indian clients must obtain a certificate of registration from SEBI by establishing a locally incorporated entity.
- If the overseas ERP has made an application for registration to the Board on or before January 03, 2024, then such ERP can continue such offering till the time the registration application is decided by the Board. Once the registration is granted to the locally incorporated entity, the Overseas ERP shall cease such offering and the locally incorporated entity shall provide the offerings.

8. How are 'Indian' and 'Global' asset classes defined in the context of ESG ratings?

- 'Indian' Asset classes refer to asset classes listed in the Indian securities market, while 'Global' asset classes pertain to asset classes in overseas markets.

9. What restrictions apply to shareholding in an ERP?

- Any entity holding 10 per cent or more shares or voting rights in an ERP shall not hold ten per cent or more shares or voting rights, directly or indirectly, in any other ERP registered with SEBI. The said restriction does not apply to overseas ERPs. Regulation 28U of the Regulations details the provisions regarding restrictions on shareholding among ERPs.

10. Can ERPs provide internationally-aligned ratings alongside Indian specific ratings?

- ERPs are permitted to offer any ESG rating or scoring products, including ratings/scores based on international frameworks, **in addition** to offering ESG rating products that incorporate the environmental, social and governance aspects contextual to the Indian market as mentioned in Para 5.2 of the Master Circular for ERPs dated July 12, 2023². The Regulations do not mandate any adjustment to the extant rating methodologies or in the ability to provide comparable sector-specific ratings.

11. How does SEBI define 'Core ESG Rating', and what are the requirements for providing it?

- A 'Core ESG Rating' must be based on third-party assured data, as detailed in Chapter II of the Master Circular for ERPs dated July 12, 2023. As per SEBI Circular dated July 12, 2023³, over a glide path of 4 years starting from FY 2023-24, the top 1000 listed entities in India are mandated to undertake reasonable assurance of the BRSR (Business Responsibility and Sustainability Report) Core.

12. Who is an 'Indian Rating user' in the context of ESG Ratings?

- An "Indian ESG Rating User" refers to any individual, entity or organization within India that utilizes ESG rating services for decision making, investment analysis, compliance, or research purpose related to ESG investment, performance and practices.
- The location of a foreign ESG rating user, that outsources or uses back/ middle office support in India, shall be considered "Outside India", in terms of the Fourth Schedule of the Regulations, while determining the applicability of Chapter IVA of the Regulations. Accordingly, the Regulations shall not be applicable for ESG rating services provided to such users.

13. What are the specific transparency and disclosure requirements for ERPs with regard to publishing ESG ratings?

- ERPs must publish the final ESG ratings on their websites, as mandated in under Regulation 28K of the Regulations. Any updates to ESG scores, as per the methodology adopted by the ERP, must be disclosed on the website of the ERP within 10 days, in terms of Para 10.1 of the Master Circular for ERPs dated July 12, 2023.

14. What are the ongoing compliance requirements for registered ERPs?

² https://www.sebi.gov.in/web/?file=https://www.sebi.gov.in/sebi_data/attachdocs/jul-2023/1689164906428.pdf#page=25&zoom=90,-41,786

³ https://www.sebi.gov.in/legal/circulars/jul-2023/brsr-core-framework-for-assurance-and-esg-disclosures-for-value-chain_73854.html

- Registered ERPs must comply with the eligibility criteria, conditions of certificate, code of conduct and other requirements, as laid down in the Regulations and Master Circular for ERPs, on an ongoing basis.

15. What are the expectations regarding the auditing process for an ESG rating provider?

- Details of the auditing process, as applicable to ERPs, are provided in Chapter IV of the Master Circular for ERPs dated July 12, 2023.

16. Whether an ERP can share resources with any other entity?

- For an ERP promoted by a SEBI-registered intermediary, the ERP may share resources (infrastructure, personnel, support functions, etc.) with such promoter, subject to the following:
 - i. Both the entities follow an identical business model, whether “subscriber-pays” or “issuer-pays”.
 - ii. There is no potential conflict of interest while undertaking the said activities.
 - iii. The various statutory/ compliance requirements stipulated for the activities undertaken by each entity are not compromised.
 - iv. Both entities shall enter into a written agreement specifying details of resource-sharing, rights and responsibilities of each entity, commercial arrangements, etc. and the ERP shall file such agreement alongwith its application for registration.
 - v. The applicant shall specify details of the resource-sharing arrangements, and provide an undertaking confirming that there shall not be any conflict of interest arising from such resource sharing, in the application for registration.
 - vi. The requirement regarding minimum number of employees specialized in the specified areas, under the relevant Regulations, shall be satisfied on exclusive basis for each entity.
 - vii. Adoption of suitable safeguards to ensure effective compliance with the applicable regulatory requirements and seamless operations by each entity.

17. Whether all the requirements laid down in the Regulations/ Master Circular for ERPs are applicable on all ERPs, i.e. those following “Subscriber-pays” business model and “Issuer-pays” business model?

- In an “issuer-pays” model, contractual obligations between the issuer and the ERP are required to be specified and complied with. In “subscriber-pays” model, there are no such contractual obligations. Hence, for ERPs following a “subscriber-pays” business model, requirements/ provisions laid down in the Regulations/ Master Circular, pertaining to or arising out of contractual obligations between the issuer and the ERP will thus become inapplicable. For example, provisions related to non-cooperation by the rated entity with the ERP.
- However, it may be noted that certain requirements are regulatory and are to be complied with by all ERPs, irrespective of the business model.

18. Who can be an ERP? What are the eligibility criteria for becoming an ERP?

- Regulation 28B (1) (c) of the SEBI (Credit Rating Agencies) Regulations, 1999 (CRA Regulations), defines, “ESG rating provider” as a person which is engaged in, or

proposes to engage in, the business of issuing ESG (environmental, social, and governance) ratings.

- Regulation 28E of the CRA Regulations prescribe the eligibility criteria for an entity making an application for registration as an ESG rating provider under Regulation 28D of the said Regulations. Some indicative criteria, as specified under Regulation 28E, are given below:
 - a. The applicant shall be incorporated as a company under the Companies Act, 2013.
 - b. The applicant shall have the net worth as required under the provisions of CRA Regulations.
 - c. The applicant shall have specified ESG rating activity, as the main object in its Memorandum of Association.
 - d. The applicant is not a credit rating agency or any other intermediary registered with the Board.
 - e. The applicant and its promoter(s), are fit and proper person(s), as per Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.
 - f. The applicant shall have necessary infrastructure including adequate office space, technology, equipment and manpower, to enable it to provide ESG rating services (the requirement for office space is not mandatory for a Category II ESG rating provider applicant).
 - g. The applicant shall have, in its employment, persons with adequate professional and other relevant experience.
 - h. The applicant is a subsidiary of an intermediary registered with the Board, or of ESG rating provider incorporated in a Financial Action Task Force (FATF) member jurisdiction and recognized under their respective law having a minimum experience of five years in ESG rating of securities or companies (the requirement is not applicable for a Category II ESG rating provider applicant).

19. What are the Regulations, circulars governing registration of ERPs?

- ESG rating providers are regulated under the provisions of the CRA Regulations (as amended with effect from July 4, 2023) that, *inter-alia*, prescribe the guidelines for registration of ERPs, general obligations of ERPs, manner of inspection and code of conduct applicable to ERPs.
- While the broad framework for ERPs have been laid down in the CRA Regulations, the procedural/ disclosure requirements and obligations have been specified through the Master Circular ref. SEBI/HO/DDHS/POD2/P/CIR/2023/121 dated July 12, 2023, to enable the industry and other users to have access to all the applicable directions to ERPs (as on the date of the Master Circular) at one place.
- The said circular can be accessed through the following link:

<https://www.sebi.gov.in/legal/master-circulars/jul-2023/master-circular-for-esg-rating-providers-erps-73856.html>

20. Is there an application form for submitting application for registration as an ERP?

- Regulation 28D (2) of the CRA Regulations, *inter alia*, provides that an application for the grant of a certificate to act as an ESG rating provider shall be made to the Board, as per format prescribed under Form A of the Fifth Schedule to the said Regulations.
- Regulation 28D (3) of the CRA Regulations, *inter alia*, provides that such an application for the grant of a certificate to act as an ESG rating provider shall be accompanied by a non-refundable application fee, as specified in Part A of the Sixth Schedule, to be paid in the manner specified in Part B of the Sixth Schedule to the said Regulations.
- The application should clearly specify if the same is being made for registration in Category 1 or Category 2, ERP.

21. What are the documents that have to be submitted along with the registration application?

- Regulation 28E and the Fifth Schedule to the CRA Regulations, *inter alia*, prescribe the documents that are required to be submitted along with the application for grant of a certificate to act as an ESG rating provider. Some indicative documents as specified therein are given below:
 - a. Copy of the Memorandum of Association.
 - b. Business plan pertaining to providing ESG ratings, including target breakeven date, target revenue, number of clients it plans to service within two years of obtaining registration and cumulative cash losses that the applicant projects to incur until the targeted breakeven date, along with the activities or areas in which such losses shall be incurred.
 - c. Declaration that the applicant does not and shall not undertake any activity or offer any product or service other than those specified under Regulation 28E (d) of the CRA Regulations.
 - d. Liquid Net worth of the applicant.
 - e. Details of directors, key personnel, associates and shareholders of the applicant.
 - f. Details of litigation.
 - g. Confirmation that the applicant, during the past three years from the date of filing the application, has not been:
 - i. refused by the Board a certificate under these regulations, or
 - ii. deemed not fit and proper by the Board, or
 - iii. subject to any enforcement action for a contravention of the Act or of any rules or regulations made under the Act.

22. Where can one make an application for registration as an ERP?

- An entity desirous of registering with SEBI as an ESG rating provider may file an application with SEBI, as per the format prescribed in CRA Regulations, along with the application fees and relevant documents, in hard copy, addressed to 'Chief General Manager, Department of Debt and Hybrid Securities, SEBI', as well as in soft copy, via email to erp@sebi.gov.in.

23. What are the categories of ERPs being registered with SEBI?

- In terms of Regulation 28D (4) of the CRA Regulations, an application for the grant of a certificate to act as an ESG rating provider can be made in any one of the following categories, namely:

- (a) Category I; or
- (b) Category II

24. Are the regulatory requirements for registration as an ERP different for Category I and Category II?

- Yes, regulatory requirements/ certain eligibility criteria specified under Regulation 28E of the CRA Regulations, for registration as an ERP under Category I and Category II are different. Some indicative criteria specified therein are given below:

Particulars	Category I ERP	Category II ERP
Nature of activity	Can undertake certification of green debt securities.	Cannot undertake certification of green debt securities.
Office infrastructure	Mandatory to have necessary infrastructure including adequate office space, technology, equipment and manpower, to enable it to provide ESG rating services.	The requirement of having an office space shall not be mandatory, provided it conducts its operations remotely subject to a declaration by it to this effect.
SEBI registration or from FATF jurisdiction	The applicant is a subsidiary of an intermediary registered with the Board, or of ESG rating provider incorporated in a Financial Action Task Force (FATF) member jurisdiction and recognized under their respective law having a minimum experience of five years in ESG rating of securities or companies.	-
Promoter	Person regulated by specified financial sector regulators or a foreign ESG rating provider or body corporate with continuous net worth of minimum rupees one hundred crores.	-
Promoter holding	Promoter shall maintain a minimum shareholding of twenty-six per cent. in the ESG rating provider for a minimum period of five years from the date of grant of registration by the Board.	-
Net-worth	The applicant shall maintain a minimum liquid net worth of rupees five crores at all times.	The applicant shall maintain minimum liquid net worth of rupees ten lakh at all times.
Experience	The applicant shall have at least four employees specialized across the specified areas, at all times.	The applicant shall have at least two employees specialized across the specified areas, at all times.

25. Whether an existing entity, engaged in other activities eg. financial services, etc. seek registration as an ERP?

- Regulation 28E (d) of the CRA Regulations, *inter alia*, specifies the list of activities that an ERP is permitted to undertake.

26. How to verify if an entity is registered or not?

- Details of registered ERPs shall be available on the SEBI website (www.sebi.gov.in), under the following link:

Home > Intermediaries/ Market Infrastructure Institutions > Recognised Intermediaries

27. Are there any fees for applying for registration as an ERP?

- Regulation 28D (3) of the CRA Regulations, *inter alia*, specifies that an application for grant of certificate of registration as an ERP shall be accompanied by a non-refundable application fee, as specified in Part A of the Sixth Schedule, to be paid in the manner specified in Part B of the Sixth Schedule.
- Regulation 28H (e) of the CRA Regulations, *inter alia*, prescribes that the ERP shall pay the requisite registration fees in the manner provided in the CRA Regulations.
- The Sixth Schedule to the CRA Regulations, *inter alia*, prescribe the application fees for grant of registration, registration fees (category wise) and recurring registration fees for ESG rating providers.
- At the time of making an application, only the application fees have to be paid. The registration fees are required to be paid once the registration application has been processed and approved by SEBI. The recurring registration (renewal) fees have to be paid post registration, as specified in the Schedule.

28. What are the modes of making fee payment? Is GST applicable on such fee payment?

- Clause 3 of Part B of the Sixth Schedule to the CRA Regulations, *inter alia*, specifies that the fee specified in Part A of the said Schedule shall be paid by way of direct credit in the bank account through online payment using SEBI payment gateway.
- In terms of SEBI circular dated July 18, 2022, GST @ 18% is required to be paid along with all fees payable to SEBI. The said circular can be accessed through the following link:

https://www.sebi.gov.in/legal/circulars/jul-2022/levy-of-goods-and-services-tax-gst-on-the-fees-payable-to-sebi_60880.html

- Accordingly, the applicant/ registered ERP shall pay requisite fees along with the GST to SEBI online. A link has been provided in the Homepage of SEBI Website (www.sebi.gov.in) under the head "Click here to make payment of SEBI Fees". The link enables the remitter to make payment in any of the following manner:

- Net Banking;
- NEFT/ RTGS;
- Debit Cards/ Rupay Debit Cards
- UPI

- After making the payment, the applicant/ ERP shall share the details, on the email id, erp@sebi.gov.in, as per below mentioned format:

Sl. No.	Particular	Remarks
1	Date of remittance	
2	Amount remitted (break-up of fee and GST thereof) (Amount in INR)	

3	Remitter account number	
4	Name of the Origin Bank	
5	Remitter IFSC code	
6	UTR No./ Transaction Reference No.	
7	Payment product code (NEFT, RTGS, etc.)	
8	Registered name of remitter	
9	Registered office address of remitter including State/ UT	
10	Email address	
11	Complete address from where the money is being remitted including State/ UT	
12	GST Registration Number of Remitter	
13	Purpose for which remittance is made	

29. Can one get in-principle approval from SEBI before final registration as an ERP?

- The extant CRA Regulations (as amended with effect from July 4, 2023) and the Master circular issued therein, for ESG rating providers, do not contain any provision for in-principle approval for registration as an ERP.

30. How to verify status of application made for registration as an ERP?

- In order to verify the status of an application made for grant of certificate of registration as an ERP (Category I or Category II), query may be sent via email to erp@sebi.gov.in.

31. Whom can we write to for our queries relating to ERP registration?

- The queries, if any, relating to an application for grant of certificate of registration as an ERP, may be sent in hard copy, addressed to 'Chief General Manager, Department of Debt and Hybrid Securities, SEBI', and/ or in soft copy, via email to erp@sebi.gov.in.

32. What is the validity of an ERP registration?

- Under the CRA Regulations, a certificate of registration granted to an ERP is permanent, subject to the entity satisfying the provisions of the CRA Regulations and the circulars issued thereunder, including the conditions of certificate specified under Regulation 28H of the CRA Regulations.

33. What happens if any ERP fails to meet the targets specified as part of its business plan or does not meet any of the conditions of registration?

- Regulation 28H of the CRA Regulations, *inter alia*, prescribes the conditions of grant of a certificate of registration to an ERP.
- In particular, Regulation 28H (f), provides that the ERP shall meet the targets, declared at the time of its application to the Board, within the specified time.
- If an ERP contravenes any of the provisions of the SEBI Act, Rules, or Regulations framed thereunder, it shall be liable for one or more actions specified therein including the action under Chapter V of the SEBI (Intermediaries) Regulations, 2008.

34. For change in control of ERPs, whether any prior approval from SEBI is required? If yes, what information and/ or documents need to be provided?

- Regulation 28H(c) of the CRA Regulations, *inter-alia*, provides that in case any change in control of the ERP is proposed, it shall obtain prior approval to SEBI for continuing to act as such after the change.
- In this regard, the ERP shall make an application to SEBI, in hard copy, addressed to 'Chief General Manager, Department of Debt and Hybrid Securities, SEBI', as well as in soft copy, via email to erp@sebi.gov.in. Such application from the ERP shall be accompanied by information/ declaration/ undertaking about itself, the acquirer(s)/ the person(s) who shall have the control and the directors/ partners of the acquirer(s)/ the person(s) who shall have the control, as specified in the Master Circular ref. SEBI/HO/DDHS/POD2/P/CIR/2023/121 dated July 12, 2023.

35. What is the validity of the prior approval granted by SEBI for change in control? Whether fresh registration is required post change in control of ERP?

- The prior approval granted by SEBI shall be valid for a period of six months from the date of such approval within which the applicant shall file application for fresh registration pursuant to change in control.

36. What is the process of seeking approval to a proposed change in control of an ERP in matters which involve scheme(s) of arrangement which needs sanction of the National Company Law Tribunal (NCLT) in terms of the provisions of the Companies Act, 2013?

- In terms of the provisions of the Master Circular ref. SEBI/HO/DDHS/POD2/P/CIR/2023/121 dated July 12, 2023, an application seeking approval for the proposed change in control of the intermediary shall be filed with SEBI prior to filing the application with NCLT.
- In this regard, SEBI shall, after processing the matter, grant in-principle approval, which shall be valid for a period of three months from the date of issuance. During such time, the entity should make relevant application to NCLT.
- Within 15 days from the date of order of NCLT, the intermediary shall submit an application to SEBI along with the specified documents for final approval.