

13 June 2024

Secretariat of the Hong Kong ESG Ratings and Data Products Providers  
Voluntary Code of Conduct Working Group (VCWG)  
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By email to: [vcwgsecretariat@icmagroup.org](mailto:vcwgsecretariat@icmagroup.org)

## ASIFMA AMG response to the Draft Hong Kong Code of Conduct for ESG Ratings and Data Products Providers

Dear Secretariat of the VCWG

On behalf of the Asia Securities Industry & Financial Markets Association (“ASIFMA”) <sup>1</sup> Asset Management Group (“AAMG”), we express the views of our members which are predominantly global asset managers.

### **Question 1: Do you agree with the conclusion of the VCWG that the Code comprehensively addresses the aspects pertinent to the Hong Kong market (for providers, users, covered entities)?**

We welcome the proposed Hong Kong Code of Conduct for ESG Ratings and Data Products Providers (“**Hong Kong Code**” or “**Code**”) which closely aligns with the Code of Conduct for ESG Ratings and Data Products Providers that is supported by the UK Financial Conduct Authority (“**UK Code**”) and the International Organization of Securities Commissions (“**IOSCO**”) Recommendations, thus ensuring intra-operability. It is also welcome that the Code similarly covers both ESG ratings and data products. For our members, international alignment facilitates the sourcing of and access to products and services under service agreements with providers which span multiple markets.

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<sup>1</sup> ASIFMA is an independent, regional trade association with over 150 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive and efficient Asian capital markets that are necessary to support the region’s economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the [GFMA](#) alliance with [SIFMA](#) in the United States and [AFME](#) in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

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**Question 2: Is the Code sufficiently clear to ensure adherence? For the Hong Kong Code, we are providing an English and Chinese version. Do you find that helpful and is the Code sufficiently clear to you? If not, please specify.**

**Geographical Scope:** We note in paragraph 1.2 that the Code is intended “for ESG ratings and data products providers which provide such products and services in Hong Kong.” We understand this to cover providers regardless of whether they are situated in or outside Hong Kong. It might be preferable to say “for ESG ratings and data products providers which provide such products and services *in or out* of Hong Kong.” We draw attention to the Code of Conduct for ESG Rating and Data Product Providers co-created by the Monetary Authority of Singapore (“MAS”) (“**Singapore Code**”) which includes similar wording.

**Negative Scope:** We note in Paragraph 4.10 that the Code is not intended to “overlay upon existing regulated activities for which formal rules and guidance already exist.” We would like to confirm that this has the same meaning as in the UK Code issued on 14 December 2023. Reference is made to the feedback statement on the UK Code where such activities “are already covered by authorisation and/or regulatory requirements under existing regulation (e.g. in the case of asset managers or benchmark providers).”

Subsequently, on 9 February 2024, the Council of the European Union released the final compromise text of the Regulation of the European Regulation and the Council on the Transparency and Integrity of Environmental, Social and Governance (ESG) Ratings Activities (“**EU Regulations**”), under which ESG rating providers will need to be authorised and supervised by the European Securities and Markets Authority (“**ESMA**”). Specifically, these EU Regulations do not apply to ESG ratings issued by regulated financial undertakings in the Union that *‘are incorporated in a product or a service, where such products or services are already regulated under Union law, .... and are disclosed to a third-party’*.

It is clear that the policy intent in both the UK and the EU is to carve out proprietary ESG rating or data products which form part of an already regulated product or service, *regardless* of the disclosure to third parties. As such, confirmation to this effect, even outside the Code itself, will be useful to avoid any potential unintended consequences.

Furthermore, Paragraph 4.10 excludes those providers “capable of falling within the ESG ratings/data products provider definition” but “were not the primary target of this Code of Conduct”. We seek confirmation that this negative scope includes those entities which are solely compiling or redistributing ESG ratings / data products produced, whether by related or unrelated parties, as in the Singapore Code. The activity of “providing” ESG ratings or data products should relate to the production of ESG ratings or data products, and should not capture their distribution or placement by a financial services intermediary in Hong Kong. Again, confirmation that this is the case, even outside the Code itself, will be useful.

**Question 3: Do you consider the attestation document useful? For the Hong Kong Code, we have added a self-attestation document. Do you find that useful (especially if you are a user of ESG ratings and/or data products)? If not, please specify.**

The UK Code does not specify a format for the Annual Statement of Application that providers should follow. Having a template for self-attestation promotes comparability between various providers signing up to the Code. The free text in the self-attestation in the template allows flexibility for providers to include sufficient information regarding compliance with, non-compliance with or non-applicability of the principles.

We would however suggest that the template include information on the preparer(s) of the self-attestation document, including name, title, role and contact information. This will add credibility to the document and provides users with a contact person for any questions regarding a provider's self-attestation.

Please feel free to contact Yvette Kwan at [ykwan@asifma.org](mailto:ykwan@asifma.org) if you have any questions regarding any of our comments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Yvette Kwan', with a long horizontal stroke extending to the right.

Yvette Kwan  
Executive Adviser  
Asia Securities Industry & Financial Markets Association