Credit Ratings Agencies Regulation

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Chapter 2

Commission Delegated Regulation (EU) No 447/2012

Preamble

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, and in particular point (d) of Article 21(4) thereof,

01/01/2021

Whereas:

(1) Article 8(3) of Regulation (EC) No 1060/2009 requires a credit rating agency to use credit rating methodologies that are rigorous, systematic, continuous and subject to validation based on historical experience, including back-testing.

(2) This Regulation is necessary to ensure transparency in the assessment carried out by the European Securities and Markets Authority (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC and uniform rules regarding the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009.

(3) ESMA has to assess the compliance of credit rating agencies with the provision of Article 8(3) of Regulation (EC) No 1060/2009 when examining applications for registration pursuant to Article 15 of that Regulation. After the registration ESMA should assess as part of its ongoing supervision the continuous compliance of credit rating agencies with the provision of Article 8(3) whenever it considers such assessment necessary.

(4) Regulation (EC) No 1060/2009, in particular Article 23 thereof, does not permit ESMA, the Commission or any public authorities of a Member State to interfere with the content of credit ratings or methodologies. Accordingly, this Regulation should lay down the rules by which those methodologies are to be assessed but should not provide for those authorities to decide on the accuracy of a credit rating produced by those methodologies.

(5) Article 6(2) when read in conjunction with point 9 of Section A of Annex I to Regulation (EC) No 1060/2009 requires a credit rating agency to establish a review function

responsible for periodically reviewing its methodologies, models and key rating assumptions, such as mathematical or correlation assumptions, and any significant changes or modifications thereto as well as the appropriateness of those methodologies, models and key rating assumptions where they are used or intended to be used for the assessment of new financial instruments.

(6) This Regulation is based on the draft regulatory technical standards submitted by ESMA to the Commission for endorsement by the Commission pursuant to the procedure laid down in Article 10 of Regulation (EU) No 1095/2010.

(7) ESMA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established under Article 37 of Regulation (EU) No 1095/2010. In addition, ESMA has launched a call for evidence in May 2011 in order to gather information from market participants,

HAS ADOPTED THIS REGULATION:

Article 1 Subject matter

This Regulation lays down the rules to be used in the assessment of compliance of credit rating methodologies with the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009.

Article 2 Demonstration of compliance

A credit rating agency shall at all times be able to demonstrate to the Financial Conduct Authority (“FCA”) its compliance with the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009 relating to the use of credit rating methodologies.

Article 3 Assessment of compliance by the FCA

(1) In addition to examining the compliance of credit rating agencies with the provision of Article 8(3) of Regulation (EC) No 1060/2009 in relation to an application for registration according to Article 15 of that Regulation, the FCA shall examine compliance by each credit rating agency with Article 8(3) of Regulation (EC) No 1060/2009 on an ongoing basis as the FCA considers appropriate.

(2) When examining the compliance of credit rating agencies with the provision of Article 8(3) of Regulation (EC) No 1060/2009 the FCA shall use all information relevant to assess the process of developing, approving, using and reviewing credit rating methodologies.

(3) In determining the appropriate level of assessment, the FCA shall consider whether a credit rating methodology has a demonstrable history of consistency and accuracy in predicting credit worthiness and may have regard to methods of validation such as appropriate default or transition studies designed to test that specific methodology.

Article 4 Assessing that a credit rating methodology is rigorous

(1) A credit rating agency shall use and apply credit rating methodologies which:

(a) contain clear and robust controls and processes for their developments and related approvals that allow suitable challenge;

(b) incorporate all driving factors deemed relevant in determining creditworthiness of a rated entity or a financial instrument which shall be supported by statistical, historical experience or evidence;

(c) consider the modelled relationship between rated entities or financial instruments of the same risk factor and risk factors to which the credit rating methodologies are sensitive;

(d) incorporate reliable, relevant and quality related analytical models, key credit rating assumptions and criteria where these are in place.

(2) A credit rating agency shall list and provide a detailed explanation of the following points with regard to the credit rating methodologies used regarding:

(a) each qualitative factor, including the scope of qualitative judgement for that factor;

(b) each quantitative factor, including key variables, data sources, key assumptions, modelling and quantitative techniques.

(3) The detailed explanation referred to in paragraph 2 shall include the following:

(a) a statement of the importance of each qualitative or quantitative factor used within that credit rating methodology including, where relevant, a description of and justification for related weightings assigned to those factors and their impact on credit ratings;

(b) an assessment of the relationship between the key assumptions used in that credit rating methodology and the critical risk factors derived from macroeconomic or financial data; and

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(c) an assessment of the relationship between the key assumptions used in credit rating methodology and the volatility of credit ratings produced by that methodology over time.

(4) A credit rating agency shall use credit rating methodologies and their associated analytical models, key credit rating assumptions and criteria that promptly incorporate findings or outcomes from an internal review or a monitoring review undertaken by one or more of the following:

(a) the credit rating agency's independent members of the board;

(b) the credit rating agency's review function;

(c) any other relevant person or committee involved in the monitoring and reviewing of credit rating methodologies.

Article 5 Assessing that a credit rating methodology is systematic

(1) A credit rating agency shall use a credit rating methodology and its associated analytical models, key credit rating assumptions and criteria that are applied systematically in the formulation of all credit ratings in a given asset class or market segment unless there is an objective reason for diverging from it.

(2) A credit rating agency shall use a credit rating methodology which is capable of promptly incorporating the findings from any review of its appropriateness.

Article 6 Assessing that a credit rating methodology is continuous

A credit rating agency shall use credit rating methodologies shall that are designed and implemented in a way that enables them to:

(a) continue to be used unless there is an objective reason for the credit rating methodology to change or be discontinued;

(b) be capable of promptly incorporating any finding from ongoing monitoring or a review, in particular where changes in structural macroeconomic or financial market conditions would be capable of affecting credit ratings produced by that methodology;

(c) compare credit ratings across different asset classes.

Article 7 Assessing that a credit rating methodology is subject to validation based on historical experience including back testing

(1) A credit rating agency shall use credit ratings methodologies that are supported by quantitative evidence of the discriminatory power of the credit rating methodology.

(2) A credit rating agency shall use credit rating methodologies that describe the following:

(a) the historical robustness and predictive power of credit ratings issued using the relevant methodology over appropriate time horizons and across different asset classes;

(b) the degree to which the assumptions used in the rating model deviate from the actual default and loss rates.

(3) The validation of a credit rating methodology shall be designed to:

(a) examine the sensitivity of a credit rating methodology to changes in any of its underlying assumptions, including qualitative or quantitative factors;

(b) perform an adequate and appropriate assessment of historic credit ratings produced by means of that credit rating methodology;

(c) use reliable inputs, including appropriate size of the data samples;

(d) take appropriate account of the main geographical areas of the rated entities or financial instruments for each of the credit rating categories rated such as structured finance, sovereign, corporates, financial institutions, insurances, public finance.

(4) A credit rating agency shall have processes in place to ensure that systemic credit rating anomalies highlighted by back-testing are identified and are appropriately addressed.

(5) In the process of reviewing credit rating methodologies, a credit rating agency shall include:

(a) regular credit rating and performance reviews on rated entities and financial instruments;

(b) in-sample and out-of-sample testing;

(c) historic information on validation or back-testing.

Article 8 Exemption

In cases where there is limited quantitative evidence to support the predictive power of a credit rating methodology, a credit rating agency shall be exempt from complying with Article 7 of this Regulation if it:

(a) ensures that credit rating methodologies are sensible predictors of credit worthiness;

(b) applies internal procedures in a consistent way and over time and across different market segments;

(c) has processes in place to ensure that systemic credit rating anomalies highlighted by back-testing are identified and are appropriately addressed.

[redacted]

Article 9 Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union.*

Signature

01/01/2021 Done at Brussels, 21 March 2012.

01/01/2021 *For the Commission*

01/01/2021 *The President*

01/01/2021 José Manuel BARROSO