

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: