

# Credit rating agencies: integrity, transparency, responsibility, good governance and independence of activities

2011/0361(COD) - 21/05/2013 - Final act

PURPOSE : to amend EU rules on credit rating agencies.

LEGISLATIVE ACT : Regulation (EU) No 462/2013 of the European Parliament and of the Council amending Regulation (EC) No 1060/2009 on credit rating agencies.

CONTENT : the Regulation introduces a **common regulatory approach** in order to enhance the integrity, transparency, responsibility, good governance and independence of credit rating activities. It aims to contribute to **the quality of credit ratings issued in the Union** and to the smooth functioning of the internal market, while achieving a high level of consumer and investor protection.

The Regulation - adopted at the same time as [Directive 2013/14/EU of the European Parliament and of Council](#) - lays down conditions for the issuing of credit ratings and rules on the organisation and conduct of credit rating agencies, including their shareholders and members, to promote credit rating agencies' independence, the avoidance of conflicts of interest, and the enhancement of consumer and investor protection.

The main points are as follows:

**Excessive reliance on investment firms with regards to credit ratings:** in order to reduce this reliance, the Regulation stresses that credit institutions and investment firms must **make their own credit risk assessment** and not solely or mechanistically rely on credit ratings for assessing the creditworthiness of an entity or financial instrument.

**Conflicts of interest and the independence of ratings:** a credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest. To this end, they must establish and document an **effective internal control structure**.

The Regulation prohibits a shareholder holding at least 5 % of either the capital or the voting rights in a credit rating agency **from holding 5 % or more of the capital of any other credit rating agency**. This does not apply to investments in other credit rating agencies belonging to the same group of credit rating agencies.

**Maximum duration of the contractual relationship with a credit rating agency:** the Regulation introduces a **mandatory rotation rule regarding re-securitised assets**. It stipulates that where a credit rating agency enters into a contract for the issuing of credit ratings on re-securitisations, it shall not issue credit ratings on new re-securitisations with underlying assets from the same originator **for a period exceeding four years**.

Where at least four credit rating agencies each rate more than 10 % of the total number of outstanding rated re-securitisations, the limitations do not apply.

As from the expiry of a contract, a credit rating agency shall not enter into a new contract for the issuing of credit ratings on re-securitisations with underlying assets from the same originator for a period equal to the duration of the expired contract but not exceeding four years.

**Sovereign ratings:** sovereign ratings shall be issued in a manner which ensures that the individual specificity of a particular Member State has been analysed. A statement announcing revision of a given group of countries shall be prohibited if it is not accompanied by individual country reports. **Sovereign ratings shall be reviewed at least every six months.**

A credit rating agency shall **publish a calendar at the end of December for the following 12 months**, setting the dates for the publication of sovereign ratings and, corresponding thereto, the dates for the publication of related rating outlooks where applicable.

**Double credit rating of structured finance instruments:** the Regulation provides that where an issuer or a related third party intends to solicit a credit rating of a structured finance instrument, it shall appoint **at least two credit rating agencies** to provide credit ratings independently of each other.

**Use of multiple credit rating agencies:** where an issuer or a related third party intends to appoint at least two credit rating agencies for the credit rating of the same issuance or entity, it shall consider appointing **at least one credit rating agency with no more than 10 % of the total market share**. This agency must be on ESMA's list as a credit rating agency available for rating the specific issuance or entity.

**Unsolicited credit rating:** where a credit rating agency issues an unsolicited credit rating, it shall state prominently in the credit rating, using a clearly distinguishable different colour code for the rating category, whether or not the rated entity or a related third party participated in the credit rating process and whether the credit rating agency had access to the accounts, management and other relevant internal documents for the rated entity or a related third party.

**European rating platform:** a registered or certified credit rating agency shall, when issuing a credit rating or a rating outlook, **submit to ESMA rating information**. ESMA shall publish the individual credit ratings submitted to it on a website ("European rating platform").

**Civil liability:** the Regulation provides that where a credit rating agency has committed, intentionally or with gross negligence, any of the infringements listed in the Regulation having an impact on a credit rating, an investor or issuer may **claim damages** from that credit rating agency for damage caused to it due to that infringement.

An investor may claim damages where it presents **accurate and detailed information** indicating that the credit rating agency has committed an infringement of the Regulation, and that that infringement had an impact on the credit rating issued.

**Reports:** the Commission shall, after obtaining technical advice from ESMA, review the situation in the credit rating market for structured finance instruments, in particular the credit rating market for re-securitisations. By 1 July 2016, it shall submit a report accompanied by a legislative proposal if appropriate.

Furthermore, the Commission shall, by 31 December 2016, submit a report on the appropriateness and feasibility of supporting a **European credit rating agency** dedicated to assessing the creditworthiness of Member States' sovereign debt and/or a European credit rating foundation for all other credit ratings.

ENTRY INTO FORCE : 20/06/2013.