Credit rating agencies

2008/0217(COD) - 18/12/2014 - Follow-up document

The Commission has presented a **report on the exercise of the power to adopt delegated acts** conferred on the Commission pursuant to Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies.

Under this Regulation, the power to adopt delegated acts is conferred on the Commission for a period of four years from 1 June 2011 and the Commission is required to draw up a report in respect of the delegation of power at the latest six months before the end of the four-year period.

Regulation (EC) No 1060/2009, as amended in 2011, empowers the Commission to adopt delegated acts with respect to:

1) Fees to be paid to the European Securities and Markets Authority (ESMA) by credit rating agencies (CRAs) for registration and supervision:

- The Commission shall adopt a delegated act on fees, determining in particular the type of fees and the matters for which fees are due, the amount of the fees, the way in which they are to be paid and the way in which ESMA is to reimburse competent authorities in respect of any costs that they may incur carrying out work pursuant to the Regulation.

- The Commission adopted the Delegated Regulation (EU) No 272/2012 on 7 February 2012 and notified the European Parliament and the Council. In March 2012, the European Parliament and the Council informed the Commission of their intention not to raise any objections. The delegated act was then published in the *Official Journal of the European Union* on 28 March 2012.

2) Rules of procedure for the exercise of the power by ESMA to impose fines or periodic penalty payments:

- The European Commission shall adopt further rules of procedure for the exercise of the power to impose fines or periodic penalty payments, including provisions on rights of defence, temporal provisions, and the collection of fines or periodic penalty payments, and shall adopt detailed rules on the limitation periods for the imposition and enforcement of penalties;

- The Commission adopted the Delegated Regulation (EU) No 946/2012 on 12 July 2012 and notified the European Parliament and the Council. Neither the European Parliament nor the Council issued any objection during the objection period, nor was the objection period extended by either institution. The delegated act was then published in the *Official Journal of the European Union* on 16 October 2012.

3) Measures to specify further or amend the criteria for third country equivalence:

- The Commission, not having observed any developments on financial markets which necessitated further specifications or amendment of the criteria for equivalence, has adopted **no delegated act** to date.

- On the other hand, the Commission has adopted **implementing decisions** on the recognition of the legal and supervisory frameworks of nine jurisdictions as equivalent to the requirements of

Regulation (EC) No 1060/2009. The jurisdictions concerned are: Japan, the United States of America, Canada, Australia, Argentina, Brazil, Mexico, Hong Kong and Singapore.

4) Amendment of the Annexes of Regulation (EC) No 1060/2009, in order to take account of developments, including international developments, on financial markets, **in particular in relation to new financial instruments**:

- Regulation (EC) No 1060/2009 was amended in 2013 by Regulation (EU) No 462/2013, which included amendments to the Annexes. The Commission proposed that the impact of these amended rules on the financial markets be observed, prior to any potential future use of the empowerment.

The report concluded that the Commission has exercised its delegated powers correctly and in a timely manner to ensure that the necessary provisions were in place for ESMA to carry out its tasks fully as supervisor of credit rating agencies in the EU.

Going forward, the Commission considers that the delegation of power should be retained. This would be particularly relevant in the event that a revision of the Commission Delegated Regulations on fees and on procedural rules for fines and periodic penalty payments.