Basic information

2008/0217(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Credit rating agencies Amended by 2009/0064(COD) Amended by 2010/0160(COD) Amended by 2011/0006(COD) Amended by 2011/0361(COD) Amended by 2015/0226(COD) Amended by 2020/0266(COD) **Subject** 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	GAUZÈS Jean-Paul (PPE-DE)	24/09/2008

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	BOWLES Sharon (ALDE)	19/01/2009

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2957	2009-07-27
Economic and Financial Affairs ECOFIN	2940	2009-05-05

European Commission

Commission DG	Commissioner
Financial Stability, Financial Services and Capital Markets Union	MCCREEVY Charlie

Key events

Date	Event	Reference	Summary
12/11/2008	Legislative proposal published	COM(2008)0704	Summary
20/11/2008	Committee referral announced in Parliament, 1st reading		

23/03/2009	Vote in committee, 1st reading		Summary
01/04/2009	Committee report tabled for plenary, 1st reading	A6-0191/2009	
22/04/2009	Debate in Parliament		
23/04/2009	Decision by Parliament, 1st reading	T6-0279/2009	Summary
23/04/2009	Results of vote in Parliament		
27/07/2009	Act adopted by Council after Parliament's 1st reading		
16/09/2009	Final act signed		
16/09/2009	End of procedure in Parliament		
17/11/2009	Final act published in Official Journal		

Technical information

Procedure reference	2008/0217(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amended by 2009/0064(COD) Amended by 2010/0160(COD) Amended by 2011/0006(COD) Amended by 2011/0361(COD) Amended by 2015/0226(COD) Amended by 2020/0266(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/69819

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE418.199	13/01/2009	
Amendments tabled in committee		PE420.151	18/02/2009	
Amendments tabled in committee		PE420.208	18/02/2009	
Amendments tabled in committee		PE420.206	25/02/2009	
Committee opinion	JURI	PE418.457	10/03/2009	
Committee report tabled for plenary, 1st reading/single reading		A6-0191/2009	01/04/2009	
Text adopted by Parliament, 1st reading/single reading		T6-0279/2009	23/04/2009	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	03642/2009/LEX	16/09/2009	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2008)0704	12/11/2008	Summary
Document attached to the procedure	SEC(2008)2745	12/11/2008	
Document attached to the procedure	SEC(2008)2746	12/11/2008	
Commission response to text adopted in plenary	SP(2009)3507	25/06/2009	
Follow-up document	COM(2014)0743	18/12/2014	Summary
Follow-up document	COM(2016)0664	19/10/2016	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ECB	European Central Bank: opinion, guideline, report	CON/2009/0038 OJ C 115 20.05.2009, p. 0001	21/04/2009	Summary
EESC	Economic and Social Committee: opinion, report	CES0885/2009	13/05/2009	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2009/1060
OJ L 302 17.11.2009, p. 0001 — Summary

Corrigendum to final act 32009R1060R(01)
OJ L 350 29.12.2009, p. 0059 — Summary

Delegated acts

Reference	Subject

2013/2767(DEA)	Examination of delegated act
2013/2773(DEA)	Examination of delegated act
2013/2774(DEA)	Examination of delegated act
2013/2780(DEA)	Examination of delegated act
2013/2802(DEA)	Examination of delegated act
2013/2799(DEA)	Examination of delegated act
2014/2874(DEA)	Examination of delegated act
2014/2873(DEA)	Examination of delegated act
2014/2872(DEA)	Examination of delegated act
2026/2968(DEA)	Examination of delegated act

Credit rating agencies

2008/0217(COD) - 19/10/2016 - Follow-up document

In accordance with Regulation (EC) No 1060/2009 on credit rating agencies (CRA Regulation), as amended, this Commission report evaluates:

- **alternatives to external credit ratings** currently used by market participants in the EU;
- the impact of the measures in the CRA regulation on **competition** in the credit rating agencies sector and the governance and internal procedures of credit rating agencies (preventing conflicts of interest and the use of alternative remuneration models);
- the possibility of setting up a **European credit rating agency** to assess sovereign debt and a European credit rating foundation, which would be responsible for all other credit ratings.

Dependence on external credit ratings: external credit ratings continue to play an important role at certain levels of the Union's regulatory framework for the financial sector, in particular as regards banks and insurance undertakings.

However, the Commission considers that there are **no other feasible alternatives** to replace external credit ratings.

In this context, supervisory authorities should **continue to discourage the mechanical use of credit ratings** by ensuring that market participants use other tools, such as (i) market-based credit risk measurement; (ii) internal credit risk assessment tools; (iii) third-party evaluations; (iv) accounting measures; (v) OECD country risk classification; and (vi) central bank scores, in addition to external credit ratings.

For its part, the Commission will continue to monitor market developments.

Competition: the rating industry is currently dominated by three US agencies (S & P, Moody's and Fitch) that provide a global geographic coverage of all asset classes.

Recent developments suggest that the credit rating market is likely to remain an extremely concentrated oligopoly in the coming years, making it necessary to ensure that historical CRAs are subject to a strict regulatory framework credible sanction as an effective deterrent. The report also highlights the importance of effective internal compliance and governance procedures to ensure the quality of external credit ratings.

In order to **facilitate the entry of newcomers** and to strengthen competition in the CRA market, the regulatory framework must be proportionate and must not impose excessive costs. The Commission will monitor the application of the CRA Regulation to smaller CRAs.

On a general level, the Commission will (i) seek to avoid and further reduce regulatory barriers to market entry; (ii) promote the **broadest possible inclusion of smaller CRAs**, in particular within the framework of the ECB's Eurosystem credit assessment framework (ECAF).

For the time being, the Commission does not envisage extending the relevant provisions of the CRA Regulation to other financial products.

European Credit Rating Agency: the Commission **does not consider it necessary** at this time to set up a European credit rating agency specialising in sovereign debt or a European credit rating foundation for other credit ratings.

A European credit quality assessment would bring little added value compared to the information already provided by several sources under the budgetary and macroeconomic surveillance regime (e.g. the reports published in the context of the European Semester). Nor would it improve the level of information available to institutional investors.

The report concludes that, overall, the provisions of the CRA Regulation should have a **long-term positive impact** on the credit rating market. Since all the provisions of the CRA Regulation have not yet been implemented, the Commission wishes to **continue to monitor the credit rating market** before considering other measures.

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.

Credit rating agencies

2008/0217(COD) - 21/04/2009 - European Central Bank: opinion, guideline, report

OPINION OF THE EUROPEAN CENTRAL BANK on a proposal for a regulation of the European Parliament and of the Council on credit rating agencies.

On 17 December 2008 the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a regulation of the European Parliament and of the Council on credit rating agencies.

The ECB welcomes the objectives of the proposed regulation and supports the agreement recently reached at the G20 meeting as part of the internationally coordinated initiatives to strengthen the regulatory framework for credit rating agencies. The ECB is of the view that:

- the level of **transparency** for the issuance of ratings and their ongoing monitoring should be improved to allow better comparison of credit rating agencies' rating assessments;

- the rating process should fulfil adequate **standards ofquality and integrity** (in particular, the rating process should not to lead to excessive volatility of ratings);
- the integrity and **independence** of credit rating agencies should be safeguarded by ensuring that conflicts of interest are either avoided or are properly addressed.

Moreover, the ECB supports the **wide scope** of the proposed regulation but makes a number of observations:

- the expression 'for use for regulatory purposes or otherwise' indicates a preference for a wide scope, but both the explanatory memorandum accompanying the proposed regulation and the Commission's impact assessment advocate a narrower approach;
- 'regulatory purposes' is not specifically defined and it is not specified whether it covers references to recourse to ratings in Community legislation and in national laws;
- it is suggested clarifying that credit ratings are considered as publicly disclosed if they enable access at equivalent terms to potential users and allow for proper assessment by the public;
- credit ratings should be based on methodologies combining qualitative and quantitative approaches.

The ECB also makes a number of **specific observations** concerning:

- the impact of the proposed regulation on central bank operations;
- exemptions for national central banks' (NCBs') in-house credit assessment systems;
- cooperation between competent authorities and the exchange of information;
- waivers for local credit rating agencies;
- the establishment by the Committee of European Securities Regulators (CESR) of a central repository;
- additional legal and technical comments.

Credit rating agencies

2008/0217(COD) - 16/09/2009 - Final act

PURPOSE: to regulate of the Credit Rating Agencies.

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

CONTENT: following a first reading agreement with the European Parliament, the Council adopted this Regulation introducing a legal framework for credit rating agencies. The Regulation is aimed at ensuring that credit ratings used in the EU for regulatory purposes are of the highest quality, and issued by agencies that are subject to stringent requirements. It comes in response to calls from both the European Council and the G-20. This Regulation is part of a package

The Council also adopted:

- a directive updating capital requirements for banks
- a regulation on cross-border payments
- a directive on electronic money
- a decision establishing Community programme to support activities in the field of financial services, financial reporting and auditing

which constitute a significant part of the work programme it launched in response to the financial crisis.

Credit rating agencies play an important role in securities and banking markets, as their ratings are used by investors, borrowers, issuers and governments in taking decisions on investment and financing. They are however considered to have failed to reflect early enough in their ratings the worsening of market conditions in the run-up to the financial crisis. Credit rating agencies are considered to have failed, first, to reflect early enough in their credit ratings the worsening market conditions, and second, to adjust their credit ratings in time following the deepening market crisis. The most appropriate manner in which to correct those failures is by measures relating to conflicts of interest, the quality of the credit ratings, the transparency and internal governance of the credit rating agencies, and the surveillance of the activities of the credit rating agencies. The users of credit ratings should not rely blindly on credit ratings but should take utmost care to perform own analysis and conduct appropriate due diligence at all times regarding their reliance on such credit ratings.

The Regulation is aimed at ensuring that credit ratings used in the EU for regulatory purposes are of the highest quality, and issued by agencies that are subject to stringent requirements. Currently, credit rating agencies are only to a limited extent subject to EU legislation and most Member States do not regulate their activities, although their ratings are used by financial institutions which themselves are subject to EU rules. The agencies, most of which have their headquarters outside the EU, may however apply a voluntary code of conduct issued by the International Organisation of Securities Commissions.

This Regulation introduces a **common regulatory approach** in order to enhance the integrity, transparency, responsibility, good governance and reliability of credit rating activities, contributing to the quality of credit ratings issued in the Community, thereby contributing to the smooth functioning of the internal market while achieving a high level of consumer and investor protection. It lays down conditions for the issuing of credit ratings and rules on the organisation and conduct of credit rating agencies to promote their independence and the avoidance of conflicts of interest.

It is also aimed at:

- ensuring that credit rating agencies avoid conflicts of interest in the rating process, or at least manage them adequately;
- improving the quality of methodologies used by credit rating agencies and the quality of their ratings;
- increasing transparency by setting disclosure obligations for credit rating agencies;
- ensuring an efficient registration and surveillance framework, avoiding 'forum shopping' and regulatory arbitrage between EU jurisdictions.

The Regulation lays down conditions for the issuance of credit ratings which are needed to restore market confidence and increase investor protection. It introduces **a registration procedure for credit rating agencies** to enable European supervisors to control the activities of rating agencies whose ratings are used by credit institutions, investment firms, insurance, assurance and reinsurance undertakings, collective investment schemes and pension funds within the Community.

Credit rating agencies will have to comply with rigorous rules to make sure (i) that ratings are not affected by conflicts of interest, (ii) that credit rating agencies remain vigilant on the quality of the rating methodology and the ratings and (iii) that credit rating agencies act in a transparent manner. The Regulation also includes an **effective surveillance regime** whereby European regulators will supervise credit rating agencies.

New rules include the following:

- credit rating agencies may not provide advisory services;
- they will not be allowed to rate financial instruments if they do not have sufficient quality information to base their ratings on;
- they must disclose the models, methodologies and key assumptions on which they base their ratings;
- they will be obliged to publish an annual transparency report;
- they will have to create an internal function to review the quality of their ratings;
- in order to ensure the independence of the credit rating process from the business interest of the credit rating agency as a company, credit rating agencies should ensure that at least one third, but no less than two, of the members of the administrative or supervisory board are independent .

The Committee of European Securities Regulators (CESR): CESR will receive applications for registration and effectively inform the competent authorities in all Member States. CESR should also provide advice in respect of the completeness of the application to the competent authority of the home Member State. The examination of applications for registration should be carried out at national level by the relevant competent authority

Furthermore, CESR must ensure coherence in the application of the Regulation. It will enhance and facilitate the cooperation and coordination of competent authorities in supervisory activities and issue guidance where appropriate. CESR will therefore establish a mediation mechanism and peer review in order to facilitate a coherent approach by the competent authorities.

Credit ratings issued in third countries: the Regulation provides for the use of credit ratings issued in third countries for regulatory purposes in the Community provided that they comply with requirements which are as stringent as the requirements provided for in the Regulation. The Regulation introduces an endorsement regime allowing credit rating agencies established in the Community and registered in accordance with its provisions to endorse credit ratings issued in third countries. When endorsing a credit rating issued in a third country, credit rating agencies must determine and monitor, on an ongoing basis, whether credit rating activities resulting in the issuing of such a credit rating comply with requirements for the issuing of credit ratings which are as stringent as those provided for in this Regulation, achieving the same objective and effects in practice.

Colleges of competent authorities: the college should represent the effective platform for an exchange of supervisory information among competent authorities, coordination of their activities and supervisory measures necessary for the effective supervision of credit rating agencies. In particular, the college should facilitate the monitoring of the fulfilment of conditions for the endorsement of credit ratings issued in third countries, certification, outsourcing arrangements, and exemptions provided for in this Regulation. The activities of the college should contribute to the harmonised application of rules under this Regulation and to the convergence of supervisory practices.

Exchange of information: the competent authorities shall, without undue delay, supply each other with the information required for the purposes of carrying out their duties under this Regulation.

Reports: by 7 December 2012, the Commission shall make an assessment of the application of this Regulation, including an assessment of the reliance on credit ratings in the Community, the impact on the level of concentration in the credit rating market, the cost and benefit of impacts of the Regulation and of the appropriateness of the remuneration of the credit rating agency by the rated entity (issuer-pays model), and submit a report thereon to the European Parliament and the Council. By 7 December 2010, the Commission shall, in the light of developments in the regulatory and supervisory framework for credit rating agencies in third countries, present a report to the European Parliament and to the Council concerning the effects of those developments and of the transitional provisions on the stability of financial markets in the Community.

Transitional provisions: credit rating agencies operating in the Community before 7 June 2010 (existing credit rating agencies), which intend to apply for registration under this Regulation, shall adopt all necessary measures to comply with its provisions by 7 September 2010. Credit rating agencies shall submit their application for registration no earlier than 7 June 2010. Existing credit rating agencies shall submit their application for registration by 7 September 2010.

ENTRY INTO FORCE: 07/12/2009.

APPLICATION: from 07/12/2009. However: Article 4(1) (use of credit ratings) shall apply from 7 December 2010 and certain parts of Article 4(3) (endorsement of rating issued in third country) shall apply from 7 June 2011.

Credit rating agencies

2008/0217(COD) - 16/09/2009 - Corrigendum to final act

PURPOSE: **Corrigendum** to Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (*Regulation initially published in Official Journal of the European Union L 302 of 17 November 2009*).

CONTENT: the corrigendum concerns **Annex I (Independence and avoidance of conflicts of interest), Section C (Rules on rating analysts and other persons directly involved in credit rating activities), point 3(c):**

- ***for:*** credit rating agencies shall ensure that persons referred to in point 1: (rating analysts and other persons directly involved in credit rating activities) do not share confidential information entrusted to the credit rating agency with rating analysts and employees of any person directly or indirectly linked to it by control, as well as with any other natural person whose services are placed at the disposal or under the control of any person directly or indirectly linked to it by control, and who is directly involved in the credit rating activities;

- ***read:*** credit rating agencies shall ensure that persons referred to in point 1: (rating analysts and other persons directly involved in credit rating activities) do not share confidential information entrusted to the credit rating agency with rating analysts and employees of any person directly or indirectly linked to it by control, as well as with any other natural person whose services are placed at the disposal or under the control of any person directly or indirectly linked to it by control, **and who is not directly involved in the credit rating activities**.

Credit rating agencies

2008/0217(COD) - 12/11/2008 - Legislative proposal

PURPOSE: regulation of the Credit Rating Agencies.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

CONTENT: credit rating agencies active in the EU are mainly governed by the International Organisation of Securities Commissions (IOSCO) code of conduct, which is based on voluntary compliance, and are subject to a yearly assessment by the Committee of European Securities Regulators (CESR). It is commonly agreed that credit rating agencies contributed significantly to recent market turmoil by underestimating the credit risk of structured credit products. The great majority of subprime products were given the highest ratings, thereby clearly underestimating the major risks inherent in those instruments. Furthermore, when market conditions worsened, the agencies failed to adapt the ratings promptly.

The current crisis has revealed weaknesses in the methods and models used by credit rating agencies. One reason may be that credit rating agencies operate in an oligopolistic market that offers limited incentives to compete on the quality of the ratings produced. The poor quality of ratings of structured finance instruments has considerably contributed to the current crisis. In addition, shortcomings in the agencies' communication with users of credit ratings became evident. As a result, market participants' confidence in the performance of credit rating agencies and in the reliability of ratings has suffered. Self-regulation based on voluntary compliance with the IOSCO code does not appear to offer an adequate, reliable solution to the structural deficiencies of the business.

In the US, where most of the credit rating agencies with significant EU activities have their parent companies, credit rating agencies have been subject to regulation and supervision since summer 200710. Given the global nature of the rating business, it is important to level the

playing field between the EU and the US by setting up a regulatory framework in the EU comparable to that applied in the US and based on the same principles. In the light of these considerations, this proposal for a regulation has **four overall objectives**aiming at improving the process of issuance of credit ratings:

1) to ensure that credit rating agencies avoid conflicts of interest in the rating process or at least manage them adequately;

2) to improve the quality of the methodologies used by credit rating agencies and the quality of ratings;

3) to increase transparency by setting disclosure obligations for credit rating agencies;

4) to ensure an efficient registration and surveillance framework, avoiding 'forum shopping' and regulatory arbitrage between EU jurisdictions.

The Commission intends to develop the regulatory framework for the issuance of credit ratings in order to ensure a high level of investor confidence and consumer protection.

This proposal is part of a package of proposals to deal with the financial crisis and adds to Commission's proposals on Solvency II, Capital Requirements Directive, Deposit Guarantee Schemes and accounting. The new rules are designed to ensure high quality credit ratings which are not tainted by the conflicts of interest which are inherent to the ratings business.

The proposal lays down **conditions for the issuance of credit ratings** which are needed to restore market confidence and increase investor protection. It introduces a registration procedure for credit rating agencies to enable European supervisors to control the activities of rating agencies whose ratings are used by credit institutions, investment firms, insurance, assurance and reinsurance undertakings, collective investment schemes and pension funds within the Community.

Credit rating agencies will have to comply with rigorous rules to make sure (i) that ratings are not affected by conflicts of interest, (ii) that credit rating agencies remain vigilant on the quality of the rating methodology and the ratings and (iii) that credit rating agencies act in a transparent manner. The proposal also includes an effective surveillance regime whereby European regulators will supervise credit rating agencies.

New rules include the following:

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- credit rating agencies may not provide advisory services
- they will not be allowed to rate financial instruments if they do not have sufficient quality information to base their ratings on
- they must disclose the models, methodologies and key assumptions on which they base their ratings
- they will be obliged to publish an annual transparency report
- they will have to create an internal function to review the quality of their ratings
- they should have at least three independent directors on their boards whose remuneration cannot depend on the business performance of the rating agency. They will be appointed for a single term of office which can be no longer than five years. They can only be dismissed in case of professional misconduct. At least one of them should be an expert in securitization and structured finance.

Some of the proposed rules are based on the standards set in the International Organisation of Securities Commissions (IOSCO) code. The proposal gives those rules a legally binding character. Also, in those cases where the IOSCO standards are not sufficient to restore market confidence and ensure investor protection the Commission has proposed stricter rules.

Credit rating agencies

2008/0217(COD) - 23/04/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 569 votes to 47, with 4 abstentions, a legislative resolution modifying, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council on Credit Rating Agencies.

The amendments are the result of a compromise negotiated with the Council. The main amendments are as follows:

Subject matter: the compromise points out that the regulation introduces a common regulatory approach to enhance the integrity, transparency, responsibility, good governance and reliability of credit rating activities, contributing to the quality of credit ratings issued in the Community.

Scope: it is clarified that the regulation applies to credit ratings issued by credit rating agencies registered in the Community and which are disclosed publicly or distributed by subscription.

The regulation does not apply to: (a) private credit ratings produced on an individual order and provided exclusively to the person that ordered them and which are not intended for public disclosure or distribution by subscription; (b) credit scores, credit scoring systems or similar assessments related to obligations arising from consumer, commercial or industrial relationships; (c) credit ratings produced by export credit agencies as described in Directive 2006/48/EC; (d) credit ratings produced by the central banks and which are issued in accordance with the principles, standards and procedures which ensure the adequate integrity and independence of credit rating activities as provided for by the regulation.

A credit rating agency shall apply for registration under the regulation as a condition for being recognised as the External Credit Assessment Institution (ECAI) as regulated in Directive 2006/48/EC, unless it only issues certain credit ratings.

Use of credit ratings: the prospectus published under Directive 2003/71/EC and Commission Regulation No 809/2004/EC should contain clear and prominent information stating whether or not the credit ratings concerned are issued by a credit rating agency established in the Community and registered under the regulation.

Credit rating agencies established in the Community and registered in accordance with this Regulation may endorse a credit rating, issued in third countries only when credit rating activities resulting in the issuance of such a credit rating comply with certain conditions. In particular, the credit rating agency must have verified and be able to demonstrate on an ongoing basis to its competent authority that the conduct of credit rating activities by the third country credit rating agency resulting in the issuance of the credit rating to be endorsed fulfils the requirements which are at least as stringent as the requirements set out in the regulation.

Equivalence and certification based on equivalence: the credit ratings related to entities established or financial instruments issued in third countries issued by a credit rating agency which is established in a third country may be used in the Community without being endorsed, provided that: (a) the credit rating agency is authorised or registered and is subject to supervision in that third country; (b) the Commission has adopted an equivalence decision, recognising the legal and supervisory framework of a third country as equivalent to the requirements of the regulation.

As regards smaller credit rating agencies from third countries with no presence or affiliation in the Community, a specific regime of certification should be made available, provided they are not systemically important for the financial stability or integrity of the financial markets of one or more Member States. The equivalence mechanism envisaged should offer the possibility for qualifying credit rating agencies from a third country to be assessed on a case-by-case basis and be granted an exemption from some of the organisational requirements for credit rating agencies active in the Community, including the requirement of physical presence in the Community.

Independence and avoidance of conflicts of interest: a credit rating agency shall take all necessary steps to ensure that the issuance of a credit rating is not affected by any existing or potential conflict of interest or business relationship involving the credit rating agency issuing the credit rating, its managers, rating analysts, employees or any other natural person whose services are placed at the disposal or under the control of the credit rating agency or any person directly or indirectly linked to it by control.

Upon request of a credit rating agency, the competent authority of the home Member State may exempt a credit rating agency from complying with certain requirements if the credit rating agency is able to demonstrate that in view of the nature, scale and complexity of its business, and the nature and range of issuance of credit ratings, the requirements are not proportionate and that: (a) the credit rating agency has fewer than 50 employees; (b) the credit rating agency has implemented measures and procedures, in particular internal control system, reporting arrangements and measures ensuring independence of analysts and persons approving credit ratings, which ensure the effective compliance with the regulatory objectives set out in the regulation.

Rating analysts, employees and other persons involved in the issuance of credit ratings: under the compromise, a credit rating agency shall establish an appropriate gradual rotation mechanism with regard to the rating analysts and persons approving credit ratings. That rotation mechanism shall be undertaken in phases on the basis of individuals rather than of a complete team. Compensation and performance evaluation of rating analysts and persons approving the credit ratings shall not be contingent on the amount of revenue that the credit rating agency derives from the rated entities or related third parties.

In order to avoid conflicts of interest, the lead rating analysts shall not be involved in credit rating activities related to the same rated entity or its related third parties for a period exceeding four years. For rating analysts, that period should not exceed five years. The persons approving credit ratings shall not be involved in credit rating activities related to the same rated entity or its related third parties for a period exceeding seven years.

Methodologies: a credit rating agency shall use rating methodologies that are rigorous, systematic, continuous and subject to validation based on historical experience, including back-testing. A credit rating agency shall monitor credit ratings and review its credit ratings and methodologies on an ongoing basis and at least annually, in particular where material changes occur that could have an impact on a credit rating.

Outsourcing: a new article stipulates that outsourcing of important operational functions shall not be undertaken in such a way as to impair materially the quality of the credit rating agency's internal control and the ability of the competent authorities to supervise the credit rating agency's compliance with obligations under the regulation.

Disclosure and presentation of credit ratings: a credit rating agency shall disclose any credit rating, as well as any decisions to discontinue a credit rating on a non-selective basis and in a timely manner. In the event of a decision to discontinue a credit rating, the information disclosed shall include the reasons for such a decision.

A credit rating agency shall ensure that rating categories that are attributed to structured finance instruments are clearly differentiated using an additional symbol which distinguishes them from rating categories used for any other entities, financial instruments or financial obligations.

A credit rating agency shall ensure that it does not use the name of any competent authority in such a way that would indicate or suggest endorsement or approval by that authority of the credit ratings or any credit rating activities of the credit rating agency.

Credit rating agencies shall make available in a central repository established by the CESR information on their historical performance data including the ratings transition frequency and information about credit ratings issued in the past and on their changes. The CESR shall make that information accessible to the public and shall publish summary information on the main developments observed on an annual basis.

Requirement for registration: a credit rating agency shall apply for registration provided that it is a legal person established in the Community. The registration shall be effective for the entire territory of the Community once the registration decision issued by the competent authority of the home Member State has taken effect under the relevant national law.

Application for registration: credit rating agencies shall submit their application in the language which is required under the law of their respective home Member States and also in a language customary in the sphere of international finance. Applications received by competent authorities of the home Member States from CESR shall be considered to be applications submitted by credit rating agencies.

Within ten working days of receipt of the application, CESR shall provide advice to the competent authority of the home Member State on the completeness of the application.

The facilitator shall coordinate the examination of the application submitted by the credit rating agency and shall ensure that all information necessary to carry out the examination of the application is shared among the members of the college. In the event of a continued absence of agreement among the members of the college, the competent authority of the home Member State shall adopt a fully reasoned refusal decision, which shall identify the dissenting competent authorities and shall include a description of their views.

Committee of European Securities Regulators (CESR): within nine months after the entry into force of the regulation, CESR shall issue guidance relating to: (a) enforcement practices and activities to be conducted by competent authorities under the regulation; (b) common standards for assessment of compliance of credit rating methodologies with the requirements set out in the regulation; (c) types of measures to ensure that credit rating agencies continue to comply with legal requirements; (d) information that the credit rating agency should provide for the application for certification and for the assessment of systemic importance to the financial stability or integrity of financial markets.

Powers of competent authorities: in carrying out their duties under the regulation, neither the competent authorities of Member States nor any other public authorities of the Member States shall interfere with the content of credit ratings or the methodologies.

Exchange of information: competent authorities shall without undue delay supply one another with the information required for the purposes of carrying out their duties under the regulation. They may transmit to the competent authorities responsible for supervision of institutions, central banks, the European System of Central Banks and the European Central Bank, in their capacity as monetary authorities, and, where appropriate, to other public authorities responsible for overseeing payment and settlement systems, confidential information intended for the performance of their tasks. Similarly, such authorities or bodies shall not be prevented from communicating to the competent authorities such information as they may need for the purpose of performing their functions provided for in the regulation.

College of competent authorities: this should represent the effective platform for an exchange of supervisory information among competent authorities, coordination of their activities and supervisory measures necessary for effective supervision of credit rating agencies. In particular, the college of competent authorities should facilitate the monitoring of the fulfilment of conditions for endorsement of credit ratings issued in third countries, certification, outsourcing arrangements, and the exemption for a credit rating agency referred to in the regulation. The activities of the colleges of competent authorities should contribute to harmonised application of rules under the regulation and to convergence of supervisory practices.

In order to enhance practical coordination of activities of the college the members of the college should select among themselves a facilitator. The facilitator should chair the meetings of the college, establish written coordination arrangements for the college and coordinate the actions of the college. During the registration process the facilitator should assess the need to extend the period for examination of an application, coordinate examination of an application and liaise with CESR.

Disclosure of information from another Member State: the competent authority of a Member State may only disclose the information received from a competent authority of another Member State if the competent authority of the Member State concerned has obtained express agreement of the competent authority which has transmitted the information and, where applicable, the information is disclosed solely for the purposes for which that competent authority gave its agreement without prejudice to the need for disclosure in relation to legal proceedings.

Penalties: penalties should be effective, proportionate and dissuasive. The competent authority shall disclose to the public every penalty that has been imposed for infringement of the provisions adopted in the implementation of the regulation, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

Reports: by three years after entry into force of the regulation, the Commission shall make an assessment of the application of the regulation, including an assessment of the impact on the level of concentration in the credit rating market, the cost and benefit of impacts of the regulation and of the appropriateness of the remuneration of the credit rating agency by the rated entity, and submit a report to the European Parliament and the Council of the European Union.

By one year after entry into force of the regulation, the Commission shall make an assessment of the application of Title III of the regulation, in particular of the cooperation of supervisory authorities, of the legal status of the CESR and of the supervisory practices under the terms of the regulation and present a report to the European Parliament and to the Council, accompanied, where appropriate, by proposals for its review.

In the light of developments in the regulatory and supervisory framework for credit rating agencies in third countries, the Commission shall present a report to the European Parliament and to the Council concerning the effects of those developments and of transitional provision referred to in the regulation on stability of financial markets in the Community.

Transitional provision: existing credit rating agencies which intend to apply for registration under the regulation shall adopt all necessary measures to comply with its provisions by a certain deadline. Existing credit rating agencies shall, in any event, submit their application for registration by nine months after entry into force of the regulation.

Entry into force: the regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. Member States shall have six months to take the necessary measures to implement its provisions. As an exception, for the provisions on the use of credit ratings issued by agencies outside of the Community, the regulation shall apply from eighteen months after its entry into force.