

Regulation (EC) No 1060/2009 of the European Parliament and of the Council  
of 16 September 2009 on credit rating agencies (Text with EEA relevance)

TITLE IV

**PENALTIES, COMMITTEE PROCEDURE, REPORTING  
AND TRANSITIONAL AND FINAL PROVISIONS**

CHAPTER I

**[<sup>F1</sup>Penalties, fines, periodic penalty payments,  
committee procedure, delegated powers and reporting]**

*[<sup>F1</sup>Article 36a*

**Fines**

1 Where, in accordance with Article 23e(5), ESMA's Board of Supervisors finds that a credit rating agency has, intentionally or negligently, committed one of the infringements listed in Annex III, it shall adopt a decision imposing a fine in accordance with paragraph 2.

An infringement by a credit rating agency shall be considered to have been committed intentionally if ESMA finds objective factors which demonstrate that the credit rating agency or its senior management acted deliberately to commit the infringement.

2 The basic amount of the fines referred to in paragraph 1 shall be included within the following limits:

- [<sup>F2</sup>a for the infringements referred to in points 1 to 5, 11 to 15, 19, 20, 23, 26a to 26d, 28, 30, 32, 33, 35, 41, 43, 50, 51 and 55 to 62 of Section I of Annex III, the fines shall amount to at least EUR 500 000 and shall not exceed EUR 750 000;
- b for the infringements referred to in points 6, 7, 8, 16, 17, 18, 21, 22, 22a, 24, 25, 27, 29, 31, 34, 37 to 40, 42, 42a, 42b, 45 to 49a, 52, 53 and 54 of Section I of Annex III, the fines shall amount to at least EUR 300 000 and shall not exceed EUR 450 000;]
- c for the infringements referred to in points 9, 10, 26, 36, 44 and 53 of Section I of Annex III, the fines shall amount to at least EUR 100 000 and shall not exceed EUR 200 000;
- [<sup>F2</sup>d for the infringements referred to in points 1, 6, 7, 8 and 9 of Section II of Annex III, the fines shall amount to at least EUR 50 000 and shall not exceed EUR 150 000;
- e for the infringements referred to in points 2, 3a to 5 of Section II of Annex III, the fines shall amount to at least EUR 25 000 and shall not exceed EUR 75 000;]
- f for the infringements referred to in point 3 of Section II of Annex III, the fines shall amount to at least EUR 10 000 and shall not exceed EUR 50 000;
- g for the infringements referred to in points 1 to 3 and 11 of Section III of Annex III, the fines shall amount to at least EUR 150 000 and shall not exceed EUR 300 000;
- [<sup>F2</sup>h for the infringements referred to in point 20a of Section I of Annex III, points 4 to 4c, 6, 8 and 10 of Section III of Annex III, the fines shall amount to at least EUR 90 000 and shall not exceed EUR 200 000;]

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**Changes to legislation:** There are outstanding changes not yet made to Regulation (EC) No 1060/2009 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- i for the infringements referred to in points 5, 7 and 9 of Section III of Annex III, the fines shall amount to at least EUR 40 000 and shall not exceed EUR 100 000.

In order to decide whether the basic amount of the fines should be set at the lower, the middle or the higher end of the limits set out in the first subparagraph, ESMA shall have regard to the annual turnover in the preceding business year of the credit rating agency concerned. The basic amount shall be at the lower end of the limit for credit rating agencies whose annual turnover is below EUR 10 million, the middle of the limit for the credit rating agencies whose annual turnover is between EUR 10 and 50 million and the higher end of the limit for the credit rating agencies whose annual turnover is higher than EUR 50 million.

3 The basic amounts defined within the limits set out in paragraph 2 shall be adjusted, if need be, by taking into account aggravating or mitigating factors in accordance with the relevant coefficients set out in Annex IV.

The relevant aggravating coefficient shall be applied one by one to the basic amount. If more than one aggravating coefficient is applicable, the difference between the basic amount and the amount resulting from the application of each individual aggravating coefficient shall be added to the basic amount.

The relevant mitigating coefficient shall be applied one by one to the basic amount. If more than one mitigating coefficient is applicable, the difference between the basic amount and the amount resulting from the application of each individual mitigating coefficient shall be subtracted from the basic amount.

4 Notwithstanding paragraphs 2 and 3, the fine shall not exceed 20 % of the annual turnover of the credit rating agency concerned in the preceding business year and, where the credit rating agency has directly or indirectly benefitted financially from the infringement, the fine shall be at least equal to that financial benefit.

Where an act or omission of a credit rating agency constitutes more than one infringement listed in Annex III, only the higher fine calculated in accordance with paragraphs 2 and 3 and related to one of those infringements shall apply.]

#### Textual Amendments

- F1** Inserted by [Regulation \(EU\) No 513/2011 of the European Parliament and of the Council of 11 May 2011 amending Regulation \(EC\) No 1060/2009 on credit rating agencies \(Text with EEA relevance\)](#).
- F2** Substituted by [Regulation \(EU\) No 462/2013 of the European Parliament and of the Council of 21 May 2013 amending Regulation \(EC\) No 1060/2009 on credit rating agencies \(Text with EEA relevance\)](#).

### Changes to legislation:

There are outstanding changes not yet made to Regulation (EC) No 1060/2009 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

View outstanding changes

### Changes and effects yet to be applied to :

- Regulation power to amend conferred by [2021 c. 22 s. 6](#)
- Regulation power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 1](#)
- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 1](#)
- Art. 23a-23e omitted by [S.I. 2019/266 reg. 83](#)
- Art. 36-36e omitted by [S.I. 2019/266 reg. 94](#)

### Changes and effects yet to be applied to the whole legislation item and associated provisions

- Ch. 2 heading words substituted by [S.I. 2019/266 reg. 78](#)
- Ch. 3 heading substituted by [S.I. 2019/266 reg. 86](#)
- Annex 1 s. Cpara. 1 words substituted by [S.I. 2019/266 reg. 97\(b\)](#)
- Annex 1 s. DPt. 3 para. 3 words substituted by [S.I. 2019/266 reg. 97\(c\)](#)
- Annex 1 s. EPt. 3 para. 1 words substituted by [S.I. 2019/266 reg. 97\(d\)](#)
- Annex 1 s. EPt. 3 para. 8 words substituted by [S.I. 2019/266 reg. 97\(e\)\(i\)](#)
- Annex 1 s. EPt. 3 para. 8 words substituted by [S.I. 2019/266 reg. 97\(e\)\(ii\)](#)
- Annex 3 Pt. 2 point 7 omitted by [S.I. 2019/266 reg. 99\(c\)\(ii\)](#)
- Annex 3 Pt. 2 point 8 omitted by [S.I. 2019/266 reg. 99\(c\)\(ii\)](#)
- Annex 3 Pt. 1 point 10 words substituted by [S.I. 2019/266 reg. 99\(b\)\(i\)](#)
- Annex 3 Pt. 1 point 50 words substituted by [S.I. 2019/266 reg. 99\(b\)\(ii\)](#)
- Annex 3 Pt. 1 point 52 words substituted by [S.I. 2019/266 reg. 99\(b\)\(iii\)](#)
- Annex 3 Pt. 1 point 55 words substituted by [S.I. 2019/266 reg. 99\(b\)\(iv\)](#)
- Annex 3 Pt. 2 point 2 words substituted by [S.I. 2019/266 reg. 99\(c\)\(i\)](#)
- Annex 3 Pt. 2 point 3a words substituted by [S.I. 2019/266 reg. 99\(c\)\(i\)](#)
- Annex 3 Pt. 2 point 3c words substituted by [S.I. 2019/266 reg. 99\(c\)\(i\)](#)
- Annex 3 Pt. 2 point 5 words substituted by [S.I. 2019/266 reg. 99\(c\)\(i\)](#)
- Annex 3 Pt. 2 point 6 words substituted by [S.I. 2019/266 reg. 99\(c\)\(i\)](#)
- Annex 3 Pt. 3 point 4a words substituted by [S.I. 2019/266 reg. 99\(d\)](#)
- Art. 2(2)(c) words substituted by [S.I. 2019/266 reg. 53\(b\)\(i\)](#)
- Art. 2(2)(d) words substituted by [S.I. 2019/266 reg. 53\(b\)\(ii\)](#)
- Art. 2(2)(d)(iv) words substituted by [S.I. 2019/266 reg. 53\(b\)\(iii\)](#)
- Art. 3(2)(a)(b) substituted by [S.I. 2019/266 reg. 54\(b\)](#)
- art. 4(1A)(1B) inserted by [S.I. 2019/266 reg. 55\(c\)](#)
- art. 4(1A)(1B) words substituted in earlier amending provision [S.I. 2019/266, reg. 55\(c\)](#) by [S.I. 2020/1301 reg. 3Sch. para. 16](#)
- Art. 4(3)(b) words substituted by [S.I. 2019/266 reg. 55\(d\)\(i\)](#)
- Art. 4(3)(c)(d) word substituted by [S.I. 2019/266 reg. 55\(d\)\(ii\)](#)
- Art. 4(3)(g) words substituted by [S.I. 2019/266 reg. 55\(d\)\(iii\)](#)
- Art. 4(3)(h) omitted by [S.I. 2019/266 reg. 55\(d\)\(iv\)](#)
- Art. 5(1)(b) substituted by [S.I. 2019/266, reg. 56\(a\)\(ii\)](#) (as substituted) by [S.I. 2020/1055 reg. 11\(4\)\(a\)](#)
- Art. 5(1)(b) words substituted by [S.I. 2019/266 reg. 56\(a\)\(ii\)](#) (This amendment not applied to [legislation.gov.uk. Reg. 56\(a\)](#) substituted (30.9.2020) by [S.I. 2020/1055, regs. 1\(2\), 11\(4\)\(a\)](#))
- Art. 5(1)(c) omitted by [S.I. 2019/266 reg. 56\(a\)\(iii\)](#) (This amendment not applied to [legislation.gov.uk. Reg. 56\(a\)](#) substituted (30.9.2020) by [S.I. 2020/1055, regs. 1\(2\), 11\(4\)\(a\)](#))
- Art. 5(1)(c) words inserted by [S.I. 2019/266, reg. 56\(a\)\(iii\)\(aa\)](#) (as substituted) by [S.I. 2020/1055 reg. 11\(4\)\(a\)](#)

- Art. 5(1)(c) words substituted by S.I. 2019/266, reg. 56(a)(iii)(bb) (as substituted) by [S.I. 2020/1055 reg. 11\(4\)\(a\)](#)
- Art. 5(1)(d) words substituted by [S.I. 2019/266 reg. 56\(a\)\(iv\)](#) (This amendment not applied to legislation.gov.uk. Reg. 56(a) substituted (30.9.2020) by S.I. 2020/1055, regs. 1(2), 11(4)(a))
- Art. 5(1)(d) words substituted by S.I. 2019/266, reg. 56(a)(iv) (as substituted) by [S.I. 2020/1055 reg. 11\(4\)\(a\)](#)
- Art. 5(4)(b) words substituted by [S.I. 2019/266 reg. 56\(d\)\(i\)](#)
- Art. 5(6)(c) words substituted by [S.I. 2019/266 reg. 56\(e\)\(iii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 56(e)(i)(ii) substituted for reg. 56(e)(i)-(iii) immediately before IP completion day by S.I. 2020/628, regs. 1(3), 9(2))
- Art. 8(6)(aa) words substituted by [S.I. 2019/266 reg. 62\(a\)](#)
- Art. 8(7)(a) words substituted by [S.I. 2019/266 reg. 62\(b\)](#)
- Art. 18A inserted by [S.I. 2019/266 reg. 75](#)
- Art. 21(4)(e) words substituted by [S.I. 2019/266 reg. 79\(e\)\(ii\)](#)
- Art. 21(4a)(a)(b) words substituted by [S.I. 2019/266 reg. 79\(f\)\(ii\)](#)
- Art. 35a(3)(b) words substituted by [S.I. 2019/266 reg. 92\(b\)](#)
- Art. 38(2)(a) word omitted in earlier amending provision S.I. 2019/266, reg. 96(1) by [S.I. 2020/1055 reg. 14\(a\)](#)
- Art. 38(2)(b) words substituted in earlier amending provision S.I. 2019/266, reg. 96(1) by [S.I. 2020/1055 reg. 14\(b\)](#)
- Art. 38(2)(c) inserted in earlier amending provision S.I. 2019/266, reg. 96(1) by [S.I. 2020/1055 reg. 14\(c\)](#)