

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 I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 5

Equivalence and certification based on equivalence

1 The credit ratings that are related to entities established or financial instruments issued in third countries and that are issued by a credit rating agency established in a third country may be used in the [F1Union] under Article 4(1) without being endorsed in accordance with Article 4(3), provided that:

- a the credit rating agency is authorised or registered in and is subject to supervision in that third country;
- b the Commission has adopted an equivalence decision in accordance with paragraph 6 of this Article, recognising the legal and supervisory framework of that third country as equivalent to the requirements of this Regulation;
- c the cooperation arrangements referred to in paragraph 7 of this Article are operational;
- d the credit ratings issued by the credit rating agency and its credit rating activities are not of systemic importance to the financial stability or integrity of the financial markets of one or more Member States; and
- e the credit rating agency is certified in accordance with paragraph 2 of this Article.

[F22 The credit rating agency referred to in paragraph 1 may apply for certification. The application shall be submitted to ESMA in accordance with the relevant provisions of Article 15.]

[F23 ESMA shall examine and decide on the application for certification in accordance with the procedure set out in Article 16. The certification decision shall be based on the criteria set out in points (a) to (d) of paragraph 1 of this Article.]

The certification decision shall be notified and published in accordance with Article 18.

[F24 The credit rating agency referred to in paragraph 1 may also apply to be exempted:

- a on a case-by-case basis from complying with some or all of the requirements set out in Section A of Annex I and Article 7(4) if the credit rating agency is able to demonstrate that the requirements are not proportionate in view of the nature, scale and complexity of its business and the nature and range of its issuing of credit ratings;
- b from the requirement of physical presence in the Union where such a requirement would be too burdensome and disproportionate in view of the nature, scale and complexity of its business and the nature and range of its issuing of credit ratings.

An application for an exemption under point (a) or (b) of the first subparagraph shall be submitted by the credit rating agency together with the application for certification. When assessing such an application, ESMA shall take into consideration the size of the credit rating agency referred to in paragraph 1, having regard to the nature, scale and complexity of its business and the nature and range of its issuing of credit ratings, as

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well as the impact of the credit ratings issued by the credit rating agency on the financial stability and integrity of the financial markets of one or more Member States. On the basis of those considerations, ESMA may grant such exemption to the credit rating agency referred to in paragraph 1.]

^{F35}

6 The Commission may adopt an equivalence decision in accordance with the regulatory procedure referred to in Article 38(3), stating that the legal and supervisory framework of a third country ensures that credit rating agencies authorised or registered in that third country comply with legally binding requirements which are equivalent to the requirements resulting from this Regulation and which are subject to effective supervision and enforcement in that third country. A third-country legal and supervisory framework may be considered equivalent to this Regulation if that framework fulfils at least the following conditions:

- a credit rating agencies in that third country are subject to authorisation or registration and are subject to effective supervision and enforcement on an ongoing basis;
- ^{F1b} credit rating agencies in that third country are subject to legally binding rules which are equivalent to those set out in Articles 6 to 12 and Annex I, with the exception of Articles 6a, 6b, 8a, ^{F48b} 8c and 11a, point (ba) of point 3 and points 3a and 3b of Section B of Annex I; and]
- c the regulatory regime in that third country prevents interference by the supervisory authorities and other public authorities of that third country with the content of credit ratings and methodologies.

^{F2}In order to take account of developments on financial markets, the Commission shall adopt, by means of delegated acts in accordance with Article 38a, and subject to the conditions of Articles 38b and 38c, measures to specify further or amend the criteria set out in points (a), (b) and (c) of the second subparagraph of this paragraph.]

^{F27} ESMA shall establish cooperation agreements with the relevant supervisory authorities of third countries whose legal and supervisory frameworks have been considered equivalent to this Regulation in accordance with paragraph 6. Such arrangements shall specify at least:

- a the mechanism for the exchange of information between ESMA and the relevant supervisory authorities of the third countries concerned; and
- b the procedures concerning the coordination of supervisory activities.]

^{F18} Articles 20, 23b and 24 shall apply to credit rating agencies certified in accordance with Article 5(3) and to credit ratings issued by them.]

Textual Amendments

- F1** 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 \(Text with EEA relevance\)](#).
- F2** Substituted 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 \(Text with EEA relevance\)](#).
- F3** Deleted 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 \(Text with EEA relevance\)](#).
- F4** Deleted by [Regulation \(EU\) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework](#)

TITLE I

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for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012.

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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. 5(1) words substituted by [S.I. 2019/266 reg. 56\(a\)\(i\)](#) (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) words substituted by S.I. 2019/266, reg. 56(a)(i) (as substituted) by [S.I. 2020/1055 reg. 11\(4\)\(a\)](#)
- Art. 5(2) words substituted by [S.I. 2019/266 reg. 56\(b\)](#)
- Art. 5(3) words substituted by [S.I. 2019/266 reg. 56\(c\)](#)
- Art. 5(4) words substituted by [S.I. 2019/266 reg. 56\(d\)\(ii\)\(aa\)](#)
- Art. 5(4) words substituted by [S.I. 2019/266 reg. 56\(d\)\(ii\)\(bb\)](#)
- Art. 5(6) words omitted by [S.I. 2019/266 reg. 56\(e\)\(ii\)](#) (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. 5(6) words substituted by [S.I. 2019/266 reg. 56\(e\)\(i\)](#) (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. 5(6) words substituted by S.I. 2019/266, reg. 56(e)(i) (as substituted) by [S.I. 2020/628 reg. 9\(2\)](#)
- Art. 5(6) words substituted by S.I. 2019/266, reg. 56(e)(ii) (as substituted) by [S.I. 2020/628 reg. 9\(2\)](#)
- Art. 5(7) omitted by [S.I. 2019/266 reg. 56\(f\)](#) (This amendment not applied to legislation.gov.uk. Reg. 56(f) substituted (30.9.2020) by S.I. 2020/1055, regs. 1(2), 11(4)(b))
- Art. 5(7) words substituted by S.I. 2019/266, reg. 56(f)(i) (as substituted) by [S.I. 2020/1055 reg. 11\(4\)\(b\)](#)
- Art. 5(7) words substituted by S.I. 2019/266, reg. 56(f)(ii) (as substituted) by [S.I. 2020/1055 reg. 11\(4\)\(b\)](#)
- Art. 5(7) words substituted by S.I. 2019/266, reg. 56(f)(iii) (as substituted) by [S.I. 2020/1055 reg. 11\(4\)\(b\)](#)
- Art. 5(8) words omitted by [S.I. 2019/266 reg. 56\(g\)](#)

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\(c\)](#)