
Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 462/2013 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

ANNEX II

Annex III to Regulation (EC) No 1060/2009 is amended as follows:

(1) Section I is amended as follows:

(a) points 19 to 22 are replaced by the following:

19. The credit rating agency infringes Article 6(2), in conjunction with point 1 of Section B of Annex I, by not identifying, eliminating, or managing and disclosing, clearly or prominently, any actual or potential conflicts of interest that may influence the analyses or judgments of its rating analysts, employees, or any other natural person whose services are placed at the disposal or under the control of the credit rating agency and who are directly involved in credit rating activities or persons approving credit ratings and rating outlooks.
20. The credit rating agency infringes Article 6(2), in conjunction with the first paragraph of point 3 of Section B of Annex I, by issuing a credit rating or rating outlook in any of the circumstances set out in the first paragraph of that point or, in the case of an existing credit rating or rating outlook, by not disclosing immediately that the credit rating or rating outlook is potentially affected by those circumstances.
- 20a. The credit rating agency infringes Article 6(2), in conjunction with point 3a of Section B of Annex I, by not disclosing that an existing credit rating or rating outlook is potentially affected by any of the circumstances set out in letters (a) and (b) of that point.
21. The credit rating agency infringes Article 6(2), in conjunction with the second paragraph of point 3 of Section B of Annex I, by not immediately assessing whether there are grounds for re-rating or withdrawing an existing credit rating or rating outlook.
22. The credit rating agency infringes Article 6(2), in conjunction with the first paragraph of point 4 of Section B of Annex I, by rating entities where the credit rating agency itself or any person holding, directly or indirectly, at least 5 % of either the capital or the voting rights of the credit rating agency, or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, provides consultancy or advisory services to that rated entity or a related third party regarding the corporate or legal structure, assets, liabilities or activities of that rated entity or related third party.;

(b) the following point is inserted:

- 22a. The credit rating agency infringes Article 6a(1) when one of its shareholders or members holding at least 5 % of the capital or the voting rights in that credit rating agency or in a company which has the power to exercise control or a dominant influence over that credit rating agency, is in breach of one of the prohibitions set out in points (a) to (e) of that paragraph, with the exception of that set out in point (a) for holdings in diversified collective investment

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schemes, including managed funds such as pension funds or life insurance, provided that the holdings in such schemes do not put the shareholder or member of a credit rating agency in a position to exercise significant influence on the business activities of those schemes.;

(c) the following points are inserted:

- 26a. The credit rating agency which entered into a contract for the issuing of credit ratings on re-securitisations infringes Article 6b(1) by issuing credit ratings on new re-securitisations with underlying assets from the same originator for a period exceeding four years.
- 26b. The credit rating agency which entered into a contract for the issuing of credit ratings on re-securitisations infringes Article 6b(3) by entering 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 referred to in paragraphs 1 and 2 of Article 6b but not exceeding four years.;

(d) point 33 is replaced by the following:

- 33. The credit rating agency infringes Article 7(3), in conjunction with point 2 of Section C of Annex I, by not ensuring that a person referred to in point 1 of that Section does not participate in or otherwise influence the determination of a credit rating or rating outlook as set out in point 2 of that Section.;

(e) point 36 is replaced by the following:

- 36. The credit rating agency infringes Article 7(3), in conjunction with point 7 of Section C of Annex I, by not ensuring that a person referred to in point 1 of that Section does not take up a key management position with the rated entity or a related third party within six months of the issuing of a credit rating or rating outlook.;

(f) points 38, 39 and 40 are replaced by the following:

- 38. The credit rating agency infringes Article 7(4), in conjunction with point (i) of point (b) of the first paragraph of point 8 Section C of Annex I, by not ensuring that, where it provides unsolicited credit ratings or sovereign ratings, a rating analyst is not involved in credit rating activities related to the same rated entity or a related third party for a period exceeding five years.
- 39. The credit rating agency infringes Article 7(4), in conjunction with point (ii) of point (b) of the first paragraph of point 8 of Section C of Annex I, by not ensuring that, where it provides unsolicited credit ratings or sovereign ratings, a person approving credit ratings is not involved in credit rating activities related to the same rated entity or a related third party for a period exceeding seven years.
- 40. The credit rating agency infringes Article 7(4), in conjunction with the second paragraph of point 8 of Section C of Annex I, by not

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ensuring that a person referred to in points (a) and (b) of the first paragraph of that point is not involved in credit rating activities related to the rated entity or a related third party referred to in those points within two years of the end of the periods set out in those points.;

- (g) point 42 is replaced by the following:
 - 42. The credit rating agency infringes Article 8(2) by not adopting, implementing or enforcing adequate measures to ensure that the credit ratings and rating outlooks it issues are based on a thorough analysis of all the information that is available to it and that is relevant to its analysis according to the applicable rating methodologies.;
- (h) the following points are inserted:
 - 42a. The credit rating agency infringes Article 8(2) by using information falling outside the scope of Article 8(2).
 - 42b. The credit rating agency infringes Article 8(2a) by issuing changes in credit ratings that do not comply with its published rating methodologies.;
- (i) point 46 is replaced by the following:
 - 46. The credit rating agency infringes the first sentence of the first subparagraph of Article 8(5) by not monitoring its credit ratings other than sovereign ratings or by not reviewing its credit ratings other than sovereign ratings or rating methodologies on an ongoing basis or at least annually.;
- (j) the following point is inserted:
 - 46a. The credit rating agency infringes the second subparagraph of Article 8(5), in conjunction with the first sentence of the first subparagraph of Article 8(5), by not monitoring its sovereign ratings or by not reviewing its sovereign ratings on an ongoing basis or at least every six months.;
- (k) the following point is inserted:
 - 49a. The credit rating agency infringes point (c) of Article 8(6), in conjunction with point (c) of Article 8(7), by not re-rating a credit rating where errors in the rating methodologies or in their application affect that credit rating.;
- (l) the following points are added:
 - 55. The credit rating agency infringes Article 8a(3) by not publishing on its website, or by not submitting to ESMA on an annual basis, in accordance with point 3 of Part III of Section D of Annex I, a calendar at the end of December for the following 12 months, setting a maximum of three dates that fall on a Friday for the publication of unsolicited sovereign ratings and related rating outlooks and setting dates that fall on a Friday for the publication of solicited sovereign ratings and related rating outlooks.

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56. The credit rating agency infringes Article 8a(4) by deviating from the announced calendar where this is not necessary to fulfil its obligations under Article 8(2), Article 10(1) or Article 11(1) or by not providing a detailed explanation of the reasons for the deviation from the announced calendar.
 57. The credit rating agency infringes Article 10(2), in conjunction with point 3 of Part III of Section D of Annex I, by publishing a sovereign rating or a related rating outlook during business hours of regulated markets or less than one hour before their opening.
 58. The credit rating agency infringes Article 10(2), in conjunction with point 4 of Part III of Section D of Annex I, by including policy recommendations, prescriptions or guidelines to rated entities, including States or regional or local authorities of States, as part of a sovereign rating or a related rating outlook.
 59. The credit rating agency infringes Article 8a(2) by basing its public communications relating to changes in sovereign ratings, and which are not credit ratings, rating outlooks or accompanying press releases, as referred to in point 5 of Part I of Section D of Annex I, on information within the sphere of the rated entity, where such information has been disclosed without the consent of the rated entity, unless it is available from generally accessible sources or unless there are no legitimate reasons for the rated entity not to give its consent to the disclosure of the information.
 60. The credit rating agency infringes Article 8a(1) by not issuing individual publicly available country reports when announcing the revision of a given group of countries.
 61. The credit rating agency infringes point 1 of Part III of Section D of Annex I by issuing a sovereign rating or a related rating outlook without simultaneously providing a detailed research report explaining all the assumptions, parameters, limits and uncertainties and any other information taken into account in determining that sovereign rating or rating outlook or by not making that report publicly available, clear and easily comprehensible.
 62. The credit rating agency infringes point 2 of Part III of Section D of Annex I by not issuing a publicly available research report accompanying a change compared to the previous sovereign rating or related rating outlook or by not including in that report at least the information referred to in point 2(a) to (d) of Part III of Section D of Annex I.;
- (2) Section II is amended as follows:
- (a) the following points are inserted:
 - 3a. The credit rating agency infringes the third subparagraph of Article 14(3) by not notifying ESMA of the intended material changes to the existing rating methodologies, models or key rating assumptions or of the proposed new rating methodologies,

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models or key rating assumptions when it publishes the rating methodologies on its website in accordance with Article 8(5a).

3b. The credit rating agency infringes the first subparagraph of Article 8(5a) by not publishing on its website the proposed new rating methodologies or the proposed material changes to the rating methodologies that could have an impact on a credit rating together with an explanation of the reasons for and the implications of the changes.

3c. The credit rating agency infringes point (a) of Article 8(7) by not notifying ESMA of discovered errors in its rating methodologies or in their application or by not explaining their impact on its credit ratings, including the need to review its issued credit ratings.;

(b) the following point is inserted:

4a. The credit rating agency infringes Article 11a(1) by not making available the required information or by not providing that information in the required format as referred to in that paragraph.;

(c) point 7 is replaced by the following:

7. The credit rating agency infringes Article 23b(1) by failing to provide information in response to a decision requiring information pursuant to Article 23b(3), or by providing incorrect or misleading information in response to a simple request for information or a decision.;

(d) point 8 is replaced by the following:

8. The credit rating agency infringes point (c) of Article 23c(1) by failing to provide an explanation, or by providing an incorrect or misleading explanation, on facts or documents related to the subject matter and purpose of an inspection.;

(3) Section III is amended as follows:

(a) the following points are inserted:

4a. The credit rating agency infringes point (aa) of Article 8(6), where it intends to use new rating methodologies, by not informing ESMA or by not publishing immediately on its website the results of the consultation and those new rating methodologies together with a detailed explanation thereof and their date of application.

4b. The credit rating agency infringes point (a) of Article 8(7) by not notifying affected rated entities of discovered errors in its rating methodologies or in their application, or by not explaining the impact on its credit ratings, including the need to review its issued credit ratings.

4c. The credit rating agency infringes point (b) of Article 8(7) by not publishing on its website discovered errors in its rating methodologies or in their application where such errors have an impact on the credit rating agency's credit ratings.;

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- (b) points 6 and 7 are replaced by the following:
6. The credit rating agency infringes Article 10(2), in conjunction with point 1 or 2, the first paragraph of point 4 or points 5 or 6, of Part I of Section D of Annex I, or Parts II or III of Section D of Annex I, by not providing the information as required by those provisions when presenting a credit rating or a rating outlook.
 7. The credit rating agency infringes Article 10(2), in conjunction with point 3 of Part I of Section D of Annex I, by not informing the rated entity during working hours of the rated entity and at least a full working day before publication of the credit rating or the rating outlook..

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[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulation power to modify conferred by [2023 c. 29 s. 3Sch. 1 Pt. 1](#)
- Regulation revoked by [2023 c. 29 Sch. 1 Pt. 1](#)