
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Credit Rating Agencies (Amendment,
etc.) (EU Exit) Regulations 2019**

PART 8

Transitional Provisions

CHAPTER 1

Advance applications

Advance application for registration as a credit rating agency

24.—(1) A person may submit an advance application to the FCA for registration as a credit rating agency.

(2) Such an application must contain information on each of the matters set out in Annex 2 to the CRA Regulation.

(3) Such an application must also—

(a) be made in such manner, and

(b) contain, or be accompanied by, such other information,

as the FCA may direct.

Assessment of whether an advance application is complete

25. The FCA must, before the end of a period of 20 working days beginning with the day of receipt—

(a) if it considers that an advance application complies with regulation 24(2) and the directions (if any) under regulation 24(3), confirm in writing to the applicant that the application is complete;

(b) if it considers that the application does not comply with regulation 24(2) or one or more of the directions (if any) under regulation 24(3)—

(i) confirm in writing to the applicant that the application is not complete, and

(ii) inform the applicant of the steps which need to be taken, and the time within which they need to be taken, for the application to be considered complete.

Determination of an advance application

26.—(1) The FCA must, before the end of the relevant period, take the following steps.

(2) The first step is that the FCA must consider the application based on compliance with the conditions for the issuing of credit ratings set out in the CRA Regulation.

(3) The second step is that the FCA must decide whether the applicant should be registered as a credit rating agency or whether the advance application for registration should be rejected.

(4) The third step is that the FCA must notify the applicant of its decision, and the reasons therefor.

(5) For the purposes of paragraph (1), the relevant period is 45 working days beginning with the day on which the FCA confirms that an application is complete.

(6) The FCA may extend the relevant period by 15 working days, in particular where the application—

- (a) indicates that the applicant intends to—
 - (i) endorse credit ratings (within the meaning of Article 4.3 of the CRA Regulation);
 - (ii) outsource functions (within the meaning of Article 9 of the CRA Regulation);
- (b) requests an exemption from compliance with a requirement of the CRA Regulation (in accordance with Article 6.3 of that Regulation).

Effect of determining an advance application

27. A decision under regulation 26(3) has effect from—

- (a) the day of notification, or
- (b) exit day,

whichever is later, as if it were a decision to register or refuse registration adopted in accordance with Article 16 of the CRA Regulation (notwithstanding provision in Chapter 1 of Title 3 of that Regulation in respect of when a decision has effect).

CHAPTER 2

Temporary registration

Temporary deemed registration under the CRA Regulation

28.—(1) A person to whom this regulation applies is to be treated as if the person is registered as a credit rating agency under Chapter 1 of Title 3 of the CRA Regulation.

(2) Reference in an enactment to a person registered as a credit rating agency under that Chapter, however expressed, is to be read, unless the contrary intention appears, as including a person treated as being so registered by virtue of this regulation.

Application of regulation 28

29. Regulation 28 applies to a person—

- (a) who satisfies the conditions in regulation 30;
- (b) for the period determined in accordance with regulation 31.

Conditions to be satisfied for regulation 28 to apply

30. The conditions are—

- (a) the person is a body corporate which, immediately before exit day—
 - (i) is incorporated under the law of any part of the United Kingdom, and
 - (ii) is included within a group of undertakings which comprises a credit rating agency registered under Chapter 1 of Title 3 to the CRA Regulation;
- (b) the person has—

- (i) submitted an advance application in accordance with regulation 24, and
- (ii) not been notified by the FCA of its decision in respect of the application in accordance with regulation 26(4).

Period during which regulation 28 is to apply

31.—(1) For the purposes of regulation 29(b), the period is one that begins with exit day and ends with a day determined in accordance with paragraph (2).

- (2) The period ends—
 - (a) after three years beginning with the day on which exit day occurs, or
 - (b) if earlier, with the day—
 - (i) before the day on which registration as a credit rating agency has effect;
 - (ii) on which the FCA determines, in accordance with regulation 32(1), that regulation 28 should cease to apply, or
 - (iii) on which the person ceases to be included within a group of undertakings which comprise a credit rating agency registered under Chapter 1 of Title 3 to the CRA Regulation, as that Regulation has effect in the European Union.

Cessation following a determination by the FCA

- 32.**—(1) The FCA may determine that regulation 28 should cease to apply to an applicant—
- (a) where, in respect of an advance application—
 - (i) the application does not comply with regulation 24(2) or a direction under regulation 24(3), and
 - (ii) the steps referred to in regulation 25(b)(ii) have not been taken within the time specified;
 - (b) following a decision refusing registration in accordance with regulation 26(3);
 - (c) at the request of the person to whom regulation 28 applies.
- (2) The FCA must notify the person in respect of whom the determination is made of the day on which regulation 28 will cease to apply.
- (3) Paragraph (1) is subject to Article 20 (withdrawal of registration) of the CRA Regulation.

CHAPTER 3

Registration conversion

Registration under the CRA Regulation

33.—(1) Notwithstanding Articles 14 to 18A of the CRA Regulation, a person to whom this regulation applies is, on and after exit day, registered as a credit rating agency under Chapter 1 of Title 3 of the CRA Regulation.

(2) Reference in any enactment to a person registered under that Chapter, however expressed, includes a person registered by virtue of this regulation.

Application of regulation 33

- 34.** Regulation 33 applies to a person who—
- (a) satisfies the conditions in regulation 35, and

- (b) notifies the FCA in accordance with regulation 36.

Conditions to be satisfied for regulation 33 to apply

35. The conditions are that the person is a body corporate which, immediately before exit day, is—

- (a) incorporated under the law of any part of the United Kingdom, and
- (b) registered as a credit rating agency under the CRA Regulation.

Notification for registration

36.—(1) The person must, no later than the final day, notify the FCA that the person wishes to be registered in accordance with regulation 33.

(2) For the purposes of paragraph (1), the notification must—

- (a) be made in such manner, and
- (b) contain, or be accompanied by, such information,

as the FCA may direct.

(3) For the purposes of paragraph (1), the final day is—

- (a) the day before the day on which exit day occurs, or
- (b) such earlier day as the FCA may direct.

Acknowledgement of receipt

37. The FCA must, before the end of a period of 10 working days beginning with the day on which it receives a notification under regulation 36, send the person making the notification an acknowledgment of receipt.

FCA's response

38. The FCA must, before the end of a period of 20 working days beginning with the day on which it receives a notification under regulation 36—

- (a) if it considers that the notification complies with the requirements of, or made under, that regulation, confirm in writing to the person making the notification that the notification is valid;
- (b) if it considers that the notification does not comply with those requirements—
 - (i) confirm in writing to the person making the notification that the notification is not valid, and
 - (ii) where applicable, inform the person of the steps which need to be taken, and the time within which they need to be taken, for the notification to be considered valid.

CHAPTER 4

Certification conversion

Certification under the CRA Regulation

39.—(1) Notwithstanding Article 5 of the CRA Regulation, a person to whom this regulation applies is, on and after exit day, a certified credit rating agency for the purposes of the CRA Regulation.

(2) Reference in an enactment to a person certified under the CRA Regulation, however expressed, includes a person certified by virtue of this regulation.

Application of regulation 39

- 40.** Regulation 39 applies to a credit rating agency who—
- (a) satisfies the condition in regulation 41, and
 - (b) notifies the FCA in accordance with regulation 42.

Condition to be satisfied for regulation 39 to apply

41. The condition is that the credit rating agency is, immediately before exit day, certified in accordance with Article 5.2 of the CRA Regulation.

Notification for certification

42.—(1) The person must, no later than the final day, notify the FCA that the person wishes to be certified in accordance with regulation 39.

- (2) For the purposes of paragraph (1), the notification must—
- (a) be made in such manner, and
 - (b) contain, or be accompanied by, such information,
- as the FCA may direct.

- (3) For the purposes of paragraph (1), the final day is—
- (a) the day before the day on which exit day occurs, or
 - (b) such earlier day as the FCA may direct.

Acknowledgement of receipt

43. The FCA must, before the end of a period of 10 working days beginning with the day on which it receives a notification under regulation 42, send the person making the notification an acknowledgment of receipt.

FCA's response

44. The FCA must, before the end of a period of 20 working days beginning with the day on which it receives a notification under regulation 42—

- (a) if it considers that the notification complies with the requirements of, or made under, that regulation, confirm in writing to the person making the notification that the notification is valid;
- (b) if it considers that the notification does not comply with those requirements—
 - (i) confirm in writing to the person making the notification that the notification is not valid, and
 - (ii) where applicable, inform the person of the steps which need to be taken, and the time within which they need to be taken, for the notification to be considered valid.

CHAPTER 5

General provision

Misleading the FCA: criminal offence

45. Section 398(1) of the Financial Services and Markets Act 2000 (misleading the FCA or PRA: residual cases) applies to a requirement to provide information in accordance with regulation 24(2), or a direction under regulation 24(3), 36(2) or 42(2), as it applies to a requirement falling within subsection (1A) of that section.

Offences by bodies corporate

46. Section 400 of the Act (offences by bodies corporate etc.)(1) applies in respect of an offence under section 398 of that Act (as applied by regulation 45), as it applies in respect of an offence under that Act.

Further information to be supplied by a person to whom regulation 28, 33 or 39 applies

47.—(1) A person to whom regulation 28 applies must notify the FCA if any information contained in or accompanying an advance application submitted in accordance with regulation 24 changes.

(2) A person to whom regulation 33 applies must notify the FCA if any information contained in or accompanying the notification made in accordance with regulation 36 changes.

(3) A person to whom regulation 39 applies must notify the FCA if any information contained in or accompanying the notification made in accordance with regulation 42 changes.

Directions

48.—(1) The power to make a direction under this Part includes the power—

- (a) to make different directions in relation to different applications or categories of application;
- (b) to vary or revoke a previous direction.

(2) A direction under this Part must be—

- (a) in writing, and
- (b) published by the FCA in a manner suitable to bring it to the attention of persons likely to be affected.

Interpretation of Part 8

49.—(1) In this Part—

“advance application” means an application submitted during the period—

- (a) beginning with the day on which this Part comes into force, and
- (b) ending immediately before exit day;

“working day” means a day other than—

- (a) a Saturday or a Sunday,
- (b) Christmas Day or Good Friday, or

(1) 2000 c. 8. Section 398 is amended by paragraph 36 of Schedule 9 to the Financial Services Act 2012 (c. 21), S.I. 2013/1773, S.I. 2015/1882, S.I. 2016/680, S.I. 2017/701, S.I. 2018/135 and S.I. 2018/698.

- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971⁽²⁾ in any part of the United Kingdom.
- (2) In this Part, reference to a group of undertakings means a group consisting of—
 - (a) a parent undertaking and its subsidiaries, within the meaning of Articles 1 and 2 of [Directive 83/349/EEC](#) of 13 June 1983⁽³⁾, and
 - (b) undertakings linked to each other by a relationship mentioned in Article 12.1(a) or (b) of that Directive, whose occupation includes the issuing of credit ratings.

⁽²⁾ 1971 c. 80; amended by section 1 of the St Andrew's Day Bank Holiday (Scotland) Act 2007 (asp 2).

⁽³⁾ O.J. L 193, 18.7.1983, p.1.