
STATUTORY INSTRUMENTS

2019 No. 266

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

PART 10

Amendment of retained direct EU legislation

54. In Article 3—

(a) for paragraph 1 substitute—

“1. For the purpose of this Regulation:

‘alternative investment fund manager’ has the meaning in regulation 4(1) of the Alternative Investment Managers Regulations 2013;

‘beneficial owner’ has the meaning given to it in regulation 3(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;

‘central counterparty’ or ‘CCP’ means a legal person that interposes itself between the counterparties to the contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer, which is authorised under the Financial Services and Markets Act 2000;

‘common management relationship’, means a relationship between two or more undertakings which satisfies the following conditions:

(i) the undertakings are not connected in the manner described in section 1162 of, and Schedule 7 to, the Companies Act 2006 (c. 46), and

(ii) either:

(a) the undertakings are managed on a unified basis pursuant to a contract with one of them, or provisions in the undertakings' memorandum or articles of association; or

(b) the administrative, management or supervisory bodies of those undertakings consist, for the major part, of the same credit rating agencies in office during the financial year in respect of which it is being decided whether such a relationship exists;

‘competent authority’, means the FCA;

‘control’ means the relationship between a parent undertaking and a subsidiary, as described in section 1162(2) of the Companies Act 2006 (c. 46), or a close link between any natural or legal person and an undertaking;

‘credit institution’ has the meaning given by Article 2.1.19 of the markets in financial instruments regulation;

‘credit rating’ means an opinion regarding the creditworthiness of an entity, a debt or financial obligation, debt security, preferred share or other financial instrument, or of an issuer of such a debt or financial obligation, debt security, preferred share or other financial instrument, issued using an established and defined ranking system of rating categories;

‘credit rating activities’ means data and information analysis and the evaluation, approval, issuing and review of credit ratings;

‘credit rating agency’ means a legal person whose occupation includes the issuing of credit ratings on a professional basis;

‘credit score’ means a measure of creditworthiness derived from summarising and expressing data based only on a pre-established statistical system or model, without any additional substantial rating-specific analytical input from a rating analyst;

[^{F1}‘EU CRAR’ means Regulation (EC) 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies as it had effect in the European Union immediately before IP completion day;]

‘EU regulated market’ has the meaning given in Article 2.1.13.B of the markets in financial instruments regulation;

‘the FCA’, means the Financial Conduct Authority;

‘financial instrument’ has the meaning given by Article 2.1.9 of the markets in financial instruments regulation, read with Articles 5 to 8 of Commission Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;

‘group of credit rating agencies’ means a group of undertakings established in the United Kingdom consisting of a parent undertaking and its subsidiaries within the meaning of section 1162 of the Companies Act 2006 (c. 46) as well as undertakings linked to each other by a common management relationship and whose occupation includes the issuing of credit ratings. For the purposes of Article 4.3(a), a group of credit rating agencies shall also include credit rating agencies established in third countries;

‘institution for occupational retirement provision’ means an institution, irrespective of its legal form, operating on a funded basis, established separately from any sponsoring undertaking or trade for the purpose of providing retirement benefits in the context of an occupational activity on the basis of an agreement or a contract agreed:

- (i) individually or collectively between the employer and the employee or their respective representatives, or
- (ii) with self-employed persons, in compliance with United Kingdom legislation, and which carries out activities directly arising therefrom;

‘insurance undertaking’ has the meaning given in section 417 of the Financial Services and Markets Act 2000;

‘investment firm’ has the meaning given by Article 2.1A of the markets in financial instruments regulation;

‘investment research’ means research or other information recommending or suggesting an investment strategy, explicitly or implicitly, concerning one or several financial instruments or the issuers of financial instruments, including any opinion

as to the present or future value or price of such instruments, intended for distribution channels or for the public, and in relation to which the following conditions are met:

- (i) it is labelled or described as investment research or in similar terms, or is otherwise presented as an objective or independent explanation of the matters contained in the recommendation;
- (ii) if the recommendation in question were made by an investment firm to a client, it would not constitute the provision of investment advice (meaning the provision of credit rating agencies recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments);

‘issuer’ means a legal entity which issues or proposes to issue securities;

‘lead rating analyst’ means a person with primary responsibility for elaborating a credit rating or for communicating with the issuer with respect to a particular credit rating or, generally, with respect to the credit rating of a financial instrument issued by that issuer and, where relevant, for preparing recommendations to the rating committee in relation to such rating;

‘management company’ has the meaning given in section 237 of the Financial Services and Markets Act 2000 (c. 8);

‘the markets in financial instruments regulation’ means Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012;

‘originator’ means either of the following:

- (i) an entity which, either itself or through related entities, directly or indirectly, was involved in the original agreement which created the obligations or potential obligations of the debtor or potential debtor giving rise to the exposure being securitised; or
- (ii) an entity which purchases a third party's exposure onto its balance sheet and then securitises them;

‘prospectus’ means a prospectus published under Part 6 of the Financial Services and Markets Act 2000;

‘rated entity’ means a legal person whose creditworthiness is explicitly or implicitly rated in the credit rating, whether or not it has solicited that credit rating and whether or not it has provided information for that credit rating;

‘rating analyst’ means a person who performs analytical functions that are necessary for the issuing of a credit rating;

‘rating category’ means a rating symbol, such as a letter or numerical symbol which might be accompanied by appending identifying characters, used in a credit rating to provide a relative measure of risk to distinguish the different risk characteristics of the types of rated entities, issuers and financial instruments or other assets;

‘rating outlook’ means an opinion regarding the likely direction of a credit rating over the short term, the medium term or both;

‘regulated market’ has the meaning given in Article 2.1(13) of the markets in financial instruments regulation;

‘regulatory purposes’ means the use of credit ratings for the specific purpose of complying with the law applicable in the United Kingdom;

‘reinsurance undertaking’ has the meaning given by section 417 of the Financial Services and Markets Act 2000;

‘related third party’ means the originator, arranger, sponsor, servicer or any other party that interacts with a credit rating agency on behalf of a rated entity, including any person directly or indirectly linked to that rated entity by control;

‘re-securitisation’ means a securitisation where the risk associated with an underlying pool of exposures is tranching and at least one of the underlying exposures is a securitisation position;

‘re-securitisation position’ means an exposure to a re-securitisation;

‘senior management’ means the persons who effectively direct the business of the credit rating agency and the members of its administrative or supervisory board;

‘sovereign rating’ means:

- (i) a credit rating where the entity rated is a State or a regional or local authority of a State;
- (ii) a credit rating where the issuer of the debt or financial obligation, debt security or other financial instrument is a State or a regional or local authority of a State, or a special purpose vehicle of a State or of a regional or local authority;
- (iii) a credit rating where the issuer is an international financial institution established by two or more States which has the purpose of mobilising funding and providing financial assistance for the benefit of the members of that international financial institution which are experiencing or threatened by severe financing problems;

‘sponsor’ means a sponsor as defined in point (42) of Article 4 of Directive [2006/48/EC](#) of the European Parliament and of the Council of 14th June 2006 relating to the taking up and pursuit of the business of credit institutions;

‘sponsoring undertaking’ means any undertaking or other body, regardless of whether it includes or consists of one or more legal or natural credit rating agencies, which acts as an employer or in a self-employed capacity or any combination thereof and which pays contributions into an institution for occupational retirement provision;

‘structured finance instrument’ means a financial instrument or other assets resulting from a securitisation transaction or scheme whereby the credit risk associated with an exposure or pool of exposures is tranching, having the following characteristics:

- (i) payments in the transaction or scheme are dependent upon the performance of the exposure or pool of exposures, and
- (ii) the subordination of tranches determines the distribution of losses during the ongoing life of the transaction or scheme;

‘third country’, means any country other than the United Kingdom;

‘third country competent authorities’, means a public authority which is empowered under the law applicable in the relevant jurisdiction to supervise credit rating agencies;

‘United Kingdom regulated market’ has the meaning given in Article 2.1(13A) of the markets in financial instruments regulation;

‘unsolicited credit rating’ and ‘unsolicited sovereign rating’ mean, respectively, a credit rating or a sovereign rating assigned by a credit rating agency other than upon request.”;

- (b) in paragraph 2, for points (a) and (b) substitute—

- “(a) recommendations, meaning research or other information recommending or suggesting an investment strategy, explicitly or implicitly, concerning one or several financial instruments or the issuers of financial instruments, including any opinion as to the present or future value or price of such instruments, intended for distribution channels or for the public;
- (b) investment research and other forms of general recommendation, such as ‘buy’, ‘sell’ or ‘hold’, relating to transactions in financial instruments or to financial obligations; or”;
- (c) in paragraph 3, omit “as defined in point (6) of Article 3 of Directive [2005/60/EC](#) of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing”.

Textual Amendments

- F1** Words in reg. 54(a) inserted (30.9.2020) by [The Equivalence Determinations for Financial Services \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1055\)](#), regs. 1(2), **11(2)**
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Commencement Information

- I1** Reg. 54 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations revoked by [2023 c. 29 Sch. 1 Pt. 2](#)