Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2015/2. 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)EUR 2015 No. 2 may be subject to amendment by EU Exit Instruments made by the Financial Conduct Authority under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 1. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

Commission Delegated Regulation (EU) 2015/2 of 30 September 2014 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies make available to the European Securities and Markets Authority (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2015/2

of 30 September 2014

supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies make available to the European Securities and Markets Authority

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies[(1)], and in particular the third subparagraph of Article 21(4) and the third subparagraph of Article 21(4a) thereof,

Whereas:

(1) Article 11a(1) of Regulation (EC) No 1060/2009 requires registered and certified credit rating agencies, when issuing a credit rating or a rating outlook, to submit rating information to the European Securities and Markets Authority (ESMA). The requirement does not apply to ratings exclusively produced for and disclosed to investors for a fee. ESMA is required to publish the rating information submitted by the credit rating agencies on a public website called the European rating platform (ERP). Therefore, rules should be laid down regarding the content and the presentation of the information that credit rating agencies should make available to ESMA for the ERP.

(2) In addition, Article 11(2) and Article 21(4)(e) of Regulation (EC) No 1060/2009 require credit rating agencies to submit information to ESMA on their historical performance data and for the purposes of ongoing supervision. The content and presentation of that information is laid down in Commission Delegated Regulation (EU) No 448/2012[(2)] and Commission Delegated Regulation (EU) No 446/2012[(3)], respectively. In order to allow for more efficient data processing by ESMA and simplification of data reporting for registered and certified credit rating agencies, integrated reporting requirements should be laid down for all the data that registered and certified credit rating agencies should report to ESMA. Therefore, this Regulation lays down rules regarding the data to be reported for the purpose of the ERP, the information to be made available on historical performance in the central repository established by ESMA, and the information that credit rating agencies should periodically report to ESMA for the purposes of ongoing

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supervision of credit rating agencies. This Regulation therefore repeals Delegated Regulation (EU) No 448/2012 and Delegated Regulation (EU) No 446/2012. ESMA should integrate all data reported by credit rating agencies for the ERP, the central repository and ongoing supervision of credit rating agencies into one ESMA database.

(3) In order to ensure that the ERP provides up-to-date information on rating actions that are not exclusively disclosed to investors for a fee, it is necessary to describe the data to be reported, including the rating and outlook of the rated instrument or entity, the press releases accompanying rating actions, reports accompanying sovereign rating actions, type of rating action and date and hour of publication. Press releases, in particular, provide information on the key elements underlying the rating decision. The ERP provides rating users with a central access point to up-to-date rating information and lowers information costs by allowing for a global view of the different ratings issued on each rated entity or instrument.

(4) In order to ensure a global view of all ratings assigned by different credit rating agencies on the same rated entity or instrument, credit rating agencies should use common identifiers for the rated entity and the rated instrument when reporting the rating data to ESMA. Therefore, for the identification of rated entities, issuers, originators and credit rating agencies, the only method of global unique identification should be the Global Legal Entity Identifier (LEI).

(5) In order to ensure that the information on the ERP is up-to-date, rating information should be collected and published on a daily basis to allow for one daily update of the ERP outside Union business hours.

(6) In order to allow ESMA to react promptly in the case of actual or potential non-compliance with Regulation (EC) No 1060/2009, the rating information reported by registered and certified credit rating agencies should enable ESMA to closely supervise the conduct and activities of credit rating agencies. Rating data should therefore be reported to ESMA on a monthly basis. However, in order to ensure proportionality, credit rating agencies that have fewer than 50 employees and that are not part of a group should be able to submit rating data every two months. ESMA should still be able to require those credit ratings agencies to carry out reporting on a monthly basis, in the light of the number and type of their ratings, including the complexity of the credit analysis, the relevance of the rated instruments or issuers, and the eligibility of the ratings to be used for regulatory purposes.

(7) In order to avoid duplicated data reporting, ESMA should use for its ongoing supervision the data already reported for the purposes of the ERP. Credit rating agencies should also be required, for the purposes of ongoing supervision, to report information in respect of those credit ratings and rating outlooks not reported for the purposes of the ERP.

(8) ESMA should use the data provided for the purposes of the ERP and for the purposes of its ongoing supervision to gather the information on the historical performance data that it should make available in the central repository in accordance with Article 11(2) of Regulation (EC) No 1060/2009. In order to further facilitate comparability and to ensure consistency with the data that has been reported in accordance with Delegated

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Regulation (EU) No 448/2012, newly certified credit rating agencies should be required to submit data regarding at least 10 years before their certification, or the period since the start of their activity. Certified credit rating agencies should not be required to report this data, partially or totally, where they can demonstrate that this would not be proportionate in view of their scale and complexity.

(9) Credit rating agencies that are part of a group should be able to either report their ratings data separately to ESMA, or mandate one of the agencies within the group to submit the data on their behalf. However, due to credit rating agencies' highly integrated organisation at Union level and in order to facilitate the understanding of the statistics, credit rating agencies are encouraged to report on a global basis for the whole group.

(10) For the purposes of ESMA's ongoing supervision and for the publication of the credit rating agencies' historical performance reports, credit rating agencies may also, on a voluntary basis, report to ESMA credit ratings issued by third-country credit rating agencies belonging to the same group of credit rating agencies but not endorsed in accordance with Article 4(3) of Regulation (EC) No 1060/2009.

(11) When submitting data, credit rating agencies should classify the credit ratings and rating outlooks issued in different categories: by rating type and sub-classifications, such as sector, industry or asset class, or by type of issuer and issue. Those categories are based on ESMA's previous rating data collection experience and the need for supervision of credit rating data.

(12) In order to provide for the reporting of credit ratings on new financial instruments that could arise as a result of financial innovation, a category should be included for reporting 'other financial instruments'. Moreover, the corporate ratings and the structured finance ratings categories should also have an 'other' category to include all new types of corporate issues or structured finance instruments that cannot be classified into the existing categories.

(13) In order to allow ESMA to establish the ERP and to allow for credit rating agencies to have sufficient time to adjust their internal systems to the new reporting requirements, credit rating agencies should submit a first report by 1 January 2016. In order to ensure comparability and continuity of data reported under this Regulation, the first report should contain data on all ratings issued and not withdrawn by 21 June 2015. In addition, the first report should contain data regarding credit ratings and rating outlooks issued by credit rating agencies from 21 June 2015 until 1 January 2016. The first report should contain the same type of data as the rating data to be submitted on a daily basis thereafter.

(14) In order to allow ESMA to receive and process the data automatically in its internal systems, the data to be reported should be compiled in a standard format. Due to technical progress, a number of technical reporting instructions concerning the transmission or the format of the files to be submitted by credit rating agencies may have to be updated and communicated by ESMA through specific communications or guidelines.

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(15) This Regulation is based on the draft regulatory technical standards submitted by ESMA to the Commission in accordance with Article 10 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[(4)].

(16) ESMA conducted an open public consultation on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010.

(17) In order to comply with Article 2(3) of Regulation (EU) No 462/2013 of the European Parliament and of the Council[(5)], this Regulation should apply from 21 June 2015,

HAS ADOPTED THIS REGULATION:

Article 1

Data to be reported

1 Credit rating agencies shall report data on all their issued or endorsed credit ratings or rating outlooks in accordance with Articles 8, 9, and 11. Credit rating agencies shall report all credit ratings and rating outlooks issued at rated entity level and on all their issued debt instruments, where applicable.

2 Credit rating agencies shall ensure the accuracy, completeness and availability of the data reported to ESMA and shall ensure that reports are submitted in accordance with Articles 8, 9 and 11 using appropriate systems developed on the basis of technical instructions provided by ESMA.

3 Credit rating agencies shall notify ESMA immediately of any exceptional circumstances that may temporarily prevent or delay their reporting in accordance with this Regulation.

4 For groups of credit rating agencies, the members of each group may mandate one member to submit reports required under this Regulation on their behalf. Each credit rating agency on whose behalf such a report is submitted shall be identified in the data submitted to ESMA.

5 For the purposes of Article 11(2) and Article 21(4)(e) of Regulation (EC) No 1060/2009, a credit rating agency reporting on behalf of a group may include data on credit ratings and rating outlooks issued by third-country credit rating agencies belonging to the same group and not endorsed. Where a credit rating agency does not report such data it shall give an explanation in its qualitative data report, in Fields 9 and 10 of Table 1 of Part 1 of Annex I to this Regulation.

6 Credit rating agencies shall disclose the solicitation status of each reported credit rating or rating outlook by specifying whether it is unsolicited with participation or unsolicited without participation in accordance with Article 10(5) of Regulation (EC) No 1060/2009 or solicited.

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Article 2

Reporting of default status and withdrawals

1 A credit rating agency shall report a default in respect of a rating in Fields 6 and 13 of Table 2 of Part 2 of Annex I where one of the following events has occurred:

a the rating indicates that a default has occurred according to the credit rating agency's definition of default;

b the rating has been withdrawn due to insolvency of the rated entity or due to debt restructuring;

c any other instance in which the credit rating agency considers a rated entity or rated instrument as defaulted, materially impaired or equivalent.

2 Where a reported rating is withdrawn, the reason for that shall be reported in Field 11 of Table 2 of Part 2 of Annex I.

Article 3

Rating types

Credit rating agencies shall, when reporting credit ratings or rating outlooks, classify them as one of the following types of ratings:

(a) corporate ratings;

(b) structured finance ratings;

(c) sovereign and public finance ratings;

(d) other financial instruments.

Article 4

Corporate ratings

1 Credit rating agencies shall, when reporting corporate ratings, classify them within one of the following industry segments:

a financial institutions, including banks, brokers and dealers;

b insurance;

c all other corporate entities or issuers which are not included in points (a) and (b).

2 Credit rating agencies shall classify corporate issues as one of the following issue types:

a bonds;

b covered bonds as referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council[(6)] that meet the eligibility requirements set out in paragraphs 1 to 3, 6 and 7 of Article 129 of Regulation (EU) No 575/2013[(7)];

c other types of covered bonds, for which the credit rating agency has used specific covered bond methodologies, models or key rating assumptions for issuing the credit rating and which are not included in point (b);

d other types of corporate issues which are not included in points (a), (b) and (c).