***Changes to legislation:*** *There are outstanding changes not yet made to Commission Delegated Regulation (EU) No 447/2012. 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 2012 No. 447 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) No 447/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies by laying down regulatory technical standards for the assessment of compliance of credit rating methodologies (Text with EEA relevance)

## COMMISSION DELEGATED REGULATION (EU) No 447/2012

## of 21 March 2012

## supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies by laying down regulatory technical standards for the assessment of compliance of credit rating methodologies

## (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 point (d) of Article 21(4) thereof,

Whereas:

(1) Article 8(3) of Regulation (EC) No 1060/2009 requires a credit rating agency to use credit rating methodologies that are rigorous, systematic, continuous and subject to validation based on historical experience, including back-testing.

(2) This Regulation is necessary to ensure transparency in the assessment carried out by the European Securities and Markets Authority (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC[(2)] and uniform rules regarding the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009.

(3) ESMA has to assess the compliance of credit rating agencies with the provision of Article 8(3) of Regulation (EC) No 1060/2009 when examining applications for registration pursuant to Article 15 of that Regulation. After the registration ESMA should assess as part of its ongoing supervision the continuous compliance of credit rating agencies with the provision of Article 8(3) whenever it considers such assessment necessary.

(4) Regulation (EC) No 1060/2009, in particular Article 23 thereof, does not permit ESMA, the Commission or any public authorities of a Member State to interfere with the content of credit ratings or methodologies. Accordingly, this Regulation should lay down the

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rules by which those methodologies are to be assessed but should not provide for those authorities to decide on the accuracy of a credit rating produced by those methodologies.

(5) Article 6(2) when read in conjunction with point 9 of Section A of Annex I to Regulation (EC) No 1060/2009 requires a credit rating agency to establish a review function responsible for periodically reviewing its methodologies, models and key rating assumptions, such as mathematical or correlation assumptions, and any significant changes or modifications thereto as well as the appropriateness of those methodologies, models and key rating assumptions where they are used or intended to be used for the assessment of new financial instruments.

(6) This Regulation is based on the draft regulatory technical standards submitted by ESMA to the Commission for endorsement by the Commission pursuant to the procedure laid down in Article 10 of Regulation (EU) No 1095/2010.

(7) ESMA has conducted open public consultations 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 under Article 37 of Regulation (EU) No 1095/2010. In addition, ESMA has launched a call for evidence in May 2011 in order to gather information from market participants,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Subject matter**

This Regulation lays down the rules to be used in the assessment of compliance of credit rating methodologies with the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009.

*Article 2*

**Demonstration of compliance**

A credit rating agency shall at all times be able to demonstrate to ESMA its compliance with the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009 relating to the use of credit rating methodologies.

*Article 3*

**Assessment of compliance by ESMA**

1 In addition to examining the compliance of credit rating agencies with the provision of Article 8(3) of Regulation (EC) No 1060/2009 in relation to an application for registration according to Article 15 of that Regulation, ESMA shall examine compliance by each credit rating agency with Article 8(3) of Regulation (EC) No 1060/2009 on an ongoing basis as ESMA considers appropriate.

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2 When examining the compliance of credit rating agencies with the provision of Article 8(3) of Regulation (EC) No 1060/2009 ESMA shall use all information relevant to assess the process of developing, approving, using and reviewing credit rating methodologies.

3 In determining the appropriate level of assessment, ESMA shall consider whether a credit rating methodology has a demonstrable history of consistency and accuracy in predicting credit worthiness and may have regard to methods of validation such as appropriate default or transition studies designed to test that specific methodology.

*Article 4*

**Assessing that a credit rating methodology is rigorous**

1 A credit rating agency shall use and apply credit rating methodologies which:

a contain clear and robust controls and processes for their developments and related approvals that allow suitable challenge;

b incorporate all driving factors deemed relevant in determining creditworthiness of a rated entity or a financial instrument which shall be supported by statistical, historical experience or evidence;

c consider the modelled relationship between rated entities or financial instruments of the same risk factor and risk factors to which the credit rating methodologies are sensitive;

d incorporate reliable, relevant and quality related analytical models, key credit rating assumptions and criteria where these are in place.

2 A credit rating agency shall list and provide a detailed explanation of the following points with regard to the credit rating methodologies used regarding:

a each qualitative factor, including the scope of qualitative judgement for that factor;

b each quantitative factor, including key variables, data sources, key assumptions, modelling and quantitative techniques.

3 The detailed explanation referred to in paragraph 2 shall include the following:

a a statement of the importance of each qualitative or quantitative factor used within that credit rating methodology including, where relevant, a description of and justification for related weightings assigned to those factors and their impact on credit ratings;

b an assessment of the relationship between the key assumptions used in that credit rating methodology and the critical risk factors derived from macroeconomic or financial data; and

c an assessment of the relationship between the key assumptions used in credit rating methodology and the volatility of credit ratings produced by that methodology over time.

4 A credit rating agency shall use credit rating methodologies and their associated analytical models, key credit rating assumptions and criteria that promptly incorporate findings or outcomes from an internal review or a monitoring review undertaken by one or more of the following:

a the credit rating agency's independent members of the administrative or supervisory board;

b the credit rating agency's review function;

c any other relevant person or committee involved in the monitoring and reviewing of credit rating methodologies.