

Regulation (EC) No 1060/2009 of the European Parliament and of the Council
of 16 September 2009 on credit rating agencies (Text with EEA relevance)

TITLE IV

**PENALTIES, COMMITTEE PROCEDURE, REPORTING
AND TRANSITIONAL AND FINAL PROVISIONS**

CHAPTER I

Penalties, committee procedure and reporting

Article 36

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Member States shall ensure that the competent authority disclose to the public every penalty that has been imposed for infringement of this Regulation, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

By 7 December 2010 the Member States shall notify the rules referred to in the first subparagraph to the Commission. They shall notify the Commission without delay of any subsequent amendment thereto.

Article 37

Amendments to Annexes

The Commission may amend the Annexes in order to take account of developments, including international developments, on financial markets, in particular in relation to new financial instruments and with regard to convergence of supervisory practice.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 38(2).

Article 38

Committee procedure

1 The Commission shall be assisted by the European Securities Committee established by Commission Decision 2001/528/EC⁽¹⁾.

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2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3 Where reference is made to this paragraph, Article 5 and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

Article 39

Reports

1 By 7 December 2012, the Commission shall make an assessment of the application of this Regulation, including an assessment of the reliance on credit ratings in the Community, the impact on the level of concentration in the credit rating market, the cost and benefit of impacts of the Regulation and of the appropriateness of the remuneration of the credit rating agency by the rated entity (issuer-pays model), and submit a report thereon to the European Parliament and the Council.

2 By 7 December 2010, the Commission shall, in the light of discussions with the competent authorities, assess the application of Title III of this Regulation, in particular of the cooperation of the competent authorities, the legal status of CESR and supervisory practices. The Commission shall present a report on those matters to the European Parliament and to the Council, accompanied, where appropriate, by proposals for a review of that Title.

That report shall include a reference to the Commission proposal of 12 November 2008 for a regulation on credit rating agencies and to the report of the Committee on Economic and Monetary Affairs of the European Parliament of 23 March 2009 relating to that proposal.

3 By 7 December 2010, the Commission shall, in the light of developments in the regulatory and supervisory framework for credit rating agencies in third countries, present a report to the European Parliament and to the Council concerning the effects of those developments and of the transitional provisions referred to in Article 40 on the stability of financial markets in the Community.

CHAPTER II

Transitional and final provisions

Article 40

Transitional provision

Credit rating agencies operating in the Community before 7 June 2010 (existing credit rating agencies), which intend to apply for registration under this Regulation, shall adopt all necessary measures to comply with its provisions by 7 September 2010.

Credit rating agencies shall submit their application for registration no earlier than 7 June 2010. Existing credit rating agencies shall submit their application for registration by 7 September 2010

Existing credit rating agencies may continue issuing credit ratings which may be used for regulatory purposes by the financial institutions referred to in Article 4(1) unless registration is refused. Where registration is refused, Article 24(2) shall apply.

Article 41

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from its date of entry into force. However:

- Article 4(1) shall apply from 7 December 2010 and
- points (f), (g) and (h) of Article 4(3) shall apply from 7 June 2011.

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(1) [OJ L 191, 13.7.2001, p. 45.](#)