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Additional Information

Level 1 Regulation
Credit Rating Agencies Regulation (CRAR) Regulation (EC) No 1060/2009

Topic
Sovereign Ratings

Subject Matter
Article 8a(4) – Deviations from the sovereign ratings calendar (ESMA33-5-87 Q&A 3)

Question
(a) Does ESMA need to previously authorise a deviation from the announced calendar of sovereign ratings and outlooks?

(b) In which cases would a CRA be able to deviate from the announced calendar of sovereign ratings and outlooks?

(c) Where the reason for a deviation from the announced sovereign ratings and outlooks calendar
is that an issuer appealed the CRA's decision, shall the CRA specify that an appeal is the cause
of the deviation?

(d) How should CRAs disclose the reasons for a deviation from the announced calendar of sovereign ratings and outlooks?

(e) Are CRAs obliged to publish a rating action or a related rating outlook on the date announced in
their announced calendar of sovereign ratings and outlooks? In case of non-publication on the
announced date, are CRAs obliged to provide an explanation of the reasons for non-publication?

(f) In case of a deviation from the announced calendar of sovereign ratings and outlooks, what rules are applied to the publication of sovereign ratings and related rating outlooks?

ESMA Answer

17-07-2023

Original language

(a) The CRA Regulation does not request CRAs to seek prior authorisation from ESMA before deviating from the announced calendar of sovereign ratings and outlooks. ESMA will supervise whether deviations are based on the obligation for CRAs to comply with Article 8(2), Article 10(1) and Article 11(1) of the CRA Regulation and in particular, whether a detailed explanation of the reasons for such a deviation accompanies the credit rating or outlook.

(b) CRAs have to follow the announced calendar of sovereign ratings and outlooks as a general rule. However, CRAs have also to comply with the overarching principle of timely issuing credit rating of adequate quality. In order to combine both principles, the Regulation

allows CRAs to deviate from the announced calendar where necessary to comply with the obligation to disclose credit ratings based on all available and relevant information in a timely manner (Article 8(2)[1], Article 10(1)[2] and Article 11(1)[3]). Deviations from the announced calendar should not happen routinely.

(c) Following an appeal made by rating committee members or CRA's staff members (internal appeal) or the issuer (external appeal), a delay in the adoption of the sovereign rating or related rating outlook may occur. Therefore, as the CRA Regulation requires CRAs to provide a detailed explanation of the reasons for the deviation from the announced calendar, CRAs should explain in a clear manner that the reason for the deviation was an appeal.

(d) CRAs should be transparent and disclose the reasons for a deviation from the announced calendar in a clear and non-misleading way. CRAs should also communicate to ESMA deviations from the announced calendar with a detailed explanation of the reason for such a deviation. The rules on the presentation of credit ratings and rating outlooks should be taken into account when making public the reasons for the deviation (Article 10(2) and Part I of Section D of Annex I of the CRA Regulation i.e. in credit reports or press releases). In view of transparency, CRAs should also consider to provide the reasons for the deviation on their website, in particular in the section where the sovereign calendar is available to investors. In that case, CRAs might also consider including a hyperlink in the press release or credit rating report referring investors to that section of the webpage.

(e) The CRA Regulation requires CRAs to publish sovereign ratings and related rating outlooks in accordance with their sovereign ratings and outlooks calendar. This requirement does not imply that CRAs are obliged to publish a sovereign rating or a related rating outlook on each date announced in their calendar. Consequently, this non-publication does not constitute a deviation from the sovereign ratings and outlooks calendar and CRAs do not need to publish an explanation of the reasons for non-publication.

(f) When a deviation from the announced date in the sovereign calendar takes place following the reasoning of sub question (b) of question 3, CRAs should publish their sovereign ratings or related rating outlooks on any day after the close of business hours of the last closed regulated market in the European Union and at least one hour before the opening of the first opened regulated market in the European Union. The rules on presentation of credit ratings and rating outlooks (Article 10(2) and Part I of Section D of Annex I of the CRA Regulation)

as well as the guidance on how to disclose the reasons when deviating from the announced sovereign calendar (sub question (d) of question 3) should be also taken into account.

[1] Article 8(2) of the CRA Regulation requires CRAs to ensure that the credit ratings and the rating outlooks are based on a thorough analysis of all the information that is available to it and that is relevant to its analysis according to the applicable rating methodologies. They shall adopt all necessary measures so that the information they use in assigning credit ratings and rating outlooks is of sufficient quality and from reliable sources.

[2] Article 10(1) of the CRA Regulation requires CRAs to disclose any credit rating or rating outlook, as well as any decision to discontinue a credit rating, on a non-selective basis and in a timely manner. In the event of a decision to discontinue a credit rating, the information disclosed shall include full reasons for the decision.

[3] Article 11(1) of the CRA Regulation requires CRAs to fully disclose to the public and update immediately information relating to any actual and potential conflicts of interest, methodologies and descriptions of models and key rating assumptions, as well as their material changes" (Part I of Section E of Annex I).