

# Public Notice

**Modefinance S.r.l.** is a credit rating agency ('CRA') headquartered in Italy.

Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies ('the Regulation') lays down obligations for CRAs in the conduct of their activities. In conjunction with its role of supervisor of CRAs under Article 21 of the Regulation, the European Securities and Markets Authority ('ESMA') has functions and powers to take enforcement actions in relation to infringements of the Regulation by CRAs.

According to the Regulation, a CRA shall not use the name of ESMA or any competent authority in such a way that would indicate or suggest endorsement or approval by ESMA or any competent authority of the credit ratings or any credit rating activities of the CRA.

In July 2024, following a preliminary investigation, ESMA's Supervisors found that with respect to Modefinance S.r.l., there were serious indications of the possible existence of facts liable to constitute one infringement listed in Annex III to the CRA Regulation.

The matter was then referred to an Independent Investigating Officer who, after having conducted an independent investigation, submitted her findings to the Board of Supervisors (the 'Board').

Having considered the evidence, the Board found that Modefinance S.r.l. negligently committed the following infringement of the CRA Regulation.

## **Infringement**

By using the name of ESMA in such a way that would indicate or suggest endorsement or approval by ESMA of the credit ratings or any credit rating activities of the CRA, Modefinance S.r.l. negligently committed the infringement set out at Point 52 of Section I of Annex III of the Regulation.

### **A) Relevant legal provisions**

Article 10(6) of the Regulation reads as follows: "A credit rating agency shall not use the name of ESMA or any competent authority in such a way that would indicate or suggest endorsement or approval by ESMA or any competent authority of the credit ratings or any credit rating activities of the credit rating agency".

Point 52 of Section I of Annex III of the Regulation states that "[t]he credit rating agency infringes Article 10(6) by using the name of ESMA or any competent authority in such a way that would indicate or suggest endorsement or approval by ESMA or any competent authority of the credit ratings or any credit rating activities of the credit rating agency".

Article 3(1)(o) of the Regulation describes the credit rating activities as “data and information analysis and the evaluation, approval, issuing and review of credit ratings”.

## **B) Factual findings**

On 27 September 2018, 3 September 2019, 26 May 2021 and 27 October 2021, Modefinance S.r.l. published statements on its websites, which referred to ESMA as having “certified”, or “validated” the Multi Objective Rating Evaluation Model (MORE), used by Modefinance S.r.l.

## **C) Finding of the infringement**

On the basis of the assessment of the complete file submitted by the Independent Investigating Officer and of the arguments raised in Modefinance S.r.l.’s written submissions, the Board found that the references to ESMA on Modefinance S.r.l. websites indicated or suggested endorsement or approval by ESMA of the credit rating activities.

Specifically, the Board considered that MORE is used as an essential part of the credit rating activities of Modefinance S.r.l. By referring to MORE as having being “certified” or “validated”, the Board found that Modefinance S.r.l. had referred to ESMA as if ESMA had endorsed or approved MORE, which was not the case.

Thus, Modefinance S.r.l. failed to comply with Article 10(6) of the Regulation, by using the name of ESMA in such a way that would indicate or suggest endorsement or approval by ESMA of its credit rating activities. Therefore, it committed the infringement set out at Point 52 of Section I of Annex III of the Regulation.

Modefinance S.r.l. committed this infringement in four instances.

Furthermore, the Board found that Modefinance S.r.l. did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Modefinance S.r.l. had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed repeatedly and for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Modefinance S.r.l. EUR 420,000.

## **D) Supervisory measure and fine**

### **Public notice**

Pursuant to Article 24 of the Regulation, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

### **Fine**

The fine imposed on Modefinance S.r.l. is EUR 420,000.