

## **S&P Global Ratings response to ESMA’s Consultation Paper on Guidelines on disclosure requirements applicable to credit ratings**

### **Introduction:**

S&P Global Ratings is grateful for the opportunity to submit comments on the Consultation Paper concerning Guidelines on Disclosure Requirements Applicable to Credit Ratings (“Proposed Guidelines”). We understand ESMA’s desire is to enhance the level of transparency and consistency among Credit Rating Agencies (“CRAs”) in the disclosure of information about the characteristics of credit ratings. We also acknowledge the request made to ESMA by the European Commission with respect to Environmental, Social and Governance (“ESG”) information. S&P Global Ratings actively participates in and supports various international initiatives in the area of sustainable finance, and has significantly enhanced the transparency provided to users of credit ratings around the incorporation of ESG factors in credit ratings when these factors affect our opinion about the creditworthiness of an obligor.

However, S&P Global Ratings has concerns with some of ESMA’s suggestions and proposals in the Proposed Guidelines, particularly with respect to: (1) the suggestion that CRAs should use press releases to comply with credit ratings regulatory disclosure requirements (herein referred to as “*Disclosures*”); (2) user access to *Disclosures*; and (3) the prescriptiveness of certain proposals, including those related to ESG factors:

Items 15 and 20 of Chapter 3 of the Proposed Guidelines “Disclosure Requirements for Credit Ratings Press Releases,” state that the *typical* market practice is for CRAs to comply with Disclosure requirements using press releases. Press releases may indeed, be used by CRAs as the vehicle to comply with certain<sup>1</sup> Disclosure requirements and to provide transparency around the rationale for a specific credit rating. However, we disagree with ESMA’s statement that press releases are the *typical* form used to comply with these requirements and/or provide transparency and that therefore press releases should be used by all CRAs for this purpose. As stipulated in Article 13 of Regulation 1060/2009 (as amended, the “Regulation”), there is no specific requirement to use a *specific form*<sup>1</sup> for the presentation of *Disclosures*. As ESMA is aware, S&P Global Ratings has chosen a different vehicle to fully comply with its Disclosure requirements, namely the Presentation of Credit Ratings (“PCR”). Although we appreciate ESMA’s desire to create consistency, we consider for the reasons set out further below that ESMA should not be prescriptive about the formatting of *Disclosures* and/or limit the form in which CRAs can comply with Disclosure requirements. We query why ESMA is initiating a public consultation in this area without prior bilateral engagement with registered CRAs to discuss and review best practices. This contrasts with the approach taken in other areas such as ESG.

Furthermore, while Article 13 requires *Disclosures* to be made available free of charge, the Regulation does not require, either explicitly or implicitly, that this be done without any user registration and acceptance of terms of use. Item 23 of Chapter 3 of the Proposed Guidelines indicates that *Disclosures* should not be placed behind a registration barrier or pay-wall. Whilst we agree that *Disclosures* should be easily accessible and not restricted by a pay-wall, we disagree that registering on a CRA’s website represents a barrier to access the *Disclosures*. On the contrary, and as further explained later in this response, registration and acknowledgement of terms of use are essential safeguards for maintaining the integrity and accuracy of content on our website.

Given the relevance of ESG in credit assessments and in light of the European Commission’s Action Plan for sustainable finance (“Action Plan”), we see that creating minimum disclosure standards for the incorporation of ESG factors in credit ratings could potentially be useful to users of credit ratings. However, we consider that these standards should focus on highlighting key elements that affect the credit ratings, and should not require CRAs to specifically state when ESG factors have or have not been considered or are not a key credit rating factor.

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<sup>1</sup> The only specific reference in the Regulation to press releases concerns the disclosure of the “key elements underlying the credit rating or rating outlook” (Annex I Section D part I paragraph 5) as well as references to sovereign credit ratings (Article 8a(2) and Annex I Section D part III paragraph 4).

## Requirements relating to press releases published in accordance with Article 10(1), 10(2) and 10(5)

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| Q1. | <b>Do you agree with the proposed Guidelines for press releases that accompany credit ratings or rating outlooks? If not, please explain</b> |
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S&P Global Ratings does not agree with the proposal to prescribe the use of CRA press releases as the vehicle for Disclosures, as proposed in Appendix II Item 3.1 of the Proposed Guidelines, for the reasons explained below. Press releases are a form of communication adapted to the specific needs of the media and are not meant to address Disclosures or other specific purposes. Additionally, in our response to Question 3 we specifically address each of the items listed in Appendix II Item 3.1 (7) of the Proposed Guidelines. In this section (Access to Disclosures) we also express our concerns about ESMA’s suggestion in Item 13 of the Introduction of the Proposed Guidelines that “...press releases should be located on a section of a CRA’s website that can be accessed without any barrier to entry or registration requirement”. In our view, while Article 13 requires Disclosures to be made available free of charge, the Regulation neither explicitly nor implicitly requires the Disclosures to be accessible on the CRA’s website without any user registration and acceptance of terms of reference, including acknowledgment of the CRA’s intellectual property rights. We explain below the benefits of web-site registration and the reasons why ESMA should reconsider its Proposed Guidelines.

### Vehicle for Disclosures

*Regulation does not mandate where Disclosures are made*

S&P Global Ratings has concerns with some of ESMA’s statements regarding press releases in Chapter 3 and in Annex II 1.4 of the Proposed Guidelines. This includes in particular the suggestion that “Disclosures are *typically included in the rating action press release and sovereign research reports that accompany specific rating actions*”, and the reference to Disclosures as “Requirements relating to Press Releases published in accordance with Article 10(1), 10(2) and 10(5).” We disagree with the statements that press releases are the typical form or vehicle to comply with Disclosure Requirement. As indicated in Item 23 of Chapter 3 of the Proposed Guidelines, Annex I Section D, I, 5 of the Regulation allows for some of the Disclosure requirements to be omitted from press releases. The only specific reference in the Regulation to press releases concerns the disclosure of the “key elements underlying the credit rating or rating outlook” (Annex I Section D part I paragraph 5) as well as references to sovereign credit ratings (Article 8a(2) and Annex I Section D part III paragraph 4). Indeed, it is S&P Global Ratings’ view that lengthy Disclosures included in press releases may distract the recipient from the key elements underlying the credit rating or rating outlook.

Furthermore, Recital 3 of Delegated Regulation 2015/2 (“ERP Regulation”), which concerns the European Ratings Platform (“ERP”), also indicates that press releases only need to contain the “*key elements underlying the rating decision*”. Neither the ERP Regulation nor any related ESMA documents suggest that press releases should be used to comply with other disclosure requirements. As stated on page 209 in ESMA’s Consultation Paper on CRA3 Implementation (published in February 2014, the “CRA3 CP”), “*the main purpose of the ERP [...] is to make all useful rating information directly available on the platform*”<sup>2</sup>. As set out in Recital 3, the ERP provides users of credit ratings with a central access point to up-to-date rating information – thereby distinguishing press releases from Disclosures.

We also do not agree with the suggestion in Item 22 of Chapter 3 of the Proposed Guidelines that “the CRA Regulation sets out that these key elements should include [the list of Disclosures]”. In Section I of Annex I of the Regulation, paragraph 5 (which concerns to press releases and key elements) is part of the list of Disclosures, rather than being an overarching or horizontal term.

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<sup>2</sup> Also see page 208 of the CRA3 CP – “*Another aspect of ensuring a tool for the users of ratings to be used in their analysis is to be sure that the information that is displayed on the ERP is sufficient for the understanding and easy usage of the platform. For disclosing complete rating information, it is deemed important to also include in the ERP supporting rating information, such as the press releases and the research rating report (sovereign ratings only) containing key elements underlying the credit rating together with the adopted rating/ outlook information.*”

Finally, we also note that the March 2015 update to the IOSCO Code of Conduct Fundamentals for CRAs revised, for purposes of improving clarity, a number of provisions by replacing “*press releases and reports*” with “*announcement and/or report*” underscoring the ability for CRAs to decide which disclosure vehicle it deems most appropriate.

#### *Website-based Disclosures have advantages over press releases*

Consistent with the above and in line with the Regulation, S&P Global Ratings has, since September 2009, been using a web-based disclosure mechanism for several Disclosure items, and we are not aware of any concerns raised by market participants since. S&P Global Ratings’ Disclosures are available on the S&P Global Ratings website, where individual webpages are displayed for each issue and issuer credit rating and, as applicable, separate tabs are included for EU and other jurisdictions. These disclosure webpages, referred to by S&P Global Ratings as Presentation of Credit Ratings (“PCRs”). PCRs are easily accessible, provided free of charge and prominently presented on the *entity landing pages* (as shown in the Appendix A<sup>3</sup>). S&P Global Ratings believes that by making Disclosures available through PCRs, we are fully meeting the letter, purpose and spirit of the Regulation, which does not prescribe CRAs to use a specific form or vehicle for Disclosures. We also consider that making Disclosures available via PCRs has several advantages over disclosures through press releases.

For example, the Regulation does not require CRAs to publish a press release for each credit rating issuance. (As a matter of business practice, S&P Global Ratings publishes press releases for credit rating changes, outlook changes and CreditWatch placements and updates, but not always for affirmations without material changes to key rating drivers). One of the main differences between press releases and PCRs is that thanks to the automation of PCRs, these are published for each individual issue and issuer credit rating *immediately* following a credit rating issuance. In contrast, press releases are issued *shortly after* a credit rating issuance.

Furthermore, the use of hyperlinks is not as practical in press releases. We appreciate that in its proposal to mandate the use of press release for Disclosures, ESMA provides some flexibility by allowing CRAs to use hyperlinks Disclosure items. Although S&P Global Ratings discloses certain information via hyperlinks in PCRs, we believe that this approach may not be practical for displaying Disclosures in press releases. In the case of press releases, some third party distributors of press releases do not support the use of hyperlinks. In some cases, hyperlinks are not clickable directly from the press releases, requiring the readers to copy the URL in a separate web page. In our view, this limits the ability of press releases to incorporate Disclosure in a user-friendly manner. S&P Global Ratings uses hyperlinks in PCRs so that the PCR is not unnecessarily lengthy and overburdened with details that would reduce its utility for investors. As such, the usage of hyperlinks is normally limited to the descriptions of methodologies, models, the key elements underlying a credit rating (disclosed through a link to the press release) and credit rating definition documents.

In accordance with the Regulation and as noted above, S&P Global Ratings publishes a PCR each time a public credit rating issuance occurs, including for credit rating affirmations. For each credit rating issuance, the published PCRs contains the most up-to-date factors used to determine and support the credit rating. PCRs are also published for individual credit rating issuance so that it is clear which Disclosures are relevant for each credit rating. However, in the case of press releases, one single press release may be published to cover multiple credit rating issuances making it difficult for the readers to determine which Disclosures belongs to each credit rating. Additionally, ESMA stated that, in some cases, press releases remain available for only a short period. In the case of S&P Global Ratings, press releases in relation to our credit ratings and rating outlooks issued in the EU are available on our public website ([www.standardandpoors.com](http://www.standardandpoors.com)) for a set period, after which they continue to be publicly accessible for free through the PCRs.

PCRs are created through automated processes embedded in the systems used to generate and retain the information related to the credit rating process. Thanks to this automation, PCRs have the advantage of strong controls and direct transfer of information and data, reducing the likelihood of inaccuracies. On the other hand, due to

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<sup>3</sup>The entity landing pages can be accessed by logging-in and searching for the entity name, ISIN, CUSIP or CINS with search suggestions.

substantially more manual intervention in press releases, the likelihood of inaccuracies is greater. Additionally, PCRs can be easily updated to reflect the latest information and/or correct any minor inaccuracies. On the contrary, updates or corrections to press releases require the creation of a new press release, which can lead to confusion of having multiple press release versions being in circulation, in particular as press releases are used by the media.

Considering the automated nature of the PCRs versus the manual nature of the press releases, ESMA's proposal to add certain Disclosures to press releases, would require a significant investment on operational resources as well as a number of operational adjustments to our current IT infrastructures. Our current systems, specifically the ones designed to support the PCR function, have been designed to produce streamlined and structured Disclosures. Departing from this approach would have a great operational and cost impact, with little incremental increase (and potentially decreased benefits) to users of credit ratings in addition to an increased likelihood of inaccuracies.

#### *Third-country regulatory requirements*

In addition to the above concerns, S&P Global Ratings faces the challenge of presenting Disclosure data in a consistent format while satisfying other jurisdictions' requirements. For instance and for international comparison, CRAs registered with the United States Securities and Exchange Commission ("SEC") typically present SEC-mandated Disclosures through an easily accessible form on their respective websites, in accordance with applicable regulation. Consistently, S&P Global Ratings provides these SEC-mandated Disclosures through a US-specific PCR while Disclosures applicable to other jurisdictions are presented in separate PCRs<sup>4</sup>. As explained above, all PCRs are accessible through a single webpage (as illustrated in the Appendix B), which makes it easy to compare each jurisdiction's Disclosure requirements. Our PCR disclosure forms are designed to allow a global consistent, standardized approach to categorizing and presenting Disclosures. This structured approach benefits the users of credit ratings by supporting greater transparency and making the Disclosures easier to review and understand. Such ease of comparability would be lost if we were required to instead make the disclosures in the more fluid context of press releases. In our view, ESMA's proposal to require the disclosures to be made via press releases instead of PCRs will have the unintended consequence of reducing transparency and ease of comparability which will in turn reduce the utility of the disclosures to users of credit ratings.

In summary, we strongly believe that press releases are not the most practical and efficient way to comply with Disclosure requirements. Indeed, we believe that the basis on which ESMA has proposed the use of press releases is not substantiated: that is to say press releases are not, in fact, "typically" used by all CRAs to fulfil their disclosure requirements. Therefore, we request that ESMA respect and maintain the flexibility afforded by the Regulation on the form or vehicle used to comply with these requirements.

#### Access to Disclosures

S&P Global Ratings disagrees with ESMA's suggestion in Item 13 of the Introduction of the Proposed Guidelines that "*Article 13 of the CRA Regulation [...] [i]n practice [...] means that these press releases should be located on a section of a CRA's website that can be accessed without any barrier to entry or registration requirement?*".

S&P Global Ratings makes its Disclosures publicly available in accordance with Article 13 by maintaining a free-of-charge public website for users to access credit ratings and important related information, including regulatory and ratings disclosures such as PCRs, criteria and methodologies, policies and related information (see [www.standardandpoors.com](http://www.standardandpoors.com)).

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<sup>4</sup> S&P Global Ratings has a Canadian PCR and a single PCR for Australia, Hong Kong and Singapore given the close commonality between Disclosures.

### *One-time registration not a barrier to entry*

Access to PCRs is subject to a simple, one-time registration process before users can access the content. The registration process is available to the general public free of charge and the user can access all free content behind registration after registering. The first time a user accesses the PCRs, the user is asked to type in his or her name, e-mail address, company name and country, create a password, and accept the “Terms of Use” on the website before being given free access to credit ratings. This process is a typical business practice of websites that provide informational resources, whether that information is directed to consumers or businesses. As such, users of our credit ratings should be familiar with a requirement to register before accessing a website. It should not take a user more than a couple of minutes to complete the registration process, including the time it takes to review the website’s terms of use. Once a user has registered and logged in for the first time the user may access the content without the constant need to re-login if they continue to use the same computer and browser. If they do use a new computer or browser, the user only needs to enter their email address and password to regain access to content.

The acceptance of S&P Global Ratings’ terms of use (“Terms of Use”) is an important factor in safeguarding and maintaining the integrity and accuracy of content on our websites:

#### (1) Prohibition of Copying, Altering and Commercially Distributing the Ratings

The Terms of Use prohibit users from copying, altering and commercially distributing the credit ratings and related information. This safeguard is intended to prevent users from distributing credit ratings in a manner that might cause confusion among the public as to the source or reliability of the credit ratings. As such, the Terms of Use protect the public from the dissemination of inaccurate information concerning credit ratings.

#### (2) Protection from Unlawful Hacking

Should there be attempts to unlawfully hack the website to alter the ratings, S&P Global Ratings is able to use the registration information to identify the person(s) and quickly stop the misuse of the credit ratings information. The registration process also includes the CAPTCHA (Completely Automated Public Turing test to tell Computers and Humans Apart) program to prevent computer programs from hacking the Website. CAPTCHA is a highly regarded industry standard when it comes to protecting Websites against bots by generating and grading tests.

#### (3) Explanation of Nature of Ratings

The Terms of Use also explain the nature of the credit ratings by clarifying that the credit ratings constitute statements of opinion and advising users that the ratings should not be relied on as a basis for making investment decisions. This disclosure is an important and necessary step to explain the nature and limitations of credit ratings to the public. The Terms of Use also include certain disclosures required by the SEC.

ESMA will be familiar with the importance of terms of use from its discussions with CRAs over appropriate terms of use for the ERP. While ESMA decided not to require user registration for the ERP, acceptance of terms of use is required through a click-through agreement.

### *Registration consistent with global industry standards*

Common with industry standards, a registration process for accessing certain content on our websites, including PCRs, currently exists in all other jurisdictions in which S&P Global Ratings operates. Allowing EU CRAs to include a registration process is consistent with the approach taken globally by other regulators and further enhances the international convergence of CRAs’ oversight.

In addition to several other CRAs, we note that many other large providers of financial information also have certain content and/or functions that are freely available only after the user first registers. Similar to S&P Global Ratings, their websites require free registration and that the users consent to the terms and conditions, which include explanation of the nature of the services and certain disclaimers, intellectual property right related matters (prohibition of copying, altering and commercial distribution of information) and other terms and conditions for using information available on the website.

In summary, we believe that having a registration process does not make the PCR inaccessible or discriminates on who is eligible to access the information. Having a straightforward registration process for accessing PCRs is reasonable and appropriate as well as consistent with the letter, intent and spirit of the Regulation to ensure the general public's access to Disclosures.

*Prohibiting user registration could have unintended consequences*

Moreover, allowing persons to access credit ratings without registration undermines legal protection for the intellectual property of S&P Global Ratings, by increasing the risk of un-authorized access to our credit ratings and related information without traceability, thus enabling the misuse of credit ratings information, which in turn could lead to confusion among the public as to the source or reliability of the credit ratings. Additionally, permitting persons to access credit ratings without registration would allow them to bypass our Terms of Use, which contain important information for users of credit ratings, for example regarding the timeliness of information.

Given all of the above, we ask that the final Guidelines allow CRAs to make access to their Disclosures subject to (free-of-charge) user registration.

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| <b>Q2.</b> | <b>Do you agree that a standardized scheme indicating the rated entities level of participation would be beneficial? Do you have any comments on the proposed standardized scheme?</b> |
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S&P Global Ratings considers that ESMA should not be prescriptive about the formatting of Disclosures, such as the proposed tabular format for unsolicited credit ratings. For S&P Global Ratings, such a tabular format would not work in a press release nor in a PCR and, given our relatively low number of unsolicited credit ratings it would not be proportionate to dedicate substantial investments to the development of such a display – whether in a press release or a PCR.

In our view, a brief, clear and prominent narrative disclosure such as the one that we currently display on the S&P Global Ratings' entity landing pages are more useful and sufficient to investors. We also note that S&P Global Ratings' PCRs and press releases also include colour coding for unsolicited credit ratings where relevant.

For the reasons stated above, S&P Global Ratings requests that ESMA does not prescribe the use of the scheme described in Annex II 3.1 (7) (iii) of the Proposed Guidelines to provide additional information about unsolicited credit ratings.

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| <b>Q3.</b> | <b>Do you have any comments on specific items under this section? If yes, please explain with reference to the proposed item's number.</b> |
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As previously stated in the response to Question 1, S&P Global Ratings does not believe that press releases are the most practical and efficient way to comply with Disclosure requirements. Nor are press releases intended to fulfil these functions. Press releases are primarily a tool to communicate with the media by delivering our opinions in tailored format. Therefore, we request that ESMA maintain the flexibility afforded by the Regulation on the form or vehicle used to comply with these requirements. In this section, we provide additional information about the vehicles currently used to comply with the disclosure requirements listed in Annex II 3.1(7) of the Proposed Guidelines. S&P Global Ratings requests that ESMA continues to accept these vehicles for the presentation of Disclosures, and that does not prescribe the use of press releases.

In certain cases, the US PCR may contain some information that is not part of the EU PCR. Although we consider the information provided in the EU PCR is sufficient and in line with the Regulation, we request, in instances when ESMA deems that additional information is necessary, that CRAs are allowed to cross-reference to the US PCR. For reference, we note that a CRA regulator in another global jurisdiction considered a cross-reference to the US-PCR an appropriate manner to address a revised Disclosure.

With respect to Item 32 of Chapter 3, we are concerned by ESMA's notion that a user would be "reliant on credit ratings". Such suggestion, in our view, is not consistent with Article 5a of the Regulation nor with the Financial Stability Board's "Principles for Reducing Reliance on CRA Ratings" (published 27 October 2010). S&P Global Ratings has also consistently communicated to the public that its credit ratings should not be relied upon and that S&P Global Ratings' credit ratings and publications are intended for use by professional investors and not by retail investors.

***(i) A statement as to whether or not the credit rating has been endorsed for use for regulatory purposes in the EU in accordance with the CRA Regulation.***

In accordance with Article 8(6)(3), S&P Global Ratings displays on the entity landing page disclosures related to endorsement status, unsolicited status or an indication that a credit rating has been placed under observation following a criteria change and whether or not it is a structured finance credit ratings. In our view, displaying these disclosures on the entity landing page is sufficient and more prominent than in a press release. We also consider that our current approach is consistent with the approach taken in the ERP that specifically displays endorsement status and unsolicited ratings status as separate items rather than being part of press releases. In our understanding, this prominent display underlines the importance of these items.

***(ii) A clear statement as to whether the credit rating is an unsolicited credit rating***

As mentioned above in item (i), in our view, displaying unsolicited ratings and corresponding Disclosures on the entity landing page is sufficient and more prominent than in a press release, and consistent with the approach taken in the ERP.

***(iii) In the case of an unsolicited credit rating the use of the following scheme to clarify the level of the rated entities participation:***

We refer to our response to Question 2.

***(iv) The names, job titles and contact details for the persons responsible for the credit rating together with the name and address of the legal entity responsible for the credit rating.***

S&P Global Ratings consistently discloses in the PCR: 1) the name, job title and contact details of the primary analyst; 2) the name of the credit rating committee chairperson, who, as noted, is effectively the person approving the credit rating.

We do not consider that it is necessary to provide the contact details of the rating committee chairperson in addition to those of the primary analyst, as the primary analyst is the analyst with most expertise on the particular credit rating. S&P Global Ratings does typically provide contact details of the primary analyst and other analysts in the press releases.

In our view disclosing this information, as described above, is consistent with the Regulation and sufficient to comply with Disclosure requirements. The Proposed Guidelines would be unnecessarily burdensome and would not improve current practices.

- (v) ***A reference to all substantially material sources used for the report should be listed at the end of the report. Where a fact or figure is cited in the press release this should be referenced via footnote to the sources listed at the end of the press release.***

Neither our press releases nor the EU PCRs provide detailed information on sources used and references to specific data. Adding precise references of material data or information sources used would involve substantial additional manual work for which consistency may be hard to achieve. In our view, this would have limited additional value, as investors have not generally requested S&P Global Ratings to provide precise information on the actual sources of data used.

- (vi) ***The name of the principal methodology and associated models or criteria used in determining the credit rating are listed alongside dates of applicability or version number. For each methodology or associated model a direct web-link should be provided to that document on the CRA's website.***

S&P Global Ratings consistently discloses in the PCR the name of the criteria used (with a direct hyperlink). The initial publication date and, where relevant, the date of the most recent changes to the criteria are provided in the criteria article. S&P Global Ratings consistently discloses in the PCR the title of the models used (with a direct link). The initial publication date and, where relevant, the date of the most recent changes to the model information document are provided in the criteria article.

In our view disclosing this information in PCRs, as described above, is consistent with the Regulation and sufficient to comply with Disclosure requirements. The Proposed Guidelines would be unnecessarily burdensome and would not improve current practices.

- (vii) ***A section clearly identified as addressing actions or events that could lead to an upgrade or downgrade of the credit rating accompanied by best and worst-case scenario credit ratings, with dedicated paragraphs addressing factors that could lead to an upgrade, and actions or events that could lead to a downgrade.***

Consistent with the Regulation, scenario analysis is provided by S&P Global Ratings in the press releases, as this is part of the key elements underlying a credit rating action, including as part of the outlook statement where applicable.

- (viii) ***An explanatory paragraph outlining where the user of the rating can find information on the definition of each rating category, including definitions of default, risk warnings, etc. If this is on a section of the CRA's website then a dedicated link to that section or document(s) in that section. If this is in a section of the principal methodology, then a reference to the section of the methodology.***

S&P Global Ratings currently provides in its PCRs a risk warning, a link to explanations about Credit Rating definitions and categorizations as well as information about attributes and limitations of credit ratings.



Information about key rating assumptions is generally provided through hyperlinks to criteria documents (Under the section titled: Risk Warning and Understanding Credit Rating Categorizations).

In our view disclosing this information in PCRs, as described above, is consistent with the Regulation and sufficient to comply with Disclosure requirements. The Proposed Guidelines would be unnecessarily burdensome and would not improve current practices.

*(ix) A statement explaining whether or not the rating was disclosed to the rated entity and amended following that disclosure.*

S&P Global Ratings consistently discloses this point in the PCR. In our view disclosing this information in PCRs, as disclosed above, is consistent with the Regulation and sufficient to comply with Disclosure requirements. The Proposed Guidelines would be unnecessarily burdensome and would not improve current practices.

#### **Requirements relating to Article 10(1), 10(2) and Section D, Annex I, I, points 2a and 5**

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| <b>Q4.</b> | <b>Do you have any comments on the proposed Guidelines under this section?</b> |
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S&P Global Ratings is generally supportive of increased transparency around when and how ESG credit risk factors are considered key elements in credit ratings, which are opinions of creditworthiness.

Our ongoing initiatives concerning the ESG credit risk factors and credit ratings demonstrate this continuing commitment. Some examples of these initiatives are the 2018 launch of a publicly accessible webpage containing extensive reports on our approach to ESG credit risk and credit ratings including our 2017 report explaining how we incorporate ESG considerations into our credit ratings methodology and credit analysis. We have also been publishing studies showing how factors that could be considered as ESG credit factors have influenced our credit ratings. In January 2019, we announced that we would publish specific ESG sections in our corporate credit ratings reports for all major companies and smaller companies in sectors most exposed to ESG factors, which may be relevant to credit ratings. Our extensive ongoing ESG and credit ratings initiatives<sup>5</sup> are favourably recognized by the UN Principles for Responsible Investment.

We understand the desire of ESMA to harmonize ESG disclosures and facilitate improved transparency among CRAs. There are a number of disclosure and transparency actions highlighted by ESMA that we believe could be beneficial to investors and other stakeholders:

- The creation of stand-alone ESG sections on CRAs' publicly accessible websites (ESG webpage), which would collate ESG related guidance and research published by the CRA for easy access to the CRA's ESG research.
- The publication of specific information on how ESG factors are considered by each CRA in their methodologies enabling stakeholders to understand how ESG credit factors are considered.

We do however have serious concerns about a number of the proposals.

We believe that having a direct hyperlink within each credit rating press release to ESG explanatory documents would be unnecessarily burdensome and potentially misleading to investors. An alternative way to achieve the goal

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<sup>5</sup> S&P Global Ratings and its experts have also contributed to the work of the Taskforce on Climate-related Financial Disclosures (TCFD) under the auspices of the Financial Stability Board, EU High Level Expert Group on Sustainable Finance (HLEG), as well as a number of steering groups and work streams led by the European Financial Reporting and Accounting Group (EFRAG), and the Network for Greening the Financial System (NGFS). S&P Global also continues to work with the Technical Expert Group on Sustainable Finance (TEG) and the EU Institutions on various aspects of the Action Plan.

of greater ESG transparency would be for the CRA to post the ESG explanatory document(s) in a prominent place on the landing page of a dedicated ESG webpage.

Furthermore, we consider that CRAs should not be required to categorise ESG factors and specifically identify when any of the key elements underlying the credit rating action correspond to ESG factors, as categorized by the respective CRA. It should be a decision for the CRA whether and how ESG factors are categorized and communicated to credit ratings users. As described in methodologies, credit risk factors, including those that may be considered as ESG factors, may be categorised and analysed as discrete, separate categories of analysis or may be captured within a number of different categories of analysis. As an example, the credit rating of a corporate coal fired power generator could reflect its environmental risk exposure through the generators industry and competitive position assessment (which are two of the categories of analysis that derive the generators business risk profile assessment) and through its financial performance and forecasts, (which category of analysis derives its financial risk profile assessment). The categorization of factors as ESG factors may also be subjective. Based on our corporate methodology, a company forecasted to generate lower profits due to having to buy CO2 pollution permits would be an example of an environmental element, categorized as a cash flow/leverage and a financial risk profile factor under our corporate methodology. A company operating in an industry exposed to environmental risk and (potential) legislative changes that could alter the profitability and economic viability of and brand weakness due to its polluting activities are environmental elements that are categorized as industry risk and competitive position factors under our corporate methodology.


Finally, we also believe that the proposed negative identification – that no ESG factors were a key underlying element of a credit rating action – would significantly dilute the message about the key elements underlying the rating action and how credit ratings are opinions of creditworthiness. If there were a new category of non-key ESG credit rating elements, this would create the mistaken impression that there are three different hierarchies of credit rating elements and that ESG non-key elements are more important and more relevant to the credit rating than non-ESG non-key elements. We believe that this proposal would also be unnecessary, as it is understood by stakeholders that credit ratings can incorporate a vast array of different risk factors, as described in the relevant methodology but that not all risk factors will be key elements of each credit rating. It is further understood, in our view, that any factor that is not disclosed in a credit rating action is not a key element underlying that credit rating action. We strongly believe that credit rating action press releases should continue to highlight and focus on key elements of the credit rating action.

In conclusion, we consider that the proposed approach to disclose and identify ESG factors is not effective and may be misunderstood by investors. Therefore, S&P Global Ratings requests that ESMA remove the requirements to: 1) include a direct web-link at the bottom of each credit rating press release, explaining how ESG factors are considered as part of the CRA credit ratings; and 2) outline whether an ESG factor is a key underline element of the credit rating determination - by either negative or positive statement. Instead, ESMA should afford CRAs flexibility on the categorization and communication of ESG factors when these are key elements of the credit rating determination.

|            |   |
|------------|---|
| <b>Q5.</b> | <b>Are there any additional actions that CRAs could take to improve the disclosure of the consideration of ESG factors?</b> |
|------------|---|

As described above, we have a long, extensive and continuing record of accomplishment as regards incorporating ESG factors into our credit ratings when those ESG factors are relevant to our opinions of creditworthiness. We also continue to enhance the transparency of our ESG analytics and the clarity of our ESG analytics. Given the relevance of ESG in credit assessments, S&P Global Ratings will continue to enhance transparency, training and communication around the incorporation of ESG in credit ratings. This will help ensure that S&P Global Ratings continues to demonstrate robustness and consistency in our approach to integrating ESG factors into our credit ratings.

## Appendix A – Entity landing page examples



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**Issuer Credit Rating**

| Rating Type         | Rating   | Rating Date | Regulatory Identifiers | CreditWatch/ Outlook | CreditWatch/ Outlook Date |
|---------------------|--|-------------|------------------------|----------------------|---------------------------|
| Local Currency LT   | AAA<br><a href="#">Regulatory Disclosures</a>  | 24-Nov-2015 | EU                     | Stable               | 24-Nov-2015               |
| Local Currency ST   | A-1+<br><a href="#">Regulatory Disclosures</a> | 21-Oct-1996 | EU                     |                      |                           |
| Foreign Currency LT | AAA<br><a href="#">Regulatory Disclosures</a>  | 24-Nov-2015 | EU                     | Stable               | 24-Nov-2015               |
| Foreign Currency ST | A-1+<br><a href="#">Regulatory Disclosures</a> | 21-Oct-1996 | EU                     |                      |                           |

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**Issuer Credit Rating**

| Rating Type         | Rating  | Rating Date | Regulatory Identifiers | CreditWatch/ Outlook | CreditWatch/ Outlook Date |
|---------------------|---|-------------|------------------------|----------------------|---------------------------|
| Local Currency LT   | A-<br><a href="#">Regulatory Disclosures</a>  | 23-Mar-2018 | EUJU                   | Positive             | 23-Mar-2018               |
| Local Currency ST   | A-2<br><a href="#">Regulatory Disclosures</a> | 23-May-2014 | EUJU                   |                      |                           |
| Foreign Currency LT | A-<br><a href="#">Regulatory Disclosures</a>  | 23-Mar-2018 | EUJU                   | Positive             | 23-Mar-2018               |
| Foreign Currency ST | A-2<br><a href="#">Regulatory Disclosures</a> | 23-May-2014 | EUJU                   |                      |                           |

**Transfer & Convertibility Assessment**

| Rating Type | Rating  | Rating Date | Regulatory Identifiers | CreditWatch/ Outlook | CreditWatch/ Outlook Date |
|-------------|---|-------------|------------------------|----------------------|---------------------------|
| T&C Assess  | AAA<br><a href="#">Regulatory Disclosures</a> | 01-Nov-2005 | U                      |                      |                           |

*Unsolicited ratings with no issuer participation and/or no access to internal documents*

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## Appendix B – PCR Example



Regulatory Disclosure

S&P Global Ratings' regulatory disclosures (PCRs) are published as of a point-in-time, which is current as of the date a Credit Rating Action was last published. S&P Global Ratings updates the PCR for a given Credit Rating to include any changes to PCR disclosures only when a subsequent Credit Rating Action is published. Thus, disclosure information in this PCR may not reflect changes to data within PCR disclosures that can occur over time subsequent to the publication of a PCR but that are not otherwise associated with a Credit Rating Action.

US REGULATORY DISCLOSURE

EU REGULATORY DISCLOSURE

Rating Type: Local Currency LT Publication Date: 26-Oct-2018 10:51 EDT

### Criteria Applied

The following criteria were used in determining this credit rating:

General Criteria: Rating Government-Related Entities: Methodology And Assumptions

Criteria | Financial Institutions | General: Risk-Adjusted Capital Framework Methodology

Criteria | Financial Institutions | Banks: Quantitative Metrics For Rating Banks Globally: Methodology And Assumptions

Criteria | Financial Institutions | Banks: Banks: Rating Methodology And Assumptions

Criteria | Financial Institutions | Banks: Banking Industry Country Risk Assessment Methodology And Assumptions

General Criteria: Use Of CreditWatch And Outlooks

General Criteria: Group Rating Methodology

General Criteria: Methodology For Linking Long-Term And Short-Term Ratings

### Models Applied, Loss And Cash Flow Analysis Performed

When required by its methodologies S&P Global Ratings undertakes cash flow analysis and makes certain assumptions about possible levels of loss for the relevant rating categories. For details on the methodologies used in determining this credit rating, see "Criteria Applied".

An expected change to the credit rating may be indicated by the imposition of a "CreditWatch" or "Outlook" designation. For a more complete description of CreditWatch and Outlook and of S&P Global Ratings policies regarding the CreditWatch and Outlook designation, please go to "S&P Global Ratings Definitions" on [http://www.standardandpoors.com/fgr\\_article/en/us?object\\_id=504352](http://www.standardandpoors.com/fgr_article/en/us?object_id=504352)

Credit Rating Model: GRE Database Criteria Evaluation Engine

Credit Rating Model: S&P Global Ratings' Risk-Adjusted Capital Model For Non-U.S. Banks, Non-U.S. Nonbank Financial Institutions, And Non-U.S. Public-Sector Funding Agencies

Credit Rating Model: Ratings Cascade Rules Model

Credit Rating Model: Bank Scoring Template (BST) For Simplify

### Key Elements Underlying the Credit Rating

Latest Applicable Press Release For This Rating Action

### Office Responsible for the Credit Rating

The office issuing the credit rating was the Registered Branch of S&P Global Ratings Europe Limited (an Irish corporation) located in Paris, France.

### Ancillary and Additional Services

No issues were disclosed.

### Materials Used in The Credit Rating Process

Sufficient information in general consists of both (i) financial statements that describe the issuer's financial condition, results of operations and cash-flows, and (ii) a description of the activities and obligations of the entity including of its governance and legal structure.

### Risk Warning And Understanding Credit Rating Categorizations

An S&P Global Ratings' credit rating or Outlook is an opinion regarding the creditworthiness of an entity or an instrument. It is not a prediction, a promise or a guarantee. As an opinion, it is not a statement of fact. Nor is it a recommendation to buy, sell or hold a security. A more detailed explanation of each of S&P Global Ratings rating categories is contained in "S&P Global Ratings Definitions" which can be found at [http://www.standardandpoors.com/fgr\\_article/en/us?object\\_id=504352](http://www.standardandpoors.com/fgr_article/en/us?object_id=504352). S&P Global Ratings strongly urges any person seeking to use a credit rating in any way to read this document carefully. S&P Global Ratings also recommends any person seeking to use a credit rating in any way to read "The Guide To Credit Rating Essentials" and additional material which can be located at <http://www.understandingratings.com>.

### Attributes And Limitations of The Credit Rating

S&P Global Ratings uses information in its credit rating analyses from sources it believes to be reliable, including from the issuer. S&P Global Ratings neither audits nor undertakes due diligence on the information it receives from the issuer, its agents or third parties in connection with its credit rating and surveillance processes. Nevertheless, when assessing the quality of information as required by regulation, S&P Global Ratings will consider and take into account, among other factors, whether the information it receives from the issuer, its agents or other third parties is: a) subject to external verification; b) published by official sources S&P Global Ratings considers to be reliable; or c) submitted to regulatory bodies pursuant to applicable securities laws. In the course of its assessment on the quality of information received, no material issues were identified, or if identified were addressed by the issuer or its agents, leading S&P Global Ratings to conclude that it had sufficient information of satisfactory quality on which to base its credit rating opinion.

The assignment of a credit rating to an issuer or issue by S&P Global Ratings is not a warranty of the accuracy, completeness or timeliness of (a) the information S&P Global Ratings used in connection with the credit rating or (b) the results which may be obtained from the use of the credit rating or the related information.

### Information Specific To Structured Finance Instruments

This is not a structured finance instrument.

## ADDITIONAL INFORMATION

This credit rating was disclosed to the rated entity or related third party before being issued.

This credit rating is solicited. The rated entity did participate in the credit rating process. S&P Global Ratings did have access to the accounts, management and financial records and other relevant internal, non-public documents of the rated entity or a related third party. S&P Global Ratings has used information from sources believed to be reliable but does not guarantee the accuracy, adequacy, or completeness of any information used.

Credit Rating Release Date: 24-Nov-2015

Last Credit Rating Action Date: 26-Oct-2018

A Credit Rating Action is an initial Credit Rating, change to an existing Credit Rating, affirmation of an existing Credit Rating, withdrawal or suspension of an existing Credit Rating, or CreditWatch action, in each case as and when such action is Released. S&P Global Ratings maintains surveillance of its outstanding Credit Ratings on an ongoing basis and at least every 12 months. Surveillance activities do not necessarily result in a Credit Rating Action, accordingly the most recent surveillance activity on an existing Credit Rating may be more recent than the Last Credit Rating Action Date listed.

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Information on historical default rates is published on <http://www.standardandpoors.com> and in the CEREP (the central repository set up by the European Securities and Markets Authority in accordance with Article 11 (2) of EU Regulation 1060/2009, accessible at <https://www.esma.europa.eu/databases-library/registers-and-data>). Information on S&P Global Ratings credit rating definitions, including the meaning of default, is provided on [http://www.standardandpoors.com/fgr\\_article/en?object\\_id=504352](http://www.standardandpoors.com/fgr_article/en?object_id=504352) and in the CEREP.

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All dates displayed in the regulatory disclosure are based upon the time in the Eastern Time Zone (ET), unless specified otherwise.

EU Disclosure: EC 1060/2009

## Primary/Lead Analyst

## Credit Rating Committee Chairperson/Approver

The disclosures contained herein apply to the credit rating action as of the rating date listed above. If these disclosures require correction, such corrected disclosures will apply to this rating action as of the date of the rating action and replace the original disclosures.

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