



Brussels, **XXX**
[...](2014) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) No .../..

of **XXX**

supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies make available to the European Securities and Markets Authority

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 21(4a) of Regulation (EC) No 1060/2009 (“the Regulation”) empowers the Commission to adopt, following submission of draft standards by the European Securities and Markets Authority (ESMA), and in accordance with Article 10 of Regulation (EU) No 1095/2010 a delegated act specifying content and the presentation of the information, including structure, format, method and timing of reporting that credit rating agencies are to disclose to ESMA.

In accordance with Articles 10 to 14 of the Regulation (EU) No 1095/2010 establishing ESMA, the Commission shall decide within three months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union’s interests so require, having regard to the specific procedure laid down in those Articles

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1095/2010, ESMA has carried out a public consultation on the draft technical standards submitted to the Commission.

ESMA consulted stakeholders by means of a Discussion Paper and Consultation Paper (ESMA/2013/891 and ESMA/2014/150), published on 10 July 2013 and 11 February 2014 respectively. The consultation paper included a draft RTS as well as an initial cost-benefit analysis. The consultation period was open until 11 April 2014. ESMA also held two public hearings, on 25 July 2013 and 14 March 2014. National competent authorities’ experts were actively involved during the drafting of the Discussion Paper and Consultation Paper and the final draft RTS via the ESMA CRA Technical Committee. In addition, ESMA sought the views of the Securities and Markets Stakeholders Group (SMSG) set up in accordance with Article 37 of Regulation (EU) No 1095/2010.

Together with the draft regulatory technical standard, and in accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1095/2010, the ESMA has submitted its Impact Assessment, including its analysis of the costs and benefits related to the draft technical standard submitted to the Commission. This analysis is available at http://www.esma.europa.eu/system/files/2014-685_draft_rts_under_cra3_regulation.pdf, pages 192-204.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The provisions in this delegated act relate to specifying content and the presentation of the information, including structure, format, method and timing of reporting that credit rating agencies are to disclose to ESMA for the purpose of publication of credit ratings on the European Rating Platform. In addition, it covers the requirements for information to be provided from credit rating agencies on historical performance data available in the central repository established by ESMA. Furthermore, the provisions cover the description of the content and format of the ratings data that credit rating agencies should periodically report to ESMA in order to allow ESMA to discharge its responsibility with regard to the on-going supervision of credit rating agencies.

Articles 1-7 set out the subject matter of the delegated act, as well as the reporting principles. A credit rating agency shall report rating data each time it issues or endorses a credit rating or

a rating outlook that are not exclusively disclosed to investors for a fee for the purpose of publication on the European Rating Platform. In addition, a credit rating agency shall also periodically report rating data for the purpose of ongoing supervision. In addition to the rating data reporting, a credit rating agency shall provide qualitative data reports in the format specified in before the first reporting of rating data and whenever a change in qualitative information occurs. The categorisation of the instruments should not provide a market standard categorisation or definition and should be read and used only in the context of this delegated act.

Articles 8-13 define the frequency, content and procedure of reporting by credit rating agencies and the Annexes to the delegated act contain the corresponding templates for reporting.

Article 14 repeals Commission Delegated Regulation (EU) No 448/2012¹ and Commission Delegated Regulation (EU) No 446/2012².

The timely and central publication of credit rating data on the European Rating Platform will improve the comparability and visibility of financial instruments rated by different CRAs in the EU. Increased transparency provisions with respect to individual rating actions are expected to facilitate investors' ability to carry out internal risk assessment.

In order to ensure adherence to data protection rules and confidentiality of data principles, ESMA should ensure a clear distinction between the data stored in that ESMA database that will be made public and the information that is requested strictly for supervisory purposes. ESMA should use secured data storage and data usage principles. Personal data is collected and processed by ESMA under this delegated act for supervisory purposes and processed in accordance with Regulation (EU) No 45/2001 of the European Parliament and of the Council³.

¹ Commission Delegated Regulation (EU) No 448/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies shall make available in a central repository established by the European Securities and Markets Authority (OJ L 140, 30.5.2012, p. 17).

² Commission Delegated Regulation (EU) No 446/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards on the content and format of ratings data periodic reporting to be submitted to the European Securities and Markets Authority by credit rating agencies (OJ L 140, 30.5.2012, p. 2).

³ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

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supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies make available to the European Securities and Markets Authority

(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 agencies⁴, and in particular the third subparagraph of Article 21(4) and the third subparagraph of Article 21(4a) thereof,

Whereas:

- (1) Article 11a(1) of Regulation (EC) No 1060/2009 requires registered and certified credit rating agencies, when issuing a credit rating or a rating outlook, to submit rating information to the European Securities and Markets Authority (ESMA). The requirement does not apply to ratings exclusively produced for and disclosed to investors for a fee. ESMA is required to publish the rating information submitted by the credit rating agencies on a public website called the European rating platform (ERP). Therefore, rules should be laid down regarding the content and the presentation of the information that credit rating agencies should make available to ESMA for the ERP.
- (2) In addition, Article 11(2) and Article 21(4)(e) of Regulation (EC) No 1060/2009 require credit rating agencies to submit information to ESMA on their historical performance data and for the purposes of ongoing supervision. The content and presentation of that information is laid down in Commission Delegated Regulation (EU) No 448/2012⁵ and Commission Delegated Regulation (EU) No 446/2012⁶, respectively. In order to allow for more efficient data processing by ESMA and simplification of data reporting for registered and certified credit rating agencies, integrated reporting requirements should be laid down for all the data that registered

⁴ OJ L 302, 17.11.2009, p. 1.

⁵ Commission Delegated Regulation (EU) No 448/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards for the presentation of the information that credit rating agencies shall make available in a central repository established by the European Securities and Markets Authority (OJ L 140, 30.5.2012, p. 17).

⁶ Commission Delegated Regulation (EU) No 446/2012 of 21 March 2012 supplementing Regulation (EC) No 1060/2009 of the European Parliament and of the Council with regard to regulatory technical standards on the content and format of ratings data periodic reporting to be submitted to the European Securities and Markets Authority by credit rating agencies (OJ L 140, 30.5.2012, p. 2).

and certified credit rating agencies should report to ESMA. Therefore, this Regulation lays down rules regarding the data to be reported for the purpose of the ERP, the information to be made available on historical performance in the central repository established by ESMA, and the information that credit rating agencies should periodically report to ESMA for the purposes of ongoing supervision of credit rating agencies. This Regulation therefore repeals Delegated Regulation (EU) No 448/2012 and Delegated Regulation (EU) No 446/2012. ESMA should integrate all data reported by credit rating agencies for the ERP, the central repository and on-going supervision of credit rating agencies into one ESMA database.

- (3) In order to ensure that the ERP provides up-to-date information on rating actions that are not exclusively disclosed to investors for a fee, it is necessary to describe the data to be reported, including the rating and outlook of the rated instrument or entity, the press releases accompanying rating actions, reports accompanying sovereign rating actions, type of rating action and date and hour of publication. Press releases, in particular, provide information on the key elements underlying the rating decision. The ERP provides rating users with a central access point to up to date rating information and lowers information costs by allowing for a global view of the different ratings issued on each rated entity or instrument.
- (4) In order to ensure a global view of all ratings assigned by different credit rating agencies on the same rated entity or instrument, credit rating agencies should use common identifiers for the rated entity and the rated instrument when reporting the rating data to ESMA. Therefore, for the identification of rated entities, issuers, originators and credit rating agencies, the only method of global unique identification should be the Global Legal Entity Identifier (LEI).
- (5) In order to ensure that the information on the ERP is up to date, rating information should be collected and published on a daily basis to allow for one daily update of the ERP outside Union business hours.
- (6) In order to allow ESMA to react promptly in the case of actual or potential non-compliance with Regulation (EC) No 1060/2009, the rating information reported by registered and certified credit rating agencies should enable ESMA to closely supervise the conduct and activities of credit rating agencies. Rating data should therefore be reported to ESMA on a monthly basis. However, in order to ensure proportionality, credit rating agencies that have fewer than 50 employees and that are not part of a group should be able to submit rating data every two months. ESMA should still be able to require those credit ratings agencies to carry out reporting on a monthly basis, in the light of the number and type of their ratings, including the complexity of the credit analysis, the relevance of the rated instruments or issuers, and the eligibility of the ratings to be used for regulatory purposes.
- (7) In order to avoid duplicated data reporting, ESMA should use for its ongoing supervision the data already reported for the purposes of the ERP. Credit rating agencies should also be required, for the purposes of ongoing supervision, to report information in respect of those credit ratings and rating outlooks not reported for the purposes of the ERP.
- (8) ESMA should use the data provided for the purposes of the ERP and for the purposes of its on-going supervision to gather the information on the historical performance data that it should make available in the central repository in accordance with Article 11(2) of Regulation (EC) No 1060/2009. In order to further facilitate comparability and to ensure consistency with the data that has been reported in accordance with

Delegated Regulation (EU) No 448/2012, newly certified credit rating agencies should be required to submit data regarding at least ten years before their certification, or the period since the start of their activity. Certified credit rating agencies should not be required to report this data, partially or totally, where they can demonstrate that this would not be proportionate in view of their scale and complexity.

- (9) Credit rating agencies that are part of a group should be able to either report their ratings data separately to ESMA, or mandate one of the agencies within the group to submit the data on their behalf. However, due to credit rating agencies' highly integrated organisation at Union level and in order to facilitate the understanding of the statistics, credit rating agencies are encouraged to report on a global basis for the whole group.
- (10) For the purposes of ESMA's on-going supervision and for the publication of the credit rating agencies' historical performance reports, credit rating agencies may also, on a voluntary basis, report to ESMA credit ratings issued by third-country credit rating agencies belonging to the same group of credit rating agencies but not endorsed in accordance with Article 4(3) of Regulation (EC) No 1060/2009.
- (11) When submitting data, credit rating agencies should classify the credit ratings and rating outlooks issued in different categories: by rating type and sub-classifications, such as sector, industry or asset class, or by type of issuer and issue. Those categories are based on ESMA's previous rating data collection experience and the need for supervision of credit rating data.
- (12) In order to provide for the reporting of credit ratings on new financial instruments that could arise as a result of financial innovation, a category should be included for reporting 'other financial instruments'. Moreover, the corporate ratings and the structured finance ratings categories should also have an 'other' category to include all new types of corporate issues or structured finance instruments that cannot be classified into the existing categories.
- (13) In order to allow ESMA to establish the ERP and to allow for credit rating agencies to have sufficient time to adjust their internal systems to the new reporting requirements, credit rating agencies should submit a first report by 1 January 2016. In order to ensure comparability and continuity of data reported under this Regulation, the first report should contain data on all ratings issued and not withdrawn by 21 June 2015. In addition, the first report should contain data regarding credit ratings and rating outlooks issued by credit rating agencies from 21 June 2015 until 1 January 2016. The first report should contain the same type of data as the rating data to be submitted on a daily basis thereafter.
- (14) In order to allow ESMA to receive and process the data automatically in its internal systems, the data to be reported should be compiled in a standard format. Due to technical progress, a number of technical reporting instructions concerning the transmission or the format of the files to be submitted by credit rating agencies may have to be updated and communicated by ESMA through specific communications or guidelines.

- (15) This Regulation is based on the draft regulatory technical standards submitted by ESMA to the Commission in accordance with Article 10 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council⁷.
- (16) ESMA conducted an open public consultation 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 in accordance with Article 37 of Regulation (EU) No 1095/2010.
- (17) In order to comply with Article 2(3) of Regulation (EU) No 462/2013, this Regulation should apply from 21 June 2015,

HAS ADOPTED THIS REGULATION:

Article 1
Data to be reported

1. Credit rating agencies shall report data on all their issued or endorsed credit ratings or rating outlooks in accordance with Articles 8, 9, and 11. Credit rating agencies shall report all credit ratings and rating outlooks issued at rated entity level and on all their issued debt instruments, where applicable.
2. Credit rating agencies shall ensure the accuracy, completeness and availability of the data reported to ESMA and shall ensure that reports are submitted in accordance with Articles 8, 9 and 11 using appropriate systems developed on the basis of technical instructions provided by ESMA.
3. Credit rating agencies shall notify ESMA immediately of any exceptional circumstances that may temporarily prevent or delay their reporting in accordance with this Regulation.
4. For groups of credit rating agencies, the members of each group may mandate one member to submit reports required under this Regulation on their behalf. Each credit rating agency on whose behalf such a report is submitted shall be identified in the data submitted to ESMA.
5. For the purposes of Article 11(2) and Article 21(4)(e) of Regulation (EC) No 1060/2009, a credit rating agency reporting on behalf of a group may include data on credit ratings and rating outlooks issued by third-country credit rating agencies belonging to the same group and not endorsed. Where a credit rating agency does not report such data it shall give an explanation in its qualitative data report, in Fields 9 and 10 of Table 1 of Part 1 of Annex I to this Regulation.
6. Credit rating agencies shall disclose the solicitation status of each reported credit rating or rating outlook by specifying whether it is unsolicited with participation or unsolicited without participation in accordance with Article 10(5) of Regulation (EC) No 1060/2009 or solicited.

Article 2
Reporting of default status and withdrawals

1. A credit rating agency shall report a default in respect of a rating in Fields 6 and 13 of Table 2 of Part 2 of Annex I where one of the following events has occurred:

⁷ OJ L 331, 15.12.2010, p. 84.

- (a) the rating indicates that a default has occurred according to the credit rating agency's definition of default;
 - (b) the rating has been withdrawn due to insolvency of the rated entity or due to debt restructuring;
 - (c) any other instance in which the credit rating agency considers a rated entity or rated instrument as defaulted, materially impaired or equivalent.
2. Where a reported rating is withdrawn, the reason for that shall be reported in Field 11 of Table 2 of Part 2 of Annex I.

Article 3
Rating types

Credit rating agencies shall, when reporting credit ratings or rating outlooks, classify them as one of the following types of ratings:

- (a) corporate ratings;
- (b) structured finance ratings;
- (c) sovereign and public finance ratings;
- (d) other financial instruments.

Article 4
Corporate ratings

1. Credit rating agencies shall, when reporting corporate ratings, classify them within one of the following industry segments:
 - (a) financial institutions, including banks, brokers and dealers;
 - (b) insurance;
 - (c) all other corporate entities or issuers which are not included in points (a) and (b).
2. Credit rating agencies shall classify corporate issues as one of the following issue types:
 - (a) bonds;
 - (b) covered bonds as referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council⁸ that meet the eligibility requirements set out in paragraphs 1 to 3, 6 and 7 of Article 129 of Regulation (EU) No 575/2013;
 - (c) other types of covered bonds, for which the credit rating agency has used specific covered bond methodologies, models or key rating assumptions for issuing the credit rating and which are not included in point (b);
 - (d) other types of corporate issues which are not included in points (a), (b) and (c).

⁸ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

3. The country code of a rated entity or its issues in Field 10 of Table 1 of Part 2 of Annex I shall be that of the country of domicile of the entity.

Article 5

Structured finance ratings

1. Structured finance ratings shall relate to a financial instrument or other assets resulting from a securitisation transaction or scheme referred to in Article 4(61) of Regulation (EU) No 575/2013.
2. Credit rating agencies shall, when reporting structured finance ratings, classify them within one of the following asset classes:
 - (a) asset-backed securities, including auto loans, boat loans, airplane loans, student loans, consumer loans, small and medium sized enterprise loans, health care loans, manufactured housing loans, film loans, utility loans, equipment leases, credit card receivables, tax liens, non-performing loans, recreational vehicle loans, leases to individuals, leases to businesses, and trade receivables;
 - (b) residential mortgage-backed securities, including prime and non-prime residential mortgage-backed securities, and home equity loans;
 - (c) commercial mortgage-backed securities, including retail or office property loans, hospital loans, care residences loans, storage facilities loans, hotel loans, nursing facilities loans, industrial loans, and multifamily properties loans ;
 - (d) collateralised debt obligations, including collateralised loan obligations, credit-backed obligations, collateralised synthetic obligations, single-tranche collateralised debt obligations, credit fund obligations, collateralised debt obligations of asset-backed securities, and collateralised debt obligations of collateralised debt obligations;
 - (e) asset-backed commercial papers;
 - (f) other structured finance instruments which are not included in points (a) to (e), including structured covered bonds, structured investment vehicles, insurance-linked securities and derivative product companies.
3. Where applicable, a credit rating agency shall also indicate which specific sub-asset class each rated instrument belongs to in Field 34 of Table 1 of Part 2 of Annex I.
4. The country code of structured finance instruments shall be reported in Field 10 of Table 1 of Part 2 of Annex I and shall be that of the country of domicile of the majority of the underlying assets. Where it is not possible to identify the country of domicile of the majority of the underlying assets, the rated instrument shall be classified as ‘international’.

Article 6

Sovereign and public finance ratings

1. Credit rating agencies shall, when reporting data concerning ratings of sovereign and public entities and of supranational organisations and their issued debt, classify them within one of the following sectors:
 - (a) State, where the rated entity is a State or the issuer of the rated debt or financial obligation, debt security or other financial instrument is a State, or a special

- purpose vehicle of a State, as referred to in point (v)(i) and (ii) of Article 3(1) of Regulation (EC) No 1060/2009 and where the rating refers to a State;
- (b) regional or local authority, where the rated entity is a regional or local authority or the issuer of the rated debt or financial obligation, debt security or other financial instrument is a regional or local authority, or a special purpose vehicle of a regional or local authority, as referred to in point (v)(i) and (ii) of Article 3(1) of Regulation (EC) No 1060/2009 and where the rating refers to a regional or a local authority;
 - (c) international financial institution, as referred to in point (v)(iii) of Article 3(1) of Regulation (EC) No 1060/2009;
 - (d) supranational organisation, such as those institutions which are not included in point (c) and that are established, owned and controlled by more than one sovereign government shareholder, including organisations referred to in Section U of Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council⁹;
 - (e) public entities, including those referred to in Sections O, P and Q of Annex I to Regulation (EC) No 1893/2006.
2. Where no specific country can be identified as the country of issuance in the case of international financial institutions or supranational organisations as specified in paragraph (1)(c) and (d), the rated issuer shall be classified as ‘international’ in Field 10 of Table 1 of Part 2 of Annex I.

Article 7

Other financial instruments

Credit ratings or rating outlooks issued on a financial instrument as defined in Article 3(1)(k) of Regulation (EU) No 1060/2009 that cannot be classified as corporate issues under Article 4(2) of this Regulation, as structured finance instruments under Article 5 of this Regulation or as sovereign and public entity issues under Article 6 of this Regulation, shall be reported under the other financial instruments category.

Article 8

Reporting for the purpose of publication on the ERP

1. Credit rating agencies shall report data on all credit ratings or rating outlooks pursuant to Article 11a(1) of Regulation (EC) No 1060/2009 each time it issues or endorses a credit rating or a rating outlook that is not exclusively disclosed to investors for a fee.
2. Credit ratings and rating outlooks referred to in paragraph 1, issued between 20:00:00 Central European Time (CET)¹⁰ on one day and 19:59:59 CET on the following day shall be reported until 21:59:59 CET on the following day.

⁹ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

¹⁰ CET takes account of the change to Central European Summer Time.

3. For each credit rating or rating outlook reported in accordance with paragraph 1, the accompanying press release referred to in point 5 of Part I of Section D of Annex I to Regulation (EC) No 1060/2009 shall be reported at the same time. Where that press release is firstly issued and submitted in a language other than English, an English version may also be submitted where and at the time that it becomes available.
4. For the ratings referred to in points (a), (b) and (c) of Article 6(1), the accompanying research report referred to in point 1 of Part III of Section D of Annex I to Regulation (EC) No 1060/2009 shall be reported. Where that research report is firstly issued and submitted in a language other than English, an English version may also be submitted where and at the time that it becomes available.

Article 9

Reporting for the purpose of ESMA supervision

1. As referred to in Article 21(4)(e) of Regulation (EC) No 1060/2009, credit rating agencies shall report data on all credit ratings and rating outlooks issued or endorsed, or issued in a third country and not endorsed as referred to in Article 1(5), including information on all entities or debt instruments submitted for their initial review or for preliminary rating, as referred to in point 6 of Part I of Section D of Annex I to Regulation (EC) No 1060/2009.
2. For those credit ratings and rating outlooks to which Article 8 does not apply, credit rating agencies shall report rating data relating to the preceding calendar month on a monthly basis.
3. A credit rating agency that has fewer than 50 employees and that is not part of a group of credit rating agencies may provide the rating data referred to in paragraph 2 every two months, unless ESMA requires monthly reporting in view of the nature, complexity and range of issues of its credit ratings. That rating data shall refer to the preceding two calendar months.
4. The rating data referred to in paragraph 2 shall be submitted to ESMA within 15 days from the end of the period that is covered by the report. Where the fifteenth day of the month falls on a public holiday in the country of domicile of the credit rating agency, or where a credit rating agency reports on behalf of a group in accordance with Article 1(4), the country of domicile of that credit rating agency, the deadline shall be the next working day.
5. Where no credit ratings or rating outlooks referred to in paragraph 1 were issued during the preceding calendar month, the credit rating agency shall not be obliged to submit any data.

Article 10

Reporting for the purpose of historical performance

The credit ratings issued or endorsed, or issued in a third country and not endorsed as referred to in Article 1(5), shall be used by ESMA for making available the historical performance data, in accordance with Article 11(2) of Regulation (EC) No 1060/2009 and point 1 of Part 2 of Section E of Annex I to that Regulation.

Article 11
Initial reporting

1. Credit rating agencies registered or certified before 21 June 2015 shall prepare a first report to be reported to ESMA by 1 January 2016, that shall contain all of the following:
 - (a) information on all credit ratings and rating outlooks referred to in Articles 8 and 9, and that have been issued and not withdrawn by 21 June 2015;
 - (b) credit ratings and rating outlooks referred to in Articles 8 and 9 that have been issued between 21 June 2015 and 31 December 2015.
2. Credit rating agencies registered or certified between 21 June 2015 and 31 December 2015 shall comply with this Regulation from 1 January 2016. In their first report, they shall report, in accordance with Articles 8 and 9, all the credit ratings and rating outlooks that were issued from the date of registration or certification.
3. Credit rating agencies registered or certified after 1 January 2016 shall comply with this Regulation within three months after the date of registration or certification. In their first report, they shall report, in accordance with Articles 8 and 9, all the credit ratings and rating outlooks that were issued from the date of registration or certification.
4. In addition to the first report referred to in paragraphs 2 and 3, a credit rating agency that is certified after 21 June 2015 shall also report, pursuant to Article 11(2) of Regulation (EC) No 1060/2009 and point 1 of Part 2 of Section E of Annex I to that Regulation, its historical performance data relating to at least ten years before the date of certification or, where it started its rating activity less than ten years before the date of certification, relating to the period since it started its rating activity. Certified credit rating agencies shall not be required to report those data, partially or totally, where they can demonstrate that this would not be proportionate in view of their scale and complexity.

Article 12
Data structure

1. Credit rating agencies shall submit to ESMA qualitative data reports in the format specified in the tables in Part 1 of Annex I together with their first report of rating data in accordance with Article 11. Any changes to those qualitative data reports shall be immediately reported to ESMA's system as an update, before the rating data which are affected by those changes are submitted to ESMA. Where a credit rating agency reports on behalf of a group, as referred to in Article 1(4), one set of qualitative data reports may be submitted to ESMA.
2. Credit rating agencies shall submit rating data reports for ratings referred to in Articles 8, 9 and 11 in the format specified in the tables in Part 2 of Annex I.

Article 13
Reporting procedures

1. Credit rating agencies shall submit the qualitative data reports and rating data reports referred to in Article 12 in accordance with the technical instructions provided by ESMA and using ESMA's reporting system.

2. Credit rating agencies shall store the files sent to and received by ESMA in electronic form for at least five years. Those files shall be made available to ESMA on request.
3. Where a credit rating agency identifies factual errors in data that has been reported, it shall correct the relevant data without undue delay according to the technical instructions provided by ESMA.

Article 14
Repeal and transitional provisions

1. The following Regulations are repealed with effect from 1 January 2016:
 - (a) Delegated Regulation (EU) No 446/2012;
 - (b) Delegated Regulation (EU) No 448/2012.
2. References to the Regulations set out in paragraph 1 shall be construed as references to this Regulation and read in accordance with the correlation table in Annex II.
3. Data submitted to ESMA in accordance with the Regulations set out in paragraph 1 before 1 January 2016 shall be considered as having been submitted in accordance with this Regulation and shall continue to be used by ESMA in accordance with Article 11(2) and Article 21(4)(e) of Regulation (EC) No 1060/2009 and point 1 of Part II of Section E of Annex I to that Regulation.,

Article 15
Entry into force

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

It shall apply from 21 June 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
José Manuel Barroso