

Financial Services
HM Treasury,
1 Horse Guards Road,
London, SW1A 2HQ

Thursday 13th March 2014

Re HMT call for evidence
Single Market: Financial Services and the Free Movement of Capital

Thank you for reaching out to discuss one specific issue arising from Regulation No 462/2013 on credit rating agencies ("CRA3")¹. The issue we discussed related to article 6(a)(1) of CRA3 relating to shareholder restrictions.

As set out in the box over the page, CRA3 was subjected to a significant addition post agreement in trialogue. Under article 6(a)(1), the shareholder bears the responsibility for not holding more than 5% in more than one EU credit rating agency. This was as agreed in the trialogue. Post-trialogue, through an addition to annex III, section I (new point 22a), CRAs may be held accountable under CRA3 for the actions of their shareholders. The implementation of such a provision remains unclear.

Please do not hesitate to contact me if you have further questions.

Yours sincerely

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Regulatory Affairs

¹ Regulation No 462/2013 on credit rating agencies amending Regulation (EU) No 1060/2009 of the European Parliament and of the Council. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:146:0001:0033:EN:PDF>

New Article 6a

Conflicts of interest concerning investments in credit rating agencies

1. A shareholder or a member of a credit rating agency holding at least 5 % of either the capital or the voting rights in that credit rating agency or in a company which has the power to exercise control or a dominant influence over that credit rating agency, shall be prohibited from:

- (a) holding 5 % or more of the capital of any other credit rating agency;
- (b) having the right or the power to exercise 5% or more of the voting rights in any other credit rating agency;
- (c) having the right or the power to appoint or remove members of the administrative, or supervisory board of any other credit rating agency;
- (d) being a member of the administrative or supervisory board of any other credit rating agency;
- (e) exercising or having the power to exercise control or a dominant influence over any other credit rating agency.

The prohibition referred to in point (a) of the first subparagraph does not apply to holdings in diversified collective investment schemes, including managed funds such as pension funds or life insurance, provided that the holdings in such schemes do not put the shareholder or member of a credit rating agency in a position to exercise significant influence on the business activities of those schemes.

Post trialogue addition:

Annex III, Section I, point 22a

‘22a. The credit rating agency infringes Article 6a(1) when one of its shareholders or members holding at least 5 % of the capital or the voting rights in that credit rating agency or in a company which has the power to exercise control or a dominant influence over that credit rating agency, is in breach of one of the prohibitions set out in points (a) to (e) of that paragraph, with the exception of that set out in point (a) for holdings in diversified collective investment schemes, including managed funds such as pension funds or life insurance, provided that the holdings in such schemes do not put the shareholder or member of a credit rating agency in a position to exercise significant influence on the business activities of those schemes.’