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PRESS RELEASE

ESMA fines Fitch Ratings Limited €1.38 million

The European Securities and Markets Authority (ESMA) has fined Fitch Ratings Limited (Fitch) €1.38 million for a series of negligent breaches of the Credit Rating Agencies (CRA) Regulation.

ESMA found certain senior analysts in Fitch transmitted information about upcoming rating actions on sovereign ratings to certain senior persons in a parent company of Fitch before it was made public. Further, ESMA found that Fitch failed to have proper internal controls in place to ensure it provided a rated entity with the minimum time period to consider and respond to a rating action before making it public. Fitch failed to allow Slovenia 12 hours (the minimum required period at the time) to consider and respond to the downgrade of its sovereign rating in 2012, as required under the CRA Regulation.

Fitch's breaches of the CRA Regulation

ESMA carried out a review of the sovereign rating processes of a number of CRAs during 2013, focused on the period from 1 September 2010 to 25 February 2013, which led to ESMA identifying a number of potential breaches by Fitch of the CRA Regulation.

Unauthorised disclosures of information on new and potential sovereign rating changes

From 1 December 2010 to 7 June 2012, certain senior analysts in Fitch transmitted information about upcoming rating actions on sovereign ratings to certain senior persons in Fimalac S.A., which was a parent company of Fitch. Under the CRA Regulation it is prohibited to disclose information on upcoming rating actions to other persons than those involved in the production of the relevant credit ratings or the rated entity. In the period concerned there were nine separate sets of email exchanges concerning actual or potential upcoming rating actions relating to six countries - Greece, France, Ireland, Italy, Portugal and Spain. ESMA found a breach on Fitch's part for those email exchanges between 1 June 2011, the date of entry into force of the infringement provisions in the CRA Regulation, and 7 June 2012.

Lack of sound internal controls to support compliance with the 12 hour requirement

Between 1 June 2011, the date of entry into force of the infringement provisions in the CRA Regulation, and 14 February 2012, Fitch's internal controls for the purpose of complying with the 12 hour requirement were affected by substantial shortcomings:

- the policy framework provided unclear guidance to staff on how to comply with the 12 hour requirement;
- those responsible for supervising compliance with the 12 hour requirement within the sovereign and international public finance group did not exercise their control functions;
- the internal control functions did not detect this absence of control; and
- follow-up action taken by the internal control functions did not detect and adequately address the above shortcomings.

Failure to comply with the 12 hour requirement

On 26 January 2012, Fitch informed the representatives of Slovenia of its intention to downgrade its sovereign rating for Slovenia, without offering any information on the grounds for the intended downgrade. Only on 27 January did Fitch send that information to Slovenia's representatives who made it known that, in accordance with the CRA Regulation, they expected to be granted 12 hours from the time of receipt to assess the information. Fitch proceeded with the public announcement of the downgrade approximately 3 hours after its transmission of the grounds of the rating action to Slovenia.

Fitch's actions and right to appeal

Fitch has voluntarily taken measures to ensure similar infringements cannot be committed in the future. ESMA took this mitigating factor into account when assessing the level of its fine.

Fitch may appeal against this decision to the Board of Appeal of the European Supervisory Authorities. Such an appeal does not have suspensive effect, although it is possible for the Board of Appeal to suspend the application of the decision in accordance with Article 60(3) of the CRA Regulation.

Notes for editors

- Fitch Ratings Limited is a credit rating agency (CRA) registered in the European Union and is part of the Fitch group of companies.

- Since July 2011, ESMA has been solely responsible for the supervision of credit rating agencies in the European Union, including their registration, in line with the requirements of the CRA Regulation. ESMA has the power to take appropriate enforcement action where it discovers a breach of the CRA Regulation, ranging from the issuance of public notices to the imposition of fines and withdrawal of registration.

- 2013/1775 Sovereign ratings investigation - ESMA's assessment of governance, conflicts of interest, resourcing adequacy and confidentiality controls 2 December 2013

- The fine of €1.38 million is made up of the following elements:

  - 12 hour requirement – €60,000;
  - Internal controls – €825,000; and
  - Unauthorised disclosure – €495,000

- As of 20 June 2013, with the entry into force of Regulation (EU) 462/2013 on credit rating agencies, the required time period was extended from 12 hours to a full working day.

- List of ESMA's previous enforcement actions:

  - DTCC Derivatives Repository Ltd Decision
  - DBRS Ratings Ltd Decision
  - Standard & Poor's Credit Market Services France SAS and Standard & Poor's Credit Market Services Europe Ltd Decision

- ESMA's mission is to enhance investor protection and promote stable and orderly financial markets.

  It achieves these objectives through four activities:

  - assessing risks to investors, markets and financial stability;
  - completing a single rulebook for EU financial markets;
  - promoting supervisory convergence; and
  - directly supervising specific financial entities.

- ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

Further information:

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