

CREDIT RATING

FREQUENTLY ASKED QUESTIONS – AS OF 1 JUNE 2022

1. Does “credit rating services” cover all type of ratings (including unsolicited and sovereign ratings)?

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Article 5j(1) of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 stipulates that *‘it shall be prohibited as of 15 April 2022 to provide credit rating services to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia’*. There is no distinction between different types of ratings. Moreover, Council Decision (CFSP) 2022/430 underlines the prohibition of *‘the provision of **any** credit rating services as well as access to subscription services in relation to credit rating activities, to any Russian person or entity’*.

According to [Regulation \(EC\) No 1060/2009](#) (CRA Regulation), ‘unsolicited credit ratings’ are credit ratings assigned by a credit rating agency other than upon request.

Article 3(1)(v) of the CRA Regulation stipulates that a “sovereign rating” means: (i) a credit rating where the entity rated is a *State or a regional or local authority of a State*; (ii) a credit rating where the issuer of the debt or financial obligation, debt security or other financial instrument is a *State or a regional or local authority of a State, or a special purpose vehicle of a State or of a regional or local authority*.’ Given that the Russian sovereigns covered in the definition have legal personality, they are covered by the prohibition.

The key element for the scope of the sanctions is whether a credit rating service is provided to ***any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia***. Whether this criterion is met requires a factual assessment of the situation, which should take into account Article 12 of Council Regulation (EU) No 833/2014, which provides that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation.

2. Does “credit rating services” cover both surveillance and new issuance activities? Does “credit rating services” cover other non-rating services, i.e. is it more than “credit rating activities” as defined by the CRA Regulation?

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Article 3(1)(o) of the CRA Regulation provides that *“credit rating activities” means data and*

information analysis and the evaluation, approval, issuing and review of credit ratings’.

In accordance with Annex 1, section B, paragraph 4 of the CRA Regulation, *‘a credit rating agency may provide services other than issue of credit ratings (ancillary services). Ancillary services are not part of credit rating activities; they comprise market forecasts, estimates of economic trends, pricing analysis and other general data analysis as well as related distribution services’.*

Credit rating services are therefore a broader concept than credit rating activities. The former also encompass ancillary services on top of data and information analysis and the evaluation, approval, issuing and review of credit ratings. Given that surveillance and review activities can lead to maintaining, changing or withdrawing a credit rating, they are covered by the concept of credit rating services.

Therefore, also any service encompassing market forecasts, estimates of economic trends, pricing analysis and other general data analysis as well as related distribution services to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia is prohibited.

3. Does “access to any subscription services in relation to credit rating activities” refer to activities of affiliates, e.g. distribution of ratings?

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Article 2(1) of the CRA Regulation underlines that the CRA Regulation *‘applies to credit ratings issued by credit rating agencies registered in the Union and which are disclosed publicly **or distributed by subscription.**’* Therefore, subscription is one manner of distributing credit ratings.

Article 5j(2) of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 stipulates that *‘it shall be prohibited as of 15 April 2022 to provide access to any subscription services in relation to credit rating activities to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia.’*

Therefore, it is prohibited to give to Russian nationals, to natural persons residing in Russia or to any legal person, entity, body established in Russia, access via subscription to data and information analysis and to the evaluation, approval, issuing and review of credit ratings.

As the scope of the prohibition is not limited to the CRA Regulation, it is applicable to subscription services provided by any legal or natural person and not only persons subject to the CRA Regulation. This therefore not only includes CRAs and their affiliates, but any entity providing access to subscription services in relation to credit rating activities.

4. Do the sanctions apply to endorsed ratings? If yes, does it mean that the CRA cannot issue a rating from a non-EU entity or that they cannot endorse the rating (i.e. the “endorsement” service is forbidden)?

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Council Regulation (EU) No 833/2014, as amended by Council Regulation (EU) 2022/428, does not make a distinction between different ratings and Council Decision (CFSP) 2022/430 underlines the prohibition of *‘the provision of **any** credit rating services as well as access to subscription services in relation to credit rating activities, to any Russian person or entity’*.

Moreover, Article 4(4) of the CRA Regulation underlines that a credit rating endorsed in accordance with paragraph 3 shall be considered to be a credit rating issued by a credit rating agency established in the Union and registered in accordance with that Regulation.

5. What entities are covered by the prohibition? Are non-regulated affiliates of CRAs also affected?

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The scope of Council Regulation (EU) No 833/2014, as amended by Council Regulation (EU) 2022/428, is not limited to credit rating agencies, but instead focuses on the services to be delivered or the activities to be performed. Therefore, any entities delivering those services or performing the activities are covered, beyond CRAs and their affiliates.

6. Article 5j of regulation 833/2014 does not distinguish between intra group and extra-group rating services. Could the rating services provided within a group (i.e. mother company in the European Union providing rating models for its subsidiary in Russia) fall under the restrictions?

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IRB models which fall within the scope of models as defined under Article 142 of Regulation (EU) No 575/2013 (Capital Requirements Regulation) and which are shared intragroup are out of scope of Article 5j prohibition as they do not consist of a provision of a rating service

7. Does the reference in Article 5j to credit rating services cover the provision of services such as scoring services? Example: a credit reference agency or credit bureau that generates a score about a Russian national or natural person.

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The scope of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 does not mention credit rating agencies, but focuses on the services to be delivered or the activities to be performed.

Article 3(1)(a) of the CRA Regulation defines ‘credit rating’ as an opinion regarding the creditworthiness of an entity, a debt or financial obligation, debt security, preferred share or other financial instrument, or of an issuer of such a debt or financial obligation, debt security, preferred share or other financial instrument, issued using an established and defined ranking system of rating categories.

Article 3(1)(y) of the CRA Regulation defines credit score as ‘a measure of creditworthiness derived from summarising and expressing data based only on a pre-established statistical system or model, without any additional substantial rating-specific analytical input from a rating analyst’.

Therefore, any entity delivering those services or performing the activities is covered. In turn, that means the provision of such a service or the performance of such activity to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia within the meaning of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 is covered.

Whether the scoring services as to the creditworthiness or financial standing of Russian nationals or natural persons residing in Russia or legal persons, entities or bodies established in Russia are credit rating services or subscription services in relation to credit rating activities is a factual question. The reply must take into account Article 12 of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428, which provides that it is prohibited to participate, knowingly and intentionally, in activities the object or effect of which is to circumvent prohibitions in the Regulation.

8. Does the reference in Article 5j to credit rating services provided to any Russian national or natural person or any legal person, entity or body established in Russia include when the rating is performed on (as opposed to directly provided to) those subjects?

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Article 5j(1) of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 stipulates that ‘it shall be prohibited as of 15 April 2022 to provide credit rating services to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia’. In addition, Council Decision (CFSP) 2022/430 underlines the prohibition ‘of the provision of any credit rating services as well as access to subscription services in relation to credit rating activities, to any Russian person or entity’.

Credit rating services should be understood as including credit rating activities. Article 3(1)(o) of the CRA Regulation provides that “credit rating activities’ means data and information analysis and the evaluation, approval, issuing and review of credit ratings;’.

Thus, providing ratings on Russian nationals or natural persons residing in Russia or legal persons, entities or bodies established in Russia involves the analysis, evaluation, approval and issuing of a credit rating and falls within the scope of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 and therefore is prohibited.

9. Does the reference in Article 5j to credit rating services provided to any Russian national or natural person or any legal person, entity or body established in Russia include when the rating is performed on those subjects and the service is then provided to a third party (e.g., a bank)? Example: a credit reference agency that generates a score about a Russian national or natural person, that is delivered to a bank in the context of a contractual relationship so that the said bank can better assess the creditworthiness of the Russian national or natural person.

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The scope of Council Regulation (EU) No 833/2014 as amended by Council Regulation (EU) 2022/428 focuses on the services to be delivered or the activities to be performed. Therefore, any entities delivering those services or performing the activities are covered, regardless of who they are provided to.

10. Does the reference in Article 5j to a Russian national or natural person residing in Russia include where the said person is availing of a temporary residence permit outside of Russia (e.g., in an EU Member State) or simply has property in a Member State where he/she resides for a limited period of time? Example: Russian students, foreign workers, and tourists with temporary residence outside of Russia or Russians taking their vacations at their homes at an EU Member State.

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In accordance with Article 5j(3), prohibitions related to credit rating services and related subscription services do not apply to nationals of a Member State or natural persons having a temporary or permanent residence permit in a Member State.