

Public Notice

Moody's UK is part of the Moody's Group, which constitutes one of the largest CRA groups in terms of revenues and size for rating business activity. The ultimate parent of Moody's UK, through a multi-layered legal structure, is Moody's Corporation ("MCO"), based in the United States of America.

Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies ('the Regulation') lays down obligations for CRAs in the conduct of their activities. In conjunction with its role of supervisor of CRAs under Article 21 of the Regulation, the European Securities and Markets Authority ("ESMA") has functions and powers to take enforcement actions in relation to infringements of the Regulation by CRAs.

According to the Regulation, a CRA has an obligation to have in place adequate policies and procedures to ensure compliance with its obligations under the Regulation.

With specific regard to the obligations aimed at avoiding any conflict of interest that may influence the ratings, a CRA is prohibited to issue a new credit rating if a shareholder or a member of the CRA itself holding 10% or more of the capital or voting rights is a member of the administrative or supervisory body of the rated entity.

Moreover, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital or voting rights holds 5% or more of the capital or voting rights of the rated entity or is a member of the administrative or supervisory body of the rated entity.

Last, a CRA has the obligation to establish appropriate and effective organisational and administrative arrangements to prevent, identify, eliminate or manage and disclose any conflicts of interest as well as the obligation to have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems. Those internal control mechanisms must be designed to secure compliance with decisions and procedures at all levels of the CRA.

In 2019, ESMA's Supervision Department concluded, following preliminary investigations, that, with respect to Moody's Investors Service Limited ('Moody's UK'), there were serious indications of the possible existence of facts liable to constitute one or more of the infringements listed in Annex III to Regulation (EC) No 1060/2009.

The matter was then referred to an Independent Investigating Officer ('the IIO') who, after having conducted an investigation, submitted her findings to the Board of Supervisors ('the Board').

Having considered the evidence, the Board of Supervisors has found that Moody's UK negligently committed the following infringements of the Regulation.

First Infringement

Moody's UK negligently committed the infringement set out at set out at Point 11 of Section I of Annex III of the Regulation (by not having established adequate policies or procedures to ensure compliance with its obligations under this Regulation)

A) Relevant legal provisions

CRA Regulation

Recital 26

Credit rating agencies should establish appropriate internal policies and procedures in relation to employees and other persons involved in the credit rating process in order to prevent, identify, eliminate or manage and disclose any conflicts of interest and ensure at all times the quality, integrity and thoroughness of the credit rating and review process (...).

Article 6 – *Independence and avoidance of conflicts of interests*

Para. 1 - A credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest or business relationship involving the credit rating agency issuing the credit rating or the rating outlook, its shareholders, managers, rating analysts, employees or any other natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control.

Para. 2 - In order to ensure compliance with paragraph 1, a credit rating agency shall comply with the requirements set out in Sections A and B of Annex I.

Annex I – *Independence and avoidance of conflicts of interests*

Section A – *Organisational requirements*

Point 3 - A credit rating agency shall establish adequate policies and procedures to ensure compliance with its obligations under this Regulation.

Annex III - *List of infringements referred to in Article 24(1) and Article 36a(1)*

Section I - *Infringements related to conflicts of interest, organisational or operational requirements*

Point 11 - The credit rating agency infringes Article 6(2), in conjunction with point 3 of Section A of Annex I, by not establishing adequate policies or procedures to ensure compliance with its obligations under this Regulation.

B) Factual findings and analysis of the Board

In the sample period (from 1 January 2013 to 4 September 2017) Moody's UK had specific policies and procedures to avoid conflicts of interest in general, which included the Shareholding Policy and the Procedure on Shareholding. Nevertheless, these policies and

procedures were not adequate to ensure compliance with Point 3 of Section B of Annex I of the Regulation regarding the prohibition to issue new ratings where a shareholder holding 10 % or more of the PSIs holds 10 % or more of a rated entity or is a member of the board of a rated entity.

In particular, Moody's UK's Procedure on Shareholding provided for a ban of new ratings in case of conflicts of interest linked to a 10% shareholder. However, it also provided for an exception to this ban in case of "Anticipated / Subsequent" ratings.

In the Procedure on Shareholdings the 'Anticipated / Subsequent ratings' were described as "Credit Ratings that are derived exclusively from an existing Credit Rating of a programme, series, category/class of debt or primary Rated Entity". In the view of Moody's UK, credit ratings exclusively derived from existing ratings should benefit the same treatment: they should be considered as existing ratings for the purpose of the CRA Regulation.

This matter of "Anticipated / Subsequent ratings" broadly relates to the distinction between what is often referred to as "issue rating" (rating on an instrument) and "issuer rating" (rating on an issuer). In particular, the distinction between 'Issuer ratings' and 'Issue ratings' is valid in the case of credit ratings derived by existing ratings of a primary Rated Entity. This topic has been already the subject of previous decisions of ESMA's Board of Supervisors.

More broadly, and with specific regards to the other elements/sub-categories belonging to the category of 'Anticipated / Subsequent ratings', the Board conducted a literal, contextual and teleological analysis of Point 3 in conjunction with Point 3(ca) of Section B of Annex I of the CRA Regulation, also taking into account the main findings of the previous decision.

By treating the 'Anticipated / Subsequent ratings' as 'existing ratings', and therefore by exempting the mentioned category from the ban of new issuances, Moody's UK illegitimately enlarged the scope of the existing rating as conceived in the CRA Regulation and as a consequence deviated from the purpose of the Regulation itself.

Moreover, Moody's UK incorrectly classified the Process Walk-Thru (i.e. the document which framed the implementation by the business of its obligations regarding the conflicts of interest requirements) as 'business guidelines', formally excluding it from Moody's UK procedures.

The above choice, which had a clear negative impact on the completeness of Moody's UK procedures, factually supports the establishment of the infringement set out at Point 11 of Section I of Annex III of the Regulation.

C) Finding of the infringement

Consequently, the Board found that Moody's UK did not establish policies and procedures which were adequate to ensure compliance with the requirements of the Regulation regarding the prohibition of new ratings in case of conflicts of interest linked to shareholders. This constitutes a breach of Point 3 of Section A of Annex I of the Regulation. Thus, Moody's UK committed the infringement set out at Point 11 of Section I of Annex III of the CRA Regulation.

On the basis of the assessment of the complete file submitted by the IIO and of the arguments raised in the written submissions, the Board found that Moody's UK failed to comply with the requirements of Point 3, Section A, Annex I of the Regulation and thus committed the infringement set out at Point 11 of Section I of Annex III of the Regulation.

Furthermore, the Board found that Moody's UK did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Moody's UK had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Moody's UK EUR 825 000.

D) Supervisory measure and fine

Public notice

Pursuant to Article 24 of the Regulation, the Board decided that the infringements warranted a supervisory measure in the form of the publication of this public notice.

Fine

The fine imposed on Moody's UK is EUR 825 000.

Second Infringement

Moody's UK negligently committed the infringement set out at Point 20 of Section I of Annex III of the Regulation (by having issued a rating concerning Northern Powergrid (Yorkshire) Limited ("NPY") despite the fact that, at the date of the rating, a shareholder holding more than 10% of its capital/voting rights was a board member of NPY).

A) Relevant legal provisions

CRA Regulation

Article 6 – Independence and avoidance of conflicts of interests

Para. 1 - A credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest or business relationship involving the credit rating agency issuing the credit rating or the rating outlook, its shareholders, managers, rating analysts, employees or any other natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control.

Para. 2 - In order to ensure compliance with paragraph 1, a credit rating agency shall comply with the requirements set out in Sections A and B of Annex I.

Annex I – Independence and avoidance of conflicts of interests

Section B – Operational requirements

Point 3 - *A credit rating agency shall not issue a credit rating or a rating outlook in any of the following circumstances, or shall, in the case of an existing credit rating or rating outlook, immediately disclose where the credit rating or rating outlook is potentially affected by the following.*

Point 3(aa) - *a shareholder or member of a credit rating agency holding 10 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, holds 10 % or more of either the capital or the voting rights of the rated entity or of a related third party (...).*

Point 3(ca) - *a shareholder or member of a credit rating agency holding 10 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, is a member of the administrative or supervisory board of the rated entity or a related third party.*

Annex III - *List of infringements referred to in Article 24(1) and Article 36a(1)*

Section I - *Infringements related to conflicts of interest, organisational or operational requirements*

Point 20 - *The credit rating agency infringes Article 6(2), in conjunction with the first paragraph of point 3 of Section B of Annex I, by issuing a credit rating or rating outlook in any of the circumstances set out in the first paragraph of that point or, in the case of an existing credit rating or rating outlook, by not disclosing immediately that the credit rating or rating outlook is potentially affected by those circumstances.*

B) Factual findings and analysis of the Board

On 26 March 2015, a rating on a NPY's instrument (£ 150 million bond) was issued by Moody's UK.

At the date of the rating, Berkshire Hathaway (which is a PSIs' shareholder above the 10% threshold) held a board membership in NPY and there were also indications that it had more than 10% of its capital or voting rights.

For the purposes of the Regulation, the issuance on 26 March 2015 by Moody's UK of the rating concerning NPY, although it was about an instrument of NPY and considered by Moody's UK as an "Anticipated / Subsequent" rating, at the time allowed by the Procedure on Shareholdings, was in fact a "new" rating and not an "existing" rating. It should therefore have been subject to the ban of new ratings provided by the Regulation.

C) Finding of the infringement

On the basis of the assessment of the complete file submitted by the IIO and of the arguments raised in the written submissions, the Board found that Moody's UK failed to comply with the requirement of Article 6(2), in conjunction with Point 3 of Section B of

Annex I of the Regulation, and thus committed the infringement set out at Point 20 of Section I of Annex III of the Regulation.

Furthermore, the Board found that Moody's UK did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Moody's UK had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Moody's UK EUR 825 000.

Nevertheless, the Board considered that the infringements set out at Point 11 of Section I of Annex III and at Point 20 of Section I of Annex III of the Regulation stem from the same (incorrect) treatment of the 'Anticipated / Subsequent Ratings' as 'existing' for the purpose of the CRA Regulation.

In accordance with Article 36a(4) of the Regulation, only the highest fine should be imposed, and since in this case, the two fines are of the same amount, only one fine of EUR 825 000 is to be imposed for the two mentioned infringements.

D) Supervisory measure and fine

Public notice

Pursuant to Article 24 of the Regulation, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

Fine

The fine imposed on Moody's UK is EUR 825 000.

Nevertheless, further to the application of Article 36a(4) of the Regulation, the fine will not be applied.

Third Infringement

Moody's UK negligently committed the infringement set out at Point 20a of Section I of Annex III of the Regulation (by not having ensured the appropriate disclosures regarding conflicts of interest linked to their shareholders).

A) Relevant legal provisions

CRA Regulation

Article 6 – *Independence and avoidance of conflicts of interests*

Para. 1 - *A credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest or business relationship involving the credit rating agency issuing the credit rating or the rating outlook, its shareholders, managers, rating analysts, employees or any other natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control.*

Para. 2 - *In order to ensure compliance with paragraph 1, a credit rating agency shall comply with the requirements set out in Sections A and B of Annex I.*

Annex I – *Independence and avoidance of conflicts of interests*

Section B – *Operational requirements*

Point 3a - *A credit rating agency shall disclose where an existing credit rating or rating outlook is potentially affected by either of the following:*

a) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, holds 5 % or more of either the capital or the voting rights of the rated entity or of a related third party, or of any other ownership interest in that rated entity or third party (...);

b) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, is a member of the administrative or supervisory board of the rated entity or a related third party.

Annex III - *List of infringements referred to in Article 24(1) and Article 36a(1)*

Section I - *Infringements related to conflicts of interest, organisational or operational requirements*

Point 20a - *The credit rating agency infringes Article 6(2), in conjunction with point 3a of Section B of Annex I, by not disclosing that an existing credit rating or rating outlook is potentially affected by any of the circumstances set out in letters (a) and (b) of that point.*

B) Factual findings and analysis of the Board

According to the Regulation, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital / voting rights holds 5% or more of the capital / voting rights of the rated entity or has a board membership in the rated entity.

There is no indication in the Regulation regarding the timing of this disclosure and the arrangements, which should be followed by the CRA to meet this requirement.

The Board considers that this disclosure, in line with the internal arrangements defined by Moody's UK and the Moody's group, must take place within a reasonable delay.

In the present case, the group provided information showing that there were 278 missing disclosures between 2013 and 2017. They concerned 101 rated entities. This means that for the concerned rated entities, the Moody's group did not comply with the relevant disclosure requirement of the Regulation.

In order to attribute the infringement, the Board considered that the infringement related to the lack of disclosure of conflicts of interest is attributable to each of the registered entities of the Moody's group based on the location of the lead analyst of each rated entity for which there was no disclosure.

Regarding the rated entities for which the lead analyst was located in the United Kingdom, there were 206 lack of disclosures or incomplete disclosures which concerned 65 rated entities

C) Finding of the infringement

On the basis of the assessment of the complete file submitted by the IIO and of the arguments raised in the written submissions, the Board found that Moody's UK failed to comply with the requirement of Article 6(2), in conjunction with Point 3a of Section B of Annex I of the Regulation, and thus committed the infringement set out at Point 20a of Section I of Annex III of the Regulation

Furthermore, the Board found that Moody's UK did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Moody's UK had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed repeatedly and for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Moody's UK EUR 420 000.

However, the Board considered that this infringement partially derives from the lack of proper and adequate identification of the situations of conflicts of interest related to the 5% threshold, which is also the root cause of the failure to have appropriate and effective organisational and administrative arrangements leading to the infringement set out at Point 15 of Section I of Annex III of the Regulation.

Having regard to Article 36a(4), second paragraph, of the Regulation the Board decided to accordingly adjust the fine to be imposed for the infringement set out Point 20a of Section I of Annex III of the Regulation, by deducting the amount corresponding to repetitions of the infringement stemming from the errors in compiling information.

D) Supervisory measure and fine

Public notice

Pursuant to Article 24 of the Regulation, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

Fine

The fine imposed on Moody's UK is EUR 420 000.

Nevertheless, further to the application of Article 36a(4) of the Regulation, the fine has been adjusted and is set at EUR 260 000.

Fourth Infringement

Moody's UK negligently committed the infringement set out at Point 15 of Section I of Annex III of the Regulation (by not having appropriate and effective organisational and administrative arrangements).

A) Relevant legal provisions

CRA Regulation

Article 6 – Independence and avoidance of conflicts of interests

Para. 1 - A credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest or business relationship involving the credit rating agency issuing the credit rating or the rating outlook, its shareholders, managers, rating analysts, employees or any other natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control.

Para. 2 - In order to ensure compliance with paragraph 1, a credit rating agency shall comply with the requirements set out in Sections A and B of Annex I.

Annex I – Independence and avoidance of conflicts of interests

Section A – Organisational requirements

Point 7 - A credit rating agency shall establish appropriate and effective organisational and administrative arrangements to prevent, identify, eliminate or manage and disclose any conflicts of interest referred to in point 1 of Section B (...).

Annex III - List of infringements referred to in Article 24(1) and Article 36a(1)

Section I - Infringements related to conflicts of interest, organisational or operational requirements

Point 15 - The credit rating agency infringes Article 6(2), in conjunction with point 7 of Section A of Annex I, by not establishing appropriate and effective organisational or administrative arrangements to prevent, identify, eliminate or manage and disclose any conflicts of interest referred to in point 1 of Section B of Annex I (...).

B) Factual findings and analysis of the Board

According to the Regulation, a CRA has the obligation to establish appropriate and effective organisational and administrative arrangements to prevent, identify, eliminate or

manage and disclose any conflicts of interest. The organisational and administrative arrangements must thus not only be established by Moody's UK but also be appropriate and effective to prevent, identify, eliminate or manage and disclose conflicts of interest.

In order to appropriately and effectively identify the conflicts of interest related to 5% and 10% shareholdings and board memberships, it is key that the organisational and administrative arrangements allow the CRA to get access to data and information of a reasonably sufficient reliability about its shareholders and the impacted rated entities.

However, the information source used by Moody's UK (and the Moody's group) to identify the relevant conflicts of interest was unreliable, because the organisational and administrative arrangements to obtain the relevant information had significant shortcomings. In particular, the issuers contacted barely provided the relevant information or provided only incomplete information. Even though Moody's UK was aware of it, it did not change its organisational and administrative arrangements to remedy this lack of reliability of the source information. In addition, the shareholder tracker established with the purpose of monitoring the needed information shows that Moody's UK only received responses from a very low part of the entities which it had contacted, provides conflicting figures to some extent and ceased to be maintained and updated.

C) Finding of the infringement

On the basis of the assessment of the complete file submitted by the IIO and of the arguments raised in the written submissions, the Board found that Moody's UK failed to comply with the requirement of Article 6(2), in conjunction with Point 7 of Section A of Annex I of the Regulation, and thus committed the infringement set out at Point 15 of Section I of Annex III of the Regulation.

Furthermore, the Board found that Moody's UK did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Moody's UK had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed repeatedly and for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Moody's UK EUR 825 000.

Nevertheless, the Board considered that it is impossible to exclude that the significant shortcomings related to the data source did not affect the compilation of the disclosure reports (i.e. one of the reasons of the lack of disclosures or incomplete disclosures). On this basis the Board, conscious of the principle of *in dubio pro reo*, considered, in favour to Moody's UK, that the infringements set out at Point 15 and at Point 20 of Section I of Annex III of the Regulation both derive from the lack of proper and adequate identification of the situations of conflicts of interest related to the 5% threshold.

In accordance with Article 36a(4) of the Regulation, only the highest fine - between the one calculated for the lack of appropriate and effective organisational and administrative arrangements and the partial amount of the fine attributable to the 8 repetitions of the errors in the compilation of the disclosure reports – should be applied.

In the specific case, therefore, the fine applied to the infringement set at Point 15 of Section I of Annex III of the Regulation concerning appropriate and effective organisational and administrative arrangements amounts to 825 000, while the fine applied to the infringement set at Point 20a of Section I of Annex III of the Regulation concerning the disclosure of conflicts of interest has been adjusted and amounts to EUR 260 000.

D) Supervisory measure and fine

Public notice

Pursuant to Article 24 of the Regulation, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

Fine

The fine imposed on Moody's UK is EUR 825 000.

Fifth Infringement

Moody's UK negligently committed the infringement set out at Point 12 of Section I of Annex III of the Regulation (by not having sound administrative and accounting procedures and internal control mechanisms).

A) Relevant legal provisions

CRA Regulation

Article 6 – *Independence and avoidance of conflicts of interests*

Para. 1 - A credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest or business relationship involving the credit rating agency issuing the credit rating or the rating outlook, its shareholders, managers, rating analysts, employees or any other natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control.

Para. 2 - In order to ensure compliance with paragraph 1, a credit rating agency shall comply with the requirements set out in Sections A and B of Annex I.

Annex I – *Independence and avoidance of conflicts of interests*

Section A – *Organisational requirements*

Point 4 - A credit rating agency shall have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems.

Those internal control mechanisms shall be designed to secure compliance with decisions and procedures at all levels of the credit rating agency.

A credit rating agency shall implement and maintain decision-making procedures and organisational structures which clearly and in a documented manner specify reporting lines and allocate functions and responsibilities.

Annex III - List of infringements referred to in Article 24(1) and Article 36a(1)

Section I - Infringements related to conflicts of interest, organisational or operational requirements

Point 12 - *The credit rating agency infringes Article 6(2), in conjunction with point 4 of Section A of Annex I, by not having sound administrative or accounting procedures, internal control mechanisms, effective procedures for risk assessment, or effective control or safeguard arrangements for information processing systems; or by not implementing or maintaining decision-making procedures or organisational structures as required by that point.*

B) Factual findings and analysis of the Board

According to the Regulation, a CRA has the obligation to have sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems. Those internal control mechanisms must be designed to secure compliance with decisions and procedures at all levels of the CRA.

Even though Moody's UK had specific procedure and internal control mechanisms to avoid conflicts of interest in general, the Process Walk-Thru, which defined steps and controls to be followed by different actors, was fragmented across four functions. This led to unclear responsibilities and a lack of oversight on the end-to-end process designed to ensure compliance with the Procedure on Shareholdings.

In addition, the Process Walk-Thru was not properly updated in line with changes to business practices. For this reason, it was impossible to identify the type of control activities to be carried out and the persons that were in charge of these control activities at the different organisational levels. It was also impossible to know with certainty whether a step was not performed because this was considered as no longer needed but the Process Walk-Thru had not been updated or because the step was just not implemented by the persons in charge.

Furthermore, as identified by the internal audit, certain tasks were not implemented and there is also a lack of documentation regarding the steps implemented according to the Process Walk-Thru.

C) Finding of the infringement

On the basis of the assessment of the complete file submitted by the IIO and of the arguments raised in the written submissions, the Board found that Moody's UK failed to comply with the requirement of Article 6(2), in conjunction with Point 4 of Section A of Annex I of the Regulation, and thus committed the infringement set out at Point 12 of Section I of Annex III of the Regulation.

Furthermore, the Board found that Moody's UK did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Moody's UK had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Moody's UK EUR 825 000.

D) Supervisory measure and fine

Public notice

Pursuant to Article 24 of the Regulation, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

Fine

The fine imposed on Moody's UK is EUR 825 000.

Overall fine

The overall fine to be imposed on Moody's UK for the above five infringements committed with negligence amount to EUR 2 735 000.

Public Notice

Moody's France is part of the Moody's Group, which constitutes one of the largest CRA groups in terms of revenues and size for rating business activity. The ultimate parent of Moody's France, through a multi-layered legal structure, is Moody's Corporation ("MCO"), based in the United States of America.

Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies ('the Regulation') lays down obligations for CRAs in the conduct of their activities. In conjunction with its role of supervisor of CRAs under Article 21 of the Regulation, the European Securities and Markets Authority ("ESMA") has functions and powers to take enforcement actions in relation to infringements of the Regulation by CRAs.

According to the Regulation, which sets out targeted rules in respect of managing shareholder conflicts of interest, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital or voting rights holds 5% or more of the capital or voting rights of the rated entity or is a member of the administrative or supervisory body of the rated entity.

In 2019, ESMA's Supervision Department concluded, following preliminary investigations, that, with respect to Moody's France S.A.S. ('Moody's France'), there were serious indications of the possible existence of facts liable to constitute one or more of the infringements listed in Annex III to Regulation (EC) No 1060/2009.

The matter was then referred to an Independent Investigating Officer ('the IIO') who, after having conducted an investigation, submitted her findings to the Board of Supervisors ('the Board').

Having considered the evidence, the Board of Supervisors has found that Moody's France negligently committed the following infringement of the Regulation.

The Infringement

Moody's France negligently committed the infringement set out at Point 20a of Section I of Annex III of the Regulation (by not having ensured the appropriate disclosures regarding conflicts of interest linked to their shareholders).

A) Relevant legal provisions

CRA Regulation

Article 6 – Independence and avoidance of conflicts of interests

Para. 1 - A credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest or business relationship involving the credit rating agency issuing the credit rating or the rating outlook, its shareholders, managers, rating analysts, employees or any other

natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control.

Para. 2 - In order to ensure compliance with paragraph 1, a credit rating agency shall comply with the requirements set out in Sections A and B of Annex I.

Annex I – Independence and avoidance of conflicts of interests

Section B – Operational requirements

Point 3a - A credit rating agency shall disclose where an existing credit rating or rating outlook is potentially affected by either of the following:

a) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, holds 5 % or more of either the capital or the voting rights of the rated entity or of a related third party, or of any other ownership interest in that rated entity or third party (...);

b) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, is a member of the administrative or supervisory board of the rated entity or a related third party.

Annex III - List of infringements referred to in Article 24(1) and Article 36a(1)

Section I - Infringements related to conflicts of interest, organisational or operational requirements

Point 20a - The credit rating agency infringes Article 6(2), in conjunction with point 3a of Section B of Annex I, by not disclosing that an existing credit rating or rating outlook is potentially affected by any of the circumstances set out in letters (a) and (b) of that point.

B) Factual findings and analysis of the Board

According to the Regulation, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital / voting rights holds 5% or more of the capital / voting rights of the rated entity or has a board membership in the rated entity.

There is no indication in the Regulation regarding the timing of this disclosure and the arrangements, which should be followed by the CRA to meet this requirement.

The Board considers that this disclosure, in line with the internal arrangements defined by Moody's France and the Moody's group, must take place within a reasonable delay.

In the present case, the group provided information showing that there were 278 missing disclosures between 2013 and 2017. They concerned 101 rated entities. This means that for the concerned rated entities, the Moody's group did not comply with the relevant disclosure requirement of the Regulation.

In order to attribute the infringement, the Board considered that the infringement related to the lack of disclosure of conflicts of interest is attributable to each of the registered entities of the Moody's group based on the location of the lead analyst of each rated entity for which there was no disclosure.

Regarding the rated entities for which the lead analyst was located in France, there were 25 lack of disclosures or incomplete disclosures which concerned 10 rated entities.

C) Finding of the infringement

On the basis of the assessment of the complete file submitted by the IIO and of the arguments raised in the written submissions, the Board found that Moody's France failed to comply with the requirement of Article 6(2), in conjunction with Point 3a of Section B of Annex I of the Regulation, and thus committed the infringement set out at Point 20a of Section I of Annex III of the Regulation

Furthermore, the Board found that Moody's France did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Moody's France had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed repeatedly and for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Moody's France EUR 280 000.

D) Supervisory measure and fine

Public notice

Pursuant to Article 24 of the Regulation, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

Fine

The fine imposed on Moody's France is EUR 280 000.

Public Notice

Moody's Germany is part of the Moody's Group, which constitutes one of the largest CRA groups in terms of revenues and size for rating business activity. The ultimate parent of Moody's Germany, through a multi-layered legal structure, is Moody's Corporation ("MCO"), based in the United States of America.

Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies ('the Regulation') lays down obligations for CRAs in the conduct of their activities. In conjunction with its role of supervisor of CRAs under Article 21 of the Regulation, the European Securities and Markets Authority ("ESMA") has functions and powers to take enforcement actions in relation to infringements of the Regulation by CRAs.

According to the Regulation, which sets out targeted rules in respect of managing shareholder conflicts of interest, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital or voting rights holds 5% or more of the capital or voting rights of the rated entity or is a member of the administrative or supervisory body of the rated entity.

In 2019, ESMA's Supervision Department concluded, following preliminary investigations, that, with respect to Moody's Deutschland GmbH ('Moody's Germany'), there were serious indications of the possible existence of facts liable to constitute one or more of the infringements listed in Annex III to Regulation (EC) No 1060/2009.

The matter was then referred to an Independent Investigating Officer ('the IIO') who, after having conducted an investigation, submitted her findings to the Board of Supervisors ('the Board').

Having considered the evidence, the Board of Supervisors has found that Moody's Germany negligently committed the following infringement of the Regulation.

The Infringement

Moody's Germany negligently committed the infringement set out at Point 20a of Section I of Annex III of the Regulation (by not having ensured the appropriate disclosures regarding conflicts of interest linked to their shareholders).

A) Relevant legal provisions

CRA Regulation

Article 6 – Independence and avoidance of conflicts of interests

Para. 1 - A credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest or business relationship involving the credit rating agency issuing the credit rating or the rating outlook, its shareholders, managers, rating analysts, employees or any other natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control.

Para. 2 - *In order to ensure compliance with paragraph 1, a credit rating agency shall comply with the requirements set out in Sections A and B of Annex I.*

Annex I – *Independence and avoidance of conflicts of interests*

Section B – *Operational requirements*

Point 3a - *A credit rating agency shall disclose where an existing credit rating or rating outlook is potentially affected by either of the following:*

a) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, holds 5 % or more of either the capital or the voting rights of the rated entity or of a related third party, or of any other ownership interest in that rated entity or third party (...);

b) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, is a member of the administrative or supervisory board of the rated entity or a related third party.

Annex III - *List of infringements referred to in Article 24(1) and Article 36a(1)*

Section I - *Infringements related to conflicts of interest, organisational or operational requirements*

Point 20a - *The credit rating agency infringes Article 6(2), in conjunction with point 3a of Section B of Annex I, by not disclosing that an existing credit rating or rating outlook is potentially affected by any of the circumstances set out in letters (a) and (b) of that point.*

B) Factual findings and analysis of the Board

According to the Regulation, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital / voting rights holds 5% or more of the capital / voting rights of the rated entity or has a board membership in the rated entity.

There is no indication in the Regulation regarding the timing of this disclosure and the arrangements, which should be followed by the CRA to meet this requirement.

The Board considers that this disclosure, in line with the internal arrangements defined by Moody's Germany and the Moody's group, must take place within a reasonable delay.

In the present case, the group provided information showing that there were 278 missing disclosures between 2013 and 2017. They concerned 101 rated entities. This means that for the concerned rated entities, the Moody's group did not comply with the relevant disclosure requirement of the Regulation.

In order to attribute the infringement, the Board considered that the infringement related to the lack of disclosure of conflicts of interest is attributable to each of the registered entities of the Moody's group based on the location of the lead analyst of each rated entity for which there was no disclosure.

Regarding the rated entities for which the lead analyst was located in Germany, there were 22 lack of disclosures or incomplete disclosures which concerned 17 rated entities.

C) Finding of the infringement

On the basis of the assessment of the complete file submitted by the IIO and of the arguments raised in the written submissions, the Board found that Moody's Germany failed to comply with the requirement of Article 6(2), in conjunction with Point 3a of Section B of Annex I of the Regulation, and thus committed the infringement set out at Point 20a of Section I of Annex III of the Regulation

Furthermore, the Board found that Moody's Germany did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Moody's Germany had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed repeatedly and for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Moody's Germany EUR 340 000.

D) Supervisory measure and fine

Public notice

Pursuant to Article 24 of the Regulation, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

Fine

The fine imposed on Moody's Germany is EUR 340 000.

Public Notice

Moody's Italy is part of the Moody's Group, which constitutes one of the largest CRA groups in terms of revenues and size for rating business activity. The ultimate parent of Moody's Italy, through a multi-layered legal structure, is Moody's Corporation ("MCO"), based in the United States of America.

Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies ('the Regulation') lays down obligations for CRAs in the conduct of their activities. In conjunction with its role of supervisor of CRAs under Article 21 of the Regulation, the European Securities and Markets Authority ("ESMA") has functions and powers to take enforcement actions in relation to infringements of the Regulation by CRAs.

According to the Regulation, which sets out targeted rules in respect of managing shareholder conflicts of interest, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital or voting rights holds 5% or more of the capital or voting rights of the rated entity or is a member of the administrative or supervisory body of the rated entity.

In 2019, ESMA's Supervision Department concluded, following preliminary investigations, that, with respect to Moody's Italia S.r.l. ('Moody's Italy'), there were serious indications of the possible existence of facts liable to constitute one or more of the infringements listed in Annex III to Regulation (EC) No 1060/2009.

The matter was then referred to an Independent Investigating Officer ('the IIO') who, after having conducted an investigation, submitted her findings to the Board of Supervisors ('the Board').

Having considered the evidence, the Board of Supervisors has found that Moody's Italy negligently committed the following infringement of the Regulation.

The Infringement

Moody's Italy negligently committed the infringement set out at Point 20a of Section I of Annex III of the Regulation (by not having ensured the appropriate disclosures regarding conflicts of interest linked to their shareholders).

A) Relevant legal provisions

CRA Regulation

Article 6 – *Independence and avoidance of conflicts of interests*

Para. 1 - *A credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest or business relationship involving the credit rating agency issuing the credit rating or the rating outlook, its shareholders, managers, rating analysts, employees or any other*

natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control.

Para. 2 - In order to ensure compliance with paragraph 1, a credit rating agency shall comply with the requirements set out in Sections A and B of Annex I.

Annex I – Independence and avoidance of conflicts of interests

Section B – Operational requirements

Point 3a - A credit rating agency shall disclose where an existing credit rating or rating outlook is potentially affected by either of the following:

a) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, holds 5 % or more of either the capital or the voting rights of the rated entity or of a related third party, or of any other ownership interest in that rated entity or third party (...);

b) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, is a member of the administrative or supervisory board of the rated entity or a related third party.

Annex III - List of infringements referred to in Article 24(1) and Article 36a(1)

Section I - Infringements related to conflicts of interest, organisational or operational requirements

Point 20a - The credit rating agency infringes Article 6(2), in conjunction with point 3a of Section B of Annex I, by not disclosing that an existing credit rating or rating outlook is potentially affected by any of the circumstances set out in letters (a) and (b) of that point.

B) Factual findings and analysis of the Board

According to the Regulation, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital / voting rights holds 5% or more of the capital / voting rights of the rated entity or has a board membership in the rated entity.

There is no indication in the Regulation regarding the timing of this disclosure and the arrangements, which should be followed by the CRA to meet this requirement.

The Board considers that this disclosure, in line with the internal arrangements defined by Moody's Italy and the Moody's group, must take place within a reasonable delay.

In the present case, the group provided information showing that there were 278 missing disclosures between 2013 and 2017. They concerned 101 rated entities. This means that for the concerned rated entities, the Moody's group did not comply with the relevant disclosure requirement of the Regulation.

In order to attribute the infringement, the Board considered that the infringement related to the lack of disclosure of conflicts of interest is attributable to each of the registered entities of the Moody's group based on the location of the lead analyst of each rated entity for which there was no disclosure.

Regarding the rated entities for which the lead analyst was located in Italy, there were four lack of disclosures or incomplete disclosures which concerned four rated entities.

C) Finding of the infringement

On the basis of the assessment of the complete file submitted by the IIO and of the arguments raised in the written submissions, the Board found that Moody's Italy failed to comply with the requirement of Article 6(2), in conjunction with Point 3a of Section B of Annex I of the Regulation, and thus committed the infringement set out at Point 20a of Section I of Annex III of the Regulation

Furthermore, the Board found that Moody's Italy did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Moody's Italy had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed repeatedly and for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Moody's Italy EUR 174 000.

D) Supervisory measure and fine

Public notice

Pursuant to Article 24 of the Regulation, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

Fine

The fine imposed on Moody's Italy is EUR 174 000.

Public Notice

Moody's Spain is part of the Moody's Group, which constitutes one of the largest CRA groups in terms of revenues and size for rating business activity. The ultimate parent of Moody's Spain, through a multi-layered legal structure, is Moody's Corporation ("MCO"), based in the United States of America.

Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies ('the Regulation') lays down obligations for CRAs in the conduct of their activities. In conjunction with its role of supervisor of CRAs under Article 21 of the Regulation, the European Securities and Markets Authority ("ESMA") has functions and powers to take enforcement actions in relation to infringements of the Regulation by CRAs.

According to the Regulation, which sets out targeted rules in respect of managing shareholder conflicts of interest, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital or voting rights holds 5% or more of the capital or voting rights of the rated entity or is a member of the administrative or supervisory body of the rated entity.

In 2019, ESMA's Supervision Department concluded, following preliminary investigations, that, with respect to Moody's Investors Service España S.A. ('Moody's Spain'), there were serious indications of the possible existence of facts liable to constitute one or more of the infringements listed in Annex III to Regulation (EC) No 1060/2009.

The matter was then referred to an Independent Investigating Officer ('the IIO') who, after having conducted an investigation, submitted her findings to the Board of Supervisors ('the Board').

Having considered the evidence, the Board of Supervisors has found that Moody's Spain negligently committed the following infringement of the Regulation.

The Infringement

Moody's Spain negligently committed the infringement set out at Point 20a of Section I of Annex III of the Regulation (by not having ensured the appropriate disclosures regarding conflicts of interest linked to their shareholders).

A) Relevant legal provisions

CRA Regulation

Article 6 – Independence and avoidance of conflicts of interests

Para. 1 - A credit rating agency shall take all necessary steps to ensure that the issuing of a credit rating or a rating outlook is not affected by any existing or potential conflicts of interest or business relationship involving the credit rating agency issuing the credit rating or the rating outlook, its shareholders, managers, rating analysts, employees or any other natural person whose services are placed at the disposal or under the control of the credit rating agency, or any person directly or indirectly linked to it by control.

Para. 2 - *In order to ensure compliance with paragraph 1, a credit rating agency shall comply with the requirements set out in Sections A and B of Annex I.*

Annex I – *Independence and avoidance of conflicts of interests*

Section B – *Operational requirements*

Point 3a - *A credit rating agency shall disclose where an existing credit rating or rating outlook is potentially affected by either of the following:*

a) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, holds 5 % or more of either the capital or the voting rights of the rated entity or of a related third party, or of any other ownership interest in that rated entity or third party (...);

b) a shareholder or member of a credit rating agency holding 5 % or more of either the capital or the voting rights of that credit rating agency or being otherwise in a position to exercise significant influence on the business activities of the credit rating agency, is a member of the administrative or supervisory board of the rated entity or a related third party.

Annex III - *List of infringements referred to in Article 24(1) and Article 36a(1)*

Section I - *Infringements related to conflicts of interest, organisational or operational requirements*

Point 20a - *The credit rating agency infringes Article 6(2), in conjunction with point 3a of Section B of Annex I, by not disclosing that an existing credit rating or rating outlook is potentially affected by any of the circumstances set out in letters (a) and (b) of that point.*

B) Factual findings and analysis of the Board

According to the Regulation, a CRA must disclose where an existing rating is potentially affected by a conflict of interests linked to the fact that one of its shareholders holding more than 5% of its capital / voting rights holds 5% or more of the capital / voting rights of the rated entity or has a board membership in the rated entity.

There is no indication in the Regulation regarding the timing of this disclosure and the arrangements, which should be followed by the CRA to meet this requirement.

The Board considers that this disclosure, in line with the internal arrangements defined by Moody's Spain and the Moody's group, must take place within a reasonable delay.

In the present case, the group provided information showing that there were 278 missing disclosures between 2013 and 2017. They concerned 101 rated entities. This means that for the concerned rated entities, the Moody's group did not comply with the relevant disclosure requirement of the Regulation.

In order to attribute the infringement, the Board considered that the infringement related to the lack of disclosure of conflicts of interest is attributable to each of the registered entities of the Moody's group based on the location of the lead analyst of each rated entity for which there was no disclosure.

Regarding the rated entities for which the lead analyst was located in Spain, there were 21 lack of disclosures or incomplete disclosures which concerned 5 rated entities.

C) Finding of the infringement

On the basis of the assessment of the complete file submitted by the IIO and of the arguments raised in the written submissions, the Board found that Moody's Spain failed to comply with the requirement of Article 6(2), in conjunction with Point 3a of Section B of Annex I of the Regulation, and thus committed the infringement set out at Point 20a of Section I of Annex III of the Regulation

Furthermore, the Board found that Moody's Spain did not meet the special care expected from a CRA as a professional firm in the financial services sector. Therefore, the Board found that Moody's Spain had committed the infringement negligently and was liable to a fine.

The basic amount of the fine was calculated pursuant to Article 36a of the Regulation. In addition, the Board applied the relevant aggravating (the infringement has been committed repeatedly and for more than six months) and mitigating (the CRA has voluntarily taken measures to ensure that similar infringements cannot be committed in the future) factors prescribed by Annex IV of the Regulation and therefore fined Moody's Spain EUR 174 000.

D) Supervisory measure and fine

Public notice

Pursuant to Article 24 of the Regulation, the Board decided that the infringement warranted a supervisory measure in the form of the publication of this public notice.

Fine

The fine imposed on Moody's Spain is EUR 174 000.