



To European Securities and Markets Authority

Submitted via website.

June 21<sup>st</sup>, 2024

Reference: Consultation paper on proposed Revisions to Commission Delegated Regulation (EU) 447/2012 and Annex I of CRA Regulation

Dear ESMA,

With reference to your Consultation Paper on the “proposed revisions to Commission Delegated Regulation (EU) 447/2012 and Annex I of CRA Regulation” dated April 2<sup>nd</sup>, 2024, we are pleased to hereby submit the views of our association, representing European credit rating agencies (“CRA”) registered with your institution.

Our paper covers the questions raised in the consultation paper. Before doing so, we provide a comment on the overall process linked to this consultation paper as well as our general approach towards the questions raised.

### **On the process**

We understand that, through this consultation, ESMA is addressing a request for Technical Advice by the European Commission (“Commission”) dated June 2023 focusing on an amendment to the CRA Regulation with regards to the integration of ESG factors in credit rating disclosures and credit rating methodologies. The amendment of the CRA Regulation is based on Article 37 of the CRA Regulation empowering the Commission to update Annex I and II of the CRA Regulation.

We regret the path chosen by the Commission for a number of reasons:

Firstly, only 5 years ago, ESMA provided Technical Advice to the Commission advising against explicitly mandating the consideration of sustainability characteristics in CRAs credit assessments. Shortly thereafter, ESMA published its guidelines applicable to credit ratings which included a specific section relating to ESG factors. In EACRA’s opinion, these guidelines adequately address the areas where the Commission is seeking Technical Advice.

Secondly, EACRA is disappointed that the Commission has only chosen to seek Advice on the integration of ESG factors when there are other areas of the CRA Regulation (last amended in 2013) that we believe should be addressed. For example, we would highlight the following two key issues:

ESMA called already in January 2017<sup>1</sup> for a review of the CRA Regulation in order to “ensure a more effective, proportionate and dissuasive sanctioning regime”. Just recently, ESMA imposed a fine on the medium-sized rating agency Scope Ratings of EUR 2,2 mIn corresponding to approximately 11% of that agencies turnover. For the same infringement, the dominant rating agencies would have been fined a slightly higher amount corresponding to only 0,5 to 1% of their turnover.

Whilst the CRA 3 Regulation had the explicit target to increase competition in the rating market, we note that the market shares of the Dominant 3 agencies have remained largely unchanged. We believe that a.o. Article 8d of the CRA Regulation should be modified in order to make the use of a small agencies mandatory. In September 2021, ESMA provided a theoretical analysis how the market concentration would have decreased if Article 8d would have been modified<sup>2</sup>.

**On the content**

With respect to the content of this consultation, we note that ESMA follows the request of the Commission by addressing ESG factors but are concerned that the term used by ESMA is “E, S or G factor”. Throughout this response, we argue that CRAs may take a holistic approach to ESG issues and may potentially use a mix of ESG considerations when assigning credit ratings.

We also note that ESMA has elected to include additional topics in this consultation beyond those requested by the Commission. Most importantly, ESMA is proposing to include “rating outlooks” systematically in the Delegated Regulation on credit rating methodologies. While this change may appear relatively minor, this will in fact trigger a requirement for CRAs to undertake a full and detailed review of all policies and procedures. In addition, it could trigger amendments to rating methodologies. As such, the costs of ESMA’s decision to extend the scope of the consultation beyond the Commission’s request are significant. Given that rating outlook are only a potential indication of the future direction of a credit rating and that rating outlooks are not used for regulatory purposes, we are of the opinion that the notion of “rating outlooks” should at best be introduced selectively in this Delegated Regulation.

ESMA is also proposing additional amendments to the Delegated Regulation or to Annex I of the CRA Regulation. In many cases, the rationale for these amendments could be better detailed and made more exhaustive. Given that many of the proposals go beyond the wording of the existing CRA Regulation, we would respectfully suggest that ESMA could better articulate why it has elected to put forward proposals that go beyond the scope of what was requested by the Commission in June 2023.

**Q1: Do you agree with the above proposed changes in Article 1? If not please explain.**

| Article 1   |   |   |
|---|---|---|
| Current wording                                       | ESMA proposed wording                                 | EACRA proposed wording                                |
| This Regulation lays down the rules to be used in the | This Regulation lays down the rules to be used in the | This Regulation lays down the rules to be used in the |

<sup>1</sup> See letter from ESMA Chair to DG FISMA available here: [https://www.esma.europa.eu/sites/default/files/library/esma70-708036281-19\\_letter\\_to\\_com\\_-\\_emir\\_review\\_and\\_sanctioning\\_powers.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-708036281-19_letter_to_com_-_emir_review_and_sanctioning_powers.pdf)

<sup>2</sup> See ESMA Trends, Risk and Vulnerabilities report N°2 / 2021 page 82 available at: [https://www.esma.europa.eu/sites/default/files/library/esma50-165-1842\\_trv2-2021.pdf](https://www.esma.europa.eu/sites/default/files/library/esma50-165-1842_trv2-2021.pdf)

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|--|--|--|
| assessment of compliance of credit rating methodologies with the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009. | assessment of compliance of credit rating methodologies with the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009.<br><b>For the purpose of this regulation, a credit rating methodology is the framework that contributes to the determination of a credit rating and rating outlook. It includes criteria, models, driving factors and key rating assumptions relevant to the creditworthiness assessment.</b> | assessment of compliance of credit rating methodologies with the requirements set out in Article 8(3) of Regulation (EC) No 1060/2009.<br><b>For the purpose of this regulation, a credit rating methodology is the framework that contributes to the determination of a credit rating and rating outlook. It includes criteria, models, driving factors and key rating assumptions relevant to the creditworthiness assessment, where applicable.</b> |
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Firstly, we would like to recall that the CRA Regulation itself does not define the term of “credit rating methodology” but only defines the requirements applicable to these. As a point of principle, we do not believe it is appropriate for a definition to be included in a Level 2 (Delegated regulation) document.

However, if the decision is taken to include a definition in the Level 2 regulation, we recommend adding “where applicable” to the proposed definition. The background for this request is linked to the fact that credit rating methodologies relate to specific market segments and that it is not always the case that all of the four elements in the definition (“criteria, models, driving factors and key rating assumptions”) may be applied or be relevant.

**Q2 Do you agree with the changes proposed in Article 3? If not, please explain.**

| Article 3 paragraph 2  |  |   |
|--|--|---|
| Current wording  | ESMA proposed wording  | EACRA proposed wording  |
| When examining the compliance of credit rating agencies with the provisions of Article 8(3) of Regulation (EC) No 1060/2009 ESMA shall use all information relevant to assess the process of developing, approving, using and reviewing credit rating methodologies. | When examining the compliance of credit rating agencies with the provisions of Article 8(3) of Regulation (EC) No 1060/2009 ESMA shall use all information relevant to assess the process of developing, approving, using, <b>validating</b> and reviewing credit rating methodologies. <b>In carryout out the compliance assessment, ESMA will consider that a credit rating methodology is the framework that contributes to the determination of a credit rating and rating outlook. It</b> | When examining the compliance of credit rating agencies with the provisions of Article 8(3) of Regulation (EC) No 1060/2009 <b>and of Article 1 paragraph 2</b> ESMA shall use all information relevant to assess the process of developing, approving and <b>reviewing</b> , credit rating methodologies <b>depending on the processes and procedures followed by the respective rating agency</b> |

|  |   |  |
|--|---|--|
|  | <b>includes criteria, models, driving factors and key rating assumptions relevant to the creditworthiness assessment.</b> |  |
|--|---|--|

We note that ESMA is including the term “validating” of credit rating methodologies in the above Article 3. We would request clarification from ESMA what triggered the inclusion of this new term and more precisely what the difference to “reviewing” a methodology is. The background for this request is whether another process is being expected by ESMA.

In our proposed text, we have amended the terms “developing, approving, by adding “depending on the processes and procedures followed by the respective rating agency”. We have excluded the term “using” as Article 8 (3) of the CRA Regulation relates to the requirements on credit rating methodologies and not to the usage of these. Finally, we have included a reference to the proposed new definition in Article 1 paragraph 2 of credit rating methodologies instead of restating the same text again.

**Q3: Do you agree with the changes proposed in Article 4(1)(d)? if not, please explain.**

| Article 4 (1) (d)  |   |  |
|--|---|--|
| Current wording  | ESMA proposed wording   | EACRA proposed wording   |
| incorporate reliable, relevant and quality related analytical models, key credit rating assumptions and criteria where these are in place. | incorporate reliable, relevant and quality related analytical models, key credit rating assumptions and criteria <del>where these are in place.</del> | incorporate reliable, relevant and quality related analytical models, key credit rating assumptions and criteria where these are in place. |

No, we do not agree with the proposed change to exclude the existing wording “where these are in place” within the existing Article 4(1)(d). Similar to question 1, we believe that credit rating methodologies are specifically designed for each market segment and that not always all of “analytical models, key credit rating assumptions and criteria” may apply.

**Q4: Do you agree with the proposed changes in Article 4(2) to the Delegated Regulation? If not, please explain.**

| Article 4 (2)   |   |  |
|---|---|--|
| Current wording   | ESMA proposed wording   | EACRA proposed wording   |
| A credit rating agency shall list and provide a detailed explanation of the following points with regard to the credit rating methodologies used regarding:<br>(a) each qualitative factor, including the scope of qualitative judgement for that factor; | A credit rating agency <i>shall use and apply credit rating methodologies which:</i><br><b>(a) list each qualitative factor including the scope of qualitative judgement for that factor and identify, where applicable, whether a factor is considered as an E factor, S factor, G factor;</b> | A credit rating agency shall use and apply credit rating methodologies which:<br>(a) list each qualitative factor including the scope of qualitative judgement for that factor and identify, where applicable, <b>ESG factors</b> ;<br>(b) list each quantitative factor and identify, where applicable, |

|   |   |  |
|---|---|--|
| <p>(b) each quantitative factor, including key variables, data sources, key assumptions, modelling and quantitative techniques.</p> | <p><b>(b) list each quantitative factor and identify, where applicable, whether a factor is considered as an E factor, S factor, G factor;</b><br/> <b>(c) include the rationale according to which qualitative and quantitative factors are considered within the creditworthiness assessment.</b><br/> <b>(d) include the key variables, data sources, key assumptions, modelling, and quantitative techniques applicable to the quantitative and qualitative factors used.</b><br/> <b>(e) include the process according to which a qualitative or quantitative factor has been identified as an E factor, S factor or G factor.</b></p> | <p><b>ESG factors;</b><br/> <del>(c) include the rationale according to which qualitative and quantitative factors are considered within the creditworthiness assessment.</del><br/>         (c) include the key variables, data sources, key assumptions, modelling, and quantitative techniques applicable to the quantitative and qualitative factors used.<br/>         (e) include the process according to which a qualitative or quantitative factor has been identified as <b>ESG factors.</b></p> |
|---|---|--|

ESMA is proposing a number of amendments to the above article, notably the identification of E, S and G factors separately. Whilst we understand that ESMA is following the Commission’s request for Technical Advice linked to E, S, and G Factors, we are concerned with the proposed wording. Currently, CRAs are already required to consider all relevant factors when assigning credit ratings, which also implies considering ESG factors where these impact the credit rating. The proposed wording requires the separate identification of E, S and G Factors, whereas we consider that credit ratings may be influenced by a mix of such E, S and G Factors (some agencies potentially using a combined ESG score feeding into the credit rating analysis). With reference to the current guideline on disclosures applicable to credit ratings, we instead recommend the wording is amended to reflect ESG factors as a whole as opposed to needing to be addressed separately.

With respect to the new paragraph c regarding the rationale for each factor, we are of the opinion that this requirement is already covered in Article 4 (3) (a) of this Delegated Regulation since CRAs need to explain the weighting of each factor with the whole methodology – a weight can only be assigned if there is a rationale for including the factor, otherwise the weight would be zero and would not impact the rating.

With respect to paragraph d, we note that it is based on the current paragraph b but extended towards qualitative factors. We believe that this extension reflects the wish for an academic / mathematical underpinning of each factor, which is particularly difficult for qualitative factors. Additionally, we would like to recall that credit ratings are meant to include expert judgement from a rating analyst (otherwise the result would be an unregulated credit score) and therefore some flexibility is required. Finally, given that specific regulation on ESG rating providers has recently been adopted by the European Parliament, we hereby would like to provide a comparison of the requirements on rating methodologies for CRAs and ESG rating providers:

|  |   |
|--|---|
| Article 15 (7) of ESG Rating Providers regulation  | Article 8 (3) of Credit Rating Agencies regulation  |
| ESG rating providers shall use rating methodologies for the ESG ratings they provide that are rigorous, systematic, independent and capable of justification | A credit rating agency shall use rating methodologies that are rigorous, systematic, continuous and subject to validation based on historical experience, including back-testing. |

While both regulations use the terms “rigorous” and “systematic”, the key difference lies in the expected validation. Whereas ESG rating providers methodologies should be “capable of justification”, CRAs methodologies are “subject to validation based on historical experience, including back-testing.” The requirements on CRAs are therefore far more stringent than those expected by ESG rating providers. It is not clear why CRAs should quantify and back-test ESG factors, whereas specialized providers on ESG topics are only required to “justify” those factors.

**Q5: Do you agree with the above proposed changes in Article 4(3) to the Delegated Regulation? If not, please explain why not.**

| Article 4 (3)  |  |  |
|--|--|--|
| Current wording  | ESMA proposed wording  | EACRA proposed wording   |
| The detailed explanation referred to in paragraph 2 shall include the following:<br>(a) a statement of the importance of each qualitative or quantitative factor used within that credit rating methodology including, where relevant, a description of and justification for related weightings assigned to those factors and their impact on credit ratings; | The <b>information</b> referred to in paragraph 2 shall include a detailed explanation of the following:<br>(a) the <b>importance</b> of each qualitative or quantitative factor used within that credit rating methodology including, a description of and justification for related weightings assigned to those factors and their impact on credit ratings and <b>rating outlooks</b> ; | The information referred to in paragraph 2 shall include a detailed explanation of the following:<br>(a) the importance of each qualitative or quantitative factor used within that credit rating methodology including, <b>where relevant</b> , a description of and justification for related weightings assigned to those factors and their impact on credit ratings and <del>rating outlooks</del> ; |

With respect to the change from “detailed explanation” to “information” as well as from “statement of the importance” to “importance”, we view these changes as largely semantic in nature since the paragraph thereafter requires justifying the weightings assigned.

With regards to the inclusion of “rating outlooks”, we would like to recall their definition in Article 3 (1) (w) of the CRA Regulations as an “opinion regarding the likely direction of a credit rating over the short term, the medium term or both”. As such, rating outlooks are not credit ratings but only an indication as to how the credit rating may potentially evolve in the future if some anticipated developments materialize. These developments may not occur and the rating outlook might or might not be modified without any change to the credit rating. Rating outlooks are therefore an important element of the expert judgement of rating analysts and the persons assigning the ratings. Furthermore, while credit ratings may be used for regulatory purposes by a wide range of financial entities in accordance with Article 4 (1) of CRAR, rating outlooks do not play any role in

sectoral legislation applicable to these users of credit ratings. Rating outlooks only inform users of credit ratings on the likely direction of the rating. Finally, it should be noted that some CRAs may assign point-in-time ratings and therefore not use rating outlooks.

**Q6: Do you agree with the above proposed changes in Article 5 to the Delegated Regulation on Methodologies? If not, please explain why not.**

| Article 5 (1)  |   |   |
|--|---|---|
| Current wording  | ESMA proposed wording   | EACRA proposed wording  |
| A credit rating agency shall use a credit rating methodology and its associated analytical models, key credit rating assumptions and criteria that are applied systematically in the formulation of all credit ratings in a given asset class or market segment unless there is an objective reason for diverging from it. | A credit rating agency shall use <b>credit rating methodologies</b> that are applied systematically in the formulation of all credit ratings and <b>rating outlooks</b> in a given asset class or market segment unless there is an objective reason for diverging from it. | A credit rating agency shall use <b>credit rating methodologies</b> that are applied systematically in the formulation of all credit ratings and <del>rating outlooks</del> in a given asset class or market segment unless there is an objective reason for diverging from it. |

For the reasons outlined in our response to question 5 above, we believe that “rating outlooks” should be excluded from the above proposed wording.

| Article 5 (3)   |   |   |
|-----------------|---|---|
| Current wording | ESMA proposed wording   | EACRA proposed wording  |
| Not available   | A credit rating agency shall use credit rating methodologies which are sufficiently detailed and which ensure a consistent approach to the determination of credit ratings and rating outlooks. | A credit rating agency shall use credit rating methodologies <del>which are sufficiently detailed</del> <del>and</del> which ensure a consistent approach to the determination of credit ratings and rating outlooks. |

This new paragraph in Article 5 includes the notion of “sufficiently detailed”, which is open to a highly subjective assessment and opens up scenarios in which ESMA would be making assessments as to the content of credit ratings and methodologies which would be in direct contravention of Article 23 of the CRA Regulation. . Finally, the second part of the paragraph requires a “consistent approach” which provides for sufficient safeguards in our view: credit rating methodologies will never be able to cover all potential risk factors linked to a specific entity to be rated and therefore the CRA Regulation rightly requires the expert judgement of a rating analyst. In case where similar issues arise with several different rated entities, we proceed from the assumption that CRAs will have a detailed look at these issues and may thereafter review and update their rating methodologies accordingly.

**Q7: Do you agree with the above proposed changes in Article 6 to the Delegated Regulation on Methodologies? If not, please explain.**

| Article 6   |   |  |
|---|---|--|
| Current wording   | ESMA proposed wording   | EACRA proposed wording   |
| <p>A credit rating agency shall use credit rating methodologies shall that are designed and implemented in a way that enables them to:</p> <p>(b) be capable of promptly incorporating any finding from ongoing monitoring or a review, in particular where changes in structural macroeconomic or financial market conditions would be capable of affecting credit ratings produced by that methodology;</p> <p>(c) compare credit ratings across different asset classes.</p> | <p>A credit rating agency shall use credit rating methodologies shall that are designed and implemented in a way that enables them to:</p> <p>(b) be capable of promptly incorporating any finding from ongoing monitoring or a review, in particular where changes in structural macroeconomic or financial market conditions would be capable of affecting credit ratings and <b>rating outlooks</b> produced by that methodology;</p> <p>(c) compare credit ratings and <b>rating outlooks</b> across different asset classes.</p> | <p>A credit rating agency shall use credit rating methodologies shall that are designed and implemented in a way that enables them to:</p> <p>(b) be capable of <del>promptly</del> incorporating any finding from ongoing monitoring or a review, in particular where changes in structural macroeconomic or financial market conditions would be capable of affecting credit ratings and <del>rating outlooks</del> produced by that methodology;</p> <p>(c) compare credit ratings and <del>rating outlooks</del> across different asset classes.</p> |

Based on our response to Question 4 above, we recommend deleting “rating outlooks” in the above paragraph. Additionally, given that rating outlooks are linked to specific rated entities credit ratings, we do not see any benefits in comparing rating outlooks across different asset classes.

We have deleted the term “promptly” as the current delegation was adopted in 2012 so prior to the adoption of the CRA 3 Regulation in 2013 which introduced in Article 8 of the CRA Regulation paragraph 5a requiring CRAs to publicly consult on potential changes to a rating methodology for a period of 1 month. CRAs therefore can not “promptly” incorporate any new findings into their methodologies.

**Q8: Do you agree with the proposed changes in Article 7 to the Delegated Regulation? If not, please explain.**

| Article 7 (2) (a)  |   |  |
|--|---|--|
| Current wording  | ESMA proposed wording   | EACRA proposed wording   |
| <p>the historical robustness and predictive power of credit ratings issued using the relevant methodology over appropriate time horizons and across different asset classes;</p> | <p>the historical robustness and predictive power of credit ratings and <b>rating outlooks</b> issued using the relevant methodology over appropriate time horizons and across different asset classes;</p> | <p>the historical robustness and predictive power of credit ratings and <del>rating outlooks</del> issued using the relevant methodology over appropriate time horizons and across different asset classes</p> |



Whilst we agree that credit ratings (in most market segments) can be tested for their historical robustness and predictive power, we do not believe this applies to rating outlooks as these are only an indication how the credit ratings may evolve in future.

Unfortunately, the public credit rating databases maintained by ESMA (CEREP and ERP) do not provide enough information to test rating outlooks for their predictive power with regards to credit rating changes taking place thereafter. We have observed all potential scenarios linked to rating outlooks:

- A CRA may follow suit on an rating outlook by changing the credit rating in the direction of the outlook. But, it is up to the CRA when that credit rating change takes place and in which magnitude.
- A CRA may revise the rating outlook without modifying the credit rating per se.
- A CRA may change the credit rating although the outlook was “stable” as the assumptions underpinning the stable rating outlook did not materialize and the performance was better (or worse).

| New article     |  |  |
|-----------------|--|--|
| Current wording | ESMA proposed wording in Article 7 (3) (ca)  | EACRA proposed wording in Article 4 (2) (f)  |
| Not available   | assess the input data used by a credit rating methodology for completeness, accuracy and appropriateness | assess the <b>quantitative</b> input data used by a credit rating methodology for completeness, accuracy and appropriateness |

We are of the view that this requirement should not be included in Article 7, which relates to the validation of rating methodologies, but rather in Article 4 linked to the requirement that rating methodologies are rigorous. Furthermore, this requirement should be limited to quantitative factors and exclude qualitative and ESG factors (especially as ESG data are not covered by the ESG ratings providers regulation and that the availability, accuracy and appropriateness of these ESG factors are likely to evolve in future given the sustainable finance agenda).

| Article 7 (5) (a)   |  |   |
|---|--|---|
| Current wording   | ESMA proposed wording  | EACRA proposed wording  |
| regular credit rating and performance reviews on rated entities and financial instruments | regular credit rating, <b>rating outlook</b> and performance reviews on rated entities and financial instruments | regular credit rating, <del>rating outlook</del> —and performance reviews on rated entities and financial instruments |

Based on the arguments we presented in our responses above regarding the inclusion of rating outlooks, we are of the view that this element should not be included here.

**Q9: Do you agree with the proposed addition of new paragraph 5a in Annex I.D.I of the CRA Regulation? If not, please explain.**

ESMA proposes to integrate its guideline on Disclosures Requirements Applicable to Credit Ratings dated March 2021<sup>3</sup> into the CRA Regulation but proposes a different wording. We therefore allow ourselves to provide a comparison between these two texts:

| Current ESMA Guideline on Disclosure Requirements  | ESMA proposed amendment of the CRA Regulation  | EACRA proposed amendment of the CRA Regulation  |
|--|--|---|
| <p>Where ESG factors were a key driver behind a change to a credit rating or rating outlook that had been presented and disclosed in accordance with Article 10(1), 10 (2) and Section D, Annex I, I, points 2a and 5, ESMA expects CRAs in the accompanying press release or report to:</p> <ul style="list-style-type: none"> <li>i. Outline whether any of the key drivers behind the change to the credit rating or rating outlook correspond to that CRA’s categorisation of ESG factors;</li> <li>ii. Identify the key driving factors that were considered by that CRA to be ESG factors;</li> <li>iii. Explain why these ESG factors were material to the credit rating or rating outlook;</li> <li>iv. Include a link to either the section of that CRA’s website that includes guidance explaining how ESG factors are considered as part of that CRA’s credit ratings or a document that explains how ESG factors are considered within that CRA’s methodologies or associated models.</li> </ul> | <p>When a key element underlying a credit rating or rating outlook is an E, S, or G Factor a credit rating agency shall additionally in its press releases or reports:</p> <ul style="list-style-type: none"> <li>i. identify prominently the key elements that were considered to be an E, S or G factor;</li> <li>ii. explain why these E, S or G factors were material to the credit rating or rating outlook according to the relevant methodology.</li> </ul> | <p>When a key element underlying a credit rating or rating outlook is an <b>ESG Factor</b> a credit rating agency shall additionally in its press releases or reports:</p> <ul style="list-style-type: none"> <li>i. identify <del>prominently</del> the key elements that were considered to be an <b>ESG</b> factor;</li> <li>ii. explain why these <b>ESG</b> factors were material to the credit rating or rating outlook according to the relevant methodology.</li> </ul> |

While the two texts are somewhat comparable, some important differences exist:

- while the currently applicable guideline uses the term “ESG factors”, the proposed text uses the term “E, S or G factor”. This seemingly small change has in fact material consequences: it

<sup>3</sup> Available here: [https://www.esma.europa.eu/sites/default/files/library/esma33-9-320\\_guidelines\\_on\\_disclosure\\_requirements\\_applicable\\_to\\_cras.pdf](https://www.esma.europa.eu/sites/default/files/library/esma33-9-320_guidelines_on_disclosure_requirements_applicable_to_cras.pdf)

requires CRAs to silo out specifically each factor while currently CRAs can take an holistic approach towards ESG factors, e.g. such factors could result from a mix of ESG considerations or from an ESG score combining all elements at once. We therefore strongly recommend keeping the current notion of ESG factors.

- The current guideline uses the term “key driver” whereas the proposed text speaks of “key element”
- The current guideline applies only to changes in credit ratings whereas the proposed text would apply to newly issued credit ratings or affirmed credit ratings. For affirmed credit ratings, we believe that disclosing again ESG factors result in overstating these in credit ratings. For newly issued credit ratings, we are of the opinion that CRAs consider a vast range of factors in determining credit ratings and that ESG factors usually play a limited role therein.
- The proposed text also uses the term “prominently” – we again believe that this could imply overstating the role of ESG factors compared to other key rating drivers.

Based on the above, we propose that the wording of the guideline is being implemented within the Annex I of the CRA Regulation. Sticking to the current wording implies that CRAs are already using this approach and thereby reduces the burden on these.

**Q10: Do you agree with the proposed change in Annex I Section A paragraph 9 of the CRA Regulation? If not, please explain.**

With reference to our response to Question 2 above, we are unclear why the term “validating” has been specifically added to this paragraph.

We note that ESMA explicitly states in § 53 of the consultation paper that “the CRA Regulation does not provide clarity as to which function should be responsible for the validation of a methodology”. As this CRA Regulation is the result of a legislative process, we are of the view that an amendment of the CRA Regulation through the envisaged procedure does not allow such a fundamental change. The current wording of the CRA Regulation is meant to allow CRAs to define themselves the most appropriate procedure according to the overall organisational structure of that agency.

**Q11: Do you agree with the proposed change to Annex I. Section D.I paragraph 2a. of the CRA Regulation? If not, please explain why not.**

While we agree in-principle on including the “process of validation” in this paragraph, we are concerned with the reasoning in § 55 of the consultation paper regarding the “frequency and comprehensiveness of the validation process” and why users of ratings should receive such detailed information. We believe that CRAs already use their best endeavour in validating methodologies and such additional information may be misleading the need for reviewing and validating methodologies depends on the market segments and the experiences of each agency.

**Q12: Do you see merit in requesting a disclosure of the use of technological innovations such as Artificial Intelligence (AI) in the rating process?**

We are of the view that this topic goes well beyond the overall framework of this consultation focusing on ESG factors and rating outlooks. We think that questions linked to technological innovations in the rating process (such as Artificial Intelligence) would require a separate and detailed analysis (e.g. through an ESMA thematic review or through round tables) to better define and clarify the use of potentially disrupting technological innovations in the CRAs world. We therefore request to postpone any such compulsory disclosure at this stage. If an agency wishes to disclose such an information, it could do so on a voluntary basis.

We would like to thank you for your attention. We stand ready to provide any additional information you may require.

**About EACRA**

The European Association of Credit Rating Agencies (EACRA), set up in November 2009 and registered in Paris, was established to act as a platform for cooperation for EU-based Credit Rating Agencies (CRAs). Our mission is to support and facilitate the compliance of CRAs with regulatory requirements through effective communication, cross-border know how, and the promotion of best practices. In addition, EACRA seeks to promote Credit Ratings and the interests of CRAs across Europe, as well as enhance the financial community and general public's understanding of Credit Ratings.