



To

European Securities and Markets Authority (ESMA)

103 rue de grenelle,  
75007 Paris, France

Reference: ESMA Consultation 33-9-290 dated December 19<sup>th</sup>, 2018 on “disclosure requirements applicable to credit rating”

Date: March 19<sup>th</sup>, 2019

Dear ESMA,

With reference to the above consultation, we are pleased to hereby submit the views of our association, on behalf of 9 ESMA registered CRAs.

Below you shall find responses to your specific questions. In short, we note that the CRA Regulation (“CRAR”) includes a number of disclosure requirements when publishing credit ratings, but does not require all of them in press releases. We think that press releases should be seen as “appetizers” for professional users to read the full rating reports which (usually) contain the full disclosures.

With reference to the question on ESG topics, we think that the proposed guideline goes beyond Article 23 of CRAR requiring full independence of CRAs in their rating methodologies.

**Q1. Do you agree with the proposed Guidelines for press releases that accompany credit ratings or rating outlooks? If not, please explain.**

The CRAR requires an extensive set of disclosures linked to credit ratings as listed in the consultation paper. At the same time, CRAR provides for the possibility to shorten these disclosures in press releases in Annex I Section D point 5.

We note that CRAs use different approaches while implementing these requirements: some include all regulatory disclosures in their press releases, some provide these disclosures in their rating reports and finally some provide separate documents to cover these requirements. We therefore believe that our Members currently comply with the specified disclosures for credit ratings but implement these in a different manner. While there is no uniform industry practice currently, we think that a professional user of ratings is able to adapt to the different standards and to easily find



the required information where necessary. We therefore consider that a separate standard relative to disclosures in press releases is not required and goes beyond the wording of CRAR.

Furthermore, including all disclosure items in a press release in such an extensive format (please refer to Question 4 below for the specific items) will make these substantially longer. Given that according to Article 4 (3) of CRAR credit ratings are meant for professional users only, we believe that these should be incentivized to read the full rating reports covering all aspects of the rating action (and who usually contain all regulatory disclosures) instead of relying only on press releases.

**Q2. Do you agree that a standardised scheme indicating the rated entities level of participation would be beneficial? Do you have any comments on the proposed standardised scheme?**

While we agree that CRAR includes a number of specific disclosures relative to “unsolicited ratings”, we believe that the solicitation status of a rating should not be overemphasized. For instance, Solvency II does not distinguish at all between solicited and unsolicited ratings – both being usable for regulatory purposes. Under the Banking Regulations, the European Banking Authority has issued a positive opinion on all CRAs providing unsolicited ratings, confirming that these are of the same quality than solicited ones.

Based on the above, we believe that a separate scheme for unsolicited ratings is not required and that CRA could provide the information also verbally. In order to ensure that a professional user finds all regulatory disclosures at once, it is more appropriate to keep this item together with all other disclosures.

**Q4. Do you have any comments on specific items under this section? If yes, please explain with reference to the proposed item’s number.**

Item i

While we agree that knowing whether the rating can be used for regulatory purposes in the EU is a valuable information, we believe that such a specific information is only required by professional users and therefore does not need to be disclosed at the level of a short press release.

In order to contribute to the right use of ratings, ESMA certified CRAs should mention that their ratings on EU based entities are not usable for regulatory purposes in the EU in accordance with Article 5 (1) of CRAR.

Item 2 and 3

Please refer to our response to Question 2.

Item iv:



Annex I Section D part I point 1 requires only the disclosure of the names and job titles of the lead analyst and the person approving the rating. The CRAR Regulation itself does not mention the contact details of these persons.

While we note that most agencies provide contact details of the above persons in their rating reports, we believe that CRAs should remain free to include these contact details or to provide a more general contact point to users. Depending on the business model of a CRA, allowing direct access to rating analyst and persons approving the rating beyond the rated entity only may create potential conflicts of interest.

With respect the disclosure of the legal entity issuing the rating, we think that this information is of interest mainly to ESMA to carry out its supervisory activities. We note that larger agencies have taken different approaches in terms of registering legal units in the European Union (as some operate now under a single EU entity with several branches). For a professional user, what matters is whether the rating is usable for regulatory purposes in the EU (please see above our comment on item 1) or not, the internal legal organisation of a CRA should not be in the forefront.

Item v:

While we acknowledge that CRAR requires the disclosure of all substantial material sources used to prepare a rating in order to allow investor to make their own due-diligence, we bring to your attention that CRAs may use confidential information from the issuer, which hardly can be listed as such a source.

The guideline requires that footnotes are being used to underpin facts and figures in press releases. We note that the CRAR itself does not include such a requirement. Additionally, we believe that such references to sources should be included in the more extensive rating report. This information may equally be placed directly within the text and not necessarily within a footnote.

Item vi:

With reference to §37 of the consultation paper, we agree that some CRAs provide a direct link to their rating methodologies while some provide links to their methodology section. We find that both approaches have it merits: in the first case, users will directly see the specific, relevant methodology and can carry out their own analysis – this approach limits the view of the user to that single methodology. In the second case, users will first see the list of all rating methodologies from that CRA giving them a wider view on how the CRA approaches different topics.

With reference to §38 of the consultation paper, ESMA proposes that CRAs include a validity date of the rating methodologies. Given the requirement to review ratings and rating methodologies on a yearly basis, we think that references to historic documents are not useful and may be potentially misleading.

The consultation paper states in §23 that “the information should not be placed behind a registration barrier or pay-wall”. With reference to Article 13 of CRAR, we highlight that “CRAs shall not charge a fee for the information provided in accordance with Article 8 to 12” – the CRAR requires “only” free access and does not exclude any user registration. We note that CRAs use different approaches



regarding user registration to access press releases, rating reports or ratings, the vast majority of CRAs providing a direct access. Those CRAs requiring user registration do so in order to track the user behaviour in specific areas. Such a user registration is a one-time effort requiring only a limited time and providing access to substantial information.

Item vii:

The guidelines would require “dedicated paragraphs” for an upgrade or downgrade of the rating (best-case and worst-case scenarios to be covered equally). We believe that such information should be available only in longer rating reports. The press release should cover only information on the rating actions (=key elements underlying the credit rating) and not address future scenarios.

Item viii

We believe that including detailed information on each rating category, definition of default is not required in press releases. CRAs use an established terminology which is familiar to professional investors.

Item ix:

According to Annex I section D Section I point 3, a CRA needs to pre-inform the rated entity of the rating. Therefore, rated entities should always be familiar with the rating. This requirement allows rated entities to “draw attention of the credit rating agency to any factual errors” only.

Where the feed-back from the rated entity goes beyond “factual errors”, we assume that the rated entity provides additional material information (potentially before unknown to the CRA) so that the CRA can re-assess the entity and assign a new rating. In such a case, CRAs would modify their press-releases and reports accordingly – Including a clear reference to such an amendment in a press release may rather raise question from users of ratings on the independence of CRAs. We therefore believe that such an information should be made available only to ESMA.

**Q5. Do you have any comments on the proposed Guidelines under this section?**

EACRA acknowledges and recognizes the rising interest towards sustainable finance topics in recent years. The European Commission has tabled an action plan and presented a high number of initiatives in this context (such as taxonomy, disclosures on ESG). While we believe that all financial market participants will in the long run include ESG considerations in their activities, we believe that currently not enough information is available to do this systematically.

Given this rising interest in sustainable finance, rating agencies are closely following the topic. Some have introduced special ESG products, some present ESG considerations separately, while others have not done so as the markets they serve do not request such specific disclosures.

We note that the consultation paper in § 53 explicitly mentions that “the CRA Regulation does not refer to or recognise ESG factors or sustainability considerations on a standalone basis”. Requiring CRAs to include ESG factors in their ratings goes against Article 23 of CRAR on “non-interference with



content of ratings or methodologies”. An ESMA guideline therefore can neither require CRAs to include ESG into their rating methodologies nor require CRAs to disclose ESG considerations separately or explicitly.

By way of principle, we believe that CRAs need to remain free in choosing which factors they consider in their methodologies and how the credit ratings are presented and explained. CRAs should decide themselves whether and how they include ESG topics in their ratings and whether special attention to ESG aspects should be given in the rating reports or press releases.

From a technical perspective, ESG topics relate to a very long time horizon while rating look to a period of 3 to 5 years. Given this mis-match in timing, an ESG topic is likely not to be the single factor driving a rating action but only one explaining element along several other factors. Singling out ESG factors on a systematic basis may result in overstating this aspect.

From an industry perspective, ESMA's proposal that CRA specifically “disclose how they take ESG factors into account in their ratings” results in requiring CRAs to invest into ESG related topics – CRAs can hardly make a public statement that ESG topics are not considered at all. Small CRAs will particularly be hit by this requirement as they would need to devote resources to ESG topics while their business model would not require them doing so at this stage.

We remain at your disposal for any clarification or additional information.

Sincerely yours

Thomas Missong  
EACRA President

Adolfo Estevez Beneyto  
EACRA Secretary General

On behalf of the following ESMA registered Credit Rating Agencies: A.M. Best Europe, Assekurata Assekuranz Ratingagentur, Axesor Rating, Capital Intelligence Rating, Cerved Rating Agency, Creditreform Rating, CRIF Ratings, Euler Hermes Ratings and Nordic Credit Rating.