



European Securities and Markets Authority

Submitted via web

October 31st, 2014

Reference: Consultation 2014/815 on periodic information to be submitted ESMA by Credit Rating Agencies

Dear ESMA,

With reference to the consultation 2014/815 published on July 16th, 2014, we are pleased to hereby submit the response of our association. This response represents the views of our 9 ESMA registered or certified CRAs. The profiles of our members are attached to this letter. Please note that some EACRA members may provide to you additional, separate feed-back and that our response covers rather high-level topics.

We would like to thank you for the highly informative open hearing on October 15th and appreciate ESMA's stated willingness to consider the comments expressed during the meeting. We hereby submit to your kind attention our views on the questions asked following the sections of your consultation report.

On section 2 “periodic submissions”

We understand ESMA's desire in having a continuous flow of information from its supervised entities but this desire needs to be balanced against administrative costs, proportionality and targeted objectives. Through SOCRAT and CEREP and in future through ERP and the disclosure of fee's charged by CRAs, ESMA already receives substantial information from CRAs – requiring even more information from CRAs further increases administrative costs 's We recommend that the proposed periodicity of the information is being reviewed taking into account the relative size of the CRAs rating activity. Alternatively, taking a principle based approach to supervision, and that CRAs could certify annually to ESMA that they are compliant with the many requirements set out in the CRA Regulation

While some CRAs are currently providing information on legal risks to ESMA (on a voluntary basis), we think that making this information mandatory for all CRAs is not appropriate. Similar to any other business activity, CRAs may face legal risks and need to manage these – the principle that CRAs are innocent until proven guilty should of course prevail. Additionally CRAs need to take into account such legal risks in their annual audited accounts by building appropriate reserves in case needed.

With respect to the CRA's internal audit workplans, the IT strategy and workplans relating to IT risks and the CRA's business strategy in more general terms, please consider that these may not be readily available at all small CRAs. For Instance, given the size and the business model of some agencies, the IT aspect of the operations is limited in scope and risks.

With respect to the business strategy, we think that it should suffice if a CRA informs ESMA on a material change (eg the rating of a new asset class) but not on envisaged scenarios or approaches.

Concerning the minutes of the Board meetings, as some CRAs may have non-rating activities, we think that the scope should be restricted to rating activities and rating ancillary

activities. With respect to the report of the Independent Executive Director, we think that these are meant for the CRA itself and that any follow-up action needs would be documented by the compliance report

Regarding the CRAs organizational chart and the changes in headcount, we think that annual information should be enough – material changes to a CRA organization are rather rare. While we agree that CRAs should inform ESMA about changes in the management Board and key functions of a CRA (eg compliance), we don't think that changes in other personnel need to be reported quarterly. With respect to the total headcount of a CRA, we consider that a CRA should inform ESMA annually about this figure – the sole exemption to this rule may be if a CRA having received an exemption according to Article 6.3 of the CRA Regulation crosses the threshold of a total headcount of 50 employees (this could be considered as a material change to registration).

On section 3 “material changes”

We first would like to thank ESMA for the endeavor to clarify the important notion of “material change to initial registration”. Having detailed guidelines on this topic will be beneficial to CRAs and thereby ensure that ESMA can properly exercise its supervisory powers. We would appreciate if the list contained in § 38 would be exhaustive in character and not indicative. This is even more important as § 39 mentions additional important topics as examples for “material changes”. With respect to “financial resources”, we would appreciate that ESMA clarify what you consider as a “material change” (item a of § 39). Additionally, with respect to “procedures used to issue and review credit ratings” (item k of § 38), defining a material change could be difficult and we therefore appreciate more precise guidance that aim to avoid the burden of reporting changes within the ordinary maintenance and improvement process

Regarding item f of § 38, we think that CRAs should provide information on rating activities and rating ancillary activities only and that non-rating activities not be considered a material change.

On section 4 supervisory fees's and market share

Reference the Commission Delegated Regulation 272/2012 on fees charged by the ESMA to credit rating agencies, we agree that ESMA supervisory fee's should be based on the revenues generated from rating activities and ancillary services only and that other revenues (non-rating activity) should be excluded from the calculation. As the auditing of financial statements shall start soon, we would appreciate urgent clarification from ESMA regarding which CRA activities fall under the scope of the supervisory fee calculation.

In order to ensure that the Supervisory fees paid by CRAs is calculated properly, we agree that CRAs relevant revenues should be certified by an external auditor. We would like to recall that CRAs having less than EUR 10 million in applicable annual revenues should be fully exempted from ESMA supervisory fees.

With respect to the calculation of CRA Market shares according to Article 8d, we don't agree that these should be based on calendar years instead of the CRAs accounting periods. Currently, about 30% of all ESMA registered CRAs have a fiscal year deviating from the calendar year. Requiring that these agencies report separately according to the calendar year is an additional burden without clear benefits. The ESMA report published December 16th, 2013 was based on the respective CRAs fiscal years data. Additionally, ESMA could adapt the fiscal year to the calendar year on an approximate rolling basis if this is deemed really material.

Given that the CRA 3 regulation aims to increase competition in the EU rating market, in order to ensure higher awareness on the requirement of Article 8d, we would propose that ESMA list of registered and certified CRAs should be complemented with an indication as to whether a CRA has under 10% market share. This information should be accompanied with a direct link to the annual report by ESMA according to Article 8d (2).

Sincerely yours

Thomas Missong
EACRA President

Adolfo Estevez Beneyto
EACRA Secretary General

About EACRA

The European Association of Credit Rating Agencies (“EACRA”), registered in Paris, was established in November 2009. The Members of the Association currently originate from 11 countries and include the following companies:

ESMA registered Credit Rating Agencies

A.M. Best Europe - Rating services Limited (AMBERS) is a subsidiary of A.M. Best Inc who have been providing ratings to the Insurance Sector since 1899. AMBERS' rating coverage includes regional, national and global insurers located throughout Europe, the Middle East and Africa.

Assekurata Assekuranz Rating-Agentur is the first independent German rating agency that has specialized on the quality evaluation of insurance companies

Axesor: The first Spanish Rating agency registered with ESMA. Specialized in the middle market segment, with ample coverage of the Spanish corporate market.

Capital Intelligence (CI) offers independent rating opinions on financial institutions, corporates and governments in a wide range of countries, especially the emerging markets of Asia, Europe and the Middle East.

Cerved Rating Agency: Italian Credit Rating Agency recognized ECAI by Bank of Italy

Creditreform Rating: based in Germany, a company of the Creditreform Group that is European market leader in the sector of business information was founded 2000 and is specialised in ratings of companies, bonds, funds and structured finance products across Europe.

CRIF: International Credit Rating Agency based in Italy providing both solicited and unsolicited Corporate ratings.

Dagong Europe Credit Rating, headquartered in Milan, was registered by ESMA in June 2013. It is a joint venture between Dagong Global Credit Rating (60% ownership) and Mandarin Capital Partners (40%), led by Ulrich Bierbaum as General Manager. Dagong Europe provides European and Asian investors with credit opinions on financial institutions (including insurance companies) and non-financial corporate.

Scope was founded as an independent rating agency in Berlin, Germany, in 2002. The company is specialized in ratings and analysis of SMEs, bonds, certificates and funds across Europe.

ESMA certified Credit Rating Agencies

Kroll Bond Rating Agency (KBRA) was established in an effort to restore trust in credit ratings by creating new standards for assessing risk and by offering accurate, clear and transparent ratings. KBRA is registered with the U.S. Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization (NRSRO). In addition, KBRA is recognized by the National Association of Insurance Commissioners (NAIC) as a Credit Rating Provider (CRP).

CRAs registered or recognized according to national legislation outside of the European Union

Fedafin AG : is registered with the Swiss Financial Markets Authority and acts as rating provider to the Swiss stock exchange

JCR Eurasia is an international credit rating institution based in Turkey.

National Rating Agency (NRA) is one of the leading independent rating agencies in Russia. As of today National Rating Agency has assigned ratings to over 750 leading Russian and international companies.

RusRating is a credit rating agency based in Moscow, with sister agencies in Armenia and Kazakhstan. It is accredited with the Ministry of Finance of the Russian Federation.

Other EACRA members

Ellisphere: French leader in business & marketing information and credit management solutions, providing a large range of tools and solutions to secure companies' supply chain financing and improve their development.

Informa is the Marketing, Financial and Business Information leading company in Spain, offering currently more than 3.7 million online scores on Spanish companies

Informa D&B is the Marketing, Financial and Business Information leading company in Portugal, offering currently more than 820K online scores on Portuguese companies

The Members of the Association have very different business models (issuer-pays, investor-pays, hybrid and special models) while assigning ratings. Since January 2014, all ESMA registered or certified CRAs are considered ECAIs across the whole European Economic Area.

Reference the Article 8 d on the use of multiple CRAs and ESMA's report dated December 16th, 2013, all EACRA members registered with ESMA have less than 10% market share in the EU (measured against revenues).