



To **European Securities and Markets Authority**

Submitted via website.

October 18th, 2024

Reference: Consultation Paper on the Guidelines on the submission of periodic information to ESMA by Benchmark Administrators, Credit Rating Agencies and Market Transparency Infrastructure (ESMA 84-2037069784-2169)

Dear ESMA,

With reference to the above consultation paper dated July 8th, 2024¹, we are pleased to hereby submit the views of our association representing European Credit Rating Agencies registered with your institution.

We take note of ESMA's wish to introduce a common approach to periodic reporting to all reporting entities falling under the scope of ESMA's supervision. As an association representing solely Credit Rating Agencies (CRAs), we can only comment from the perspective of these CRAs and therefore cannot assess whether such a common approach will deliver synergies for ESMA in the supervisory assessment of the reported information.

As mentioned in the consultation paper, the paper represents the third iteration of reporting guidelines applicable to CRAs with the first instructions published in 2015² and the second set in 2021³. We are concerned by these frequent iterations since each new guideline requires a full review and overhaul of the reporting process by CRAs. In the current case, our Members are unable to fully assess the impact of these changes since the reporting templates linked to this new guideline are not yet available. Whilst the proposed changes may, in time, lead to a reduced reporting burden for CRAs, the recalibration of reporting requirements will pose short-term challenges for smaller and medium sized CRAs who are already under pressure given initiatives such as the Digital Operational Resilience Act (DORA).

With reference to the comparative table between the current reporting requirements and the envisaged reporting requirements (page 29 of the consultation paper), we welcome ESMA's attempt

¹ Available at https://www.esma.europa.eu/sites/default/files/2024-07/ESMA84-2037069784-2169_Consultation_Paper_for_Guidelines_on_the_submission_of_periodic_information_to_ESMA_by_Benchmark_Administrators_Credit_Rating_Agencies_and_Market_Transparency_Infrastructures.pdf.

² Available at <https://www.esma.europa.eu/sites/default/files/library/2015/11/2015-609.pdf>

³ Available at https://www.esma.europa.eu/sites/default/files/library/esma_33-9-295_guidelines_on_the_submission_of_periodic_information_to_esma_by_credit_rating_agencies.pdf

to reduce the number and frequency of reporting items. We note that some items have been moved to “upon demand by ESMA” – in this context, we would like to thank ESMA for the realistic timeframes provided in the past for the submission of such “spontaneous” information and hope that this good practice will be maintained going forward.

Q1: Do you agree with the proposed approach regarding the content and the frequency of the reporting of the board and internal governance documents? Please elaborate on the reasons for your response.

With respect to **item 1 “Board documents”**, we note that the current text of the draft guideline on page 47 uses the term “the minutes of their most recent board meeting”. Given the expected annual reporting cycle, we believe that this term should exclude the notion of “most recent” as otherwise supervised entities would report only one Board meeting. In addition, it should be noted that the minutes of the “most recent” meeting may not be available as they will be subject to formal ratification at the next board meeting. Perhaps the wording should require the submission of all finalised board meeting minutes since the CRA’s previous meeting minute submission to ESMA.

Regarding **item 2 “Board meetings schedule and location”**, we note that ESMA wishes to receive the list of scheduled Board meetings, locations and agendas ex-ante for the full year. We are highly concerned by this new requirement as we believe that it does not correspond to the existing practices of a number (though not all) of EACRA’s members and will create material additional resource demands.

Firstly, it is not at all apparent what benefit / value would be served by ESMA having advance notice of when and where Board meetings are taking place. Moreover, whilst we note that the requirement to provide agendas is caveated by the term “when available” (Para 17), it is entirely unrealistic for a CRA to provide Board agendas up to a year before a meeting is scheduled. Whilst there will be a common list of agenda items in all meetings, an effective Board needs to react to events as they develop and so the reality is that there will always be a degree of dynamism in Board agendas that would not be conducive to annual ex ante reporting. The subsequent requirement to notify ESMA of changes to the documentation provided under this item will inevitably lead to significant additional resource demands for a task that adds limited, if any value, to the delivery of ESMA’s supervisory objectives.

Secondly, it should be noted that a number of smaller and medium sized CRAs do not currently schedule multiple Board meetings in advance due to the need to adhere to national law requirements (e.g. approval of financial statements) and issues regarding the long-term availability of the different members. As such, it will not be possible for these CRAs to comply with the overarching requirement.

Thirdly, it should be noted that even where a CRA has scheduled Board meetings in advance, there may still be a need to convene ad hoc meetings upon request (e.g. by non-executive Board members to discuss specific issues). Given ESMA’s request for changes in Board meeting schedules to be communicated, this would create an additional reporting requirement.

In conclusion, the requirements to move to ex ante reporting of Board meetings, locations and agendas present significant practical challenges for no obvious practical value. We would respectfully request that ESMA revisits its proposals on this point.

Reference item 3 “Organisational charts” and item 4 “New and potential conflicts of interest”, we hope that the current templates used by CRAs will not be modified.

Q3: Do you agree with the proposed approach regarding the content and the frequency of the reporting of the information technology and security documents? Please elaborate on the reasons for your response.

With regard to item 10 “findings from annual tests of ICT business continuity plans and the ICT response and recovery plans” as well as item 11 “findings from the digital operational resilience tests and relevant ICT audits”, we welcome that these reports should be provided under Calendar B only “upon demand”. CRAs are willing to provide the corresponding reports but reject the idea of submitting summaries as this results in an additional burden.

Q6: Do you agree with the proposed approach regarding the content and the frequency of the reporting of the CRAs periodic information documents? Please elaborate on the reasons for your response.

For several of the reporting items mentioned in this section, the consultation paper explicitly states that “under the proposed guidelines ESMA maintains the existing standardised reporting templates”. CRAs are now used to working with these templates and so we welcome the proposal not to amend the templates as this would create additional workload. However, we note that this wording is not present for all templates and so we are concerned that in the absence of clarity, there is a risk that certain templates will be amended that will require changes to reporting systems and procedures. We trust that this is a drafting / semantic point and that the existing templates will be maintained in all instances.

Q13: Do you agree with the proposed approach regarding the reporting of the CRAs adhoc notifications? Please elaborate on the reasons for your response.

A comparative analysis of text of this proposed guideline and the current guideline applicable to CRAs shows that the wording has remained unchanged, which is welcomed. As noted above, we hope that the corresponding templates will also remain unchanged. We note that the numbering of reporting items has changed but assume that this change can be quickly implemented.

For some items, we note that the proposed guideline does no longer provide for an explanatory text. We propose to include in the proposed guideline the current descriptions.

In closing, while this consultation seeks to harmonize the reporting obligations across ESMA supervised entities, we would welcome if ESMA issues separate guideline for each supervised segments in order to provide for a straight forward guideline to each.

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.