

Annual report on

The application Regulation on credit rating agencies as provided by Article 21(5) and Article 39a of the Regulation (EU) No 1060/2009 as amended by Regulation No 1095/2010.

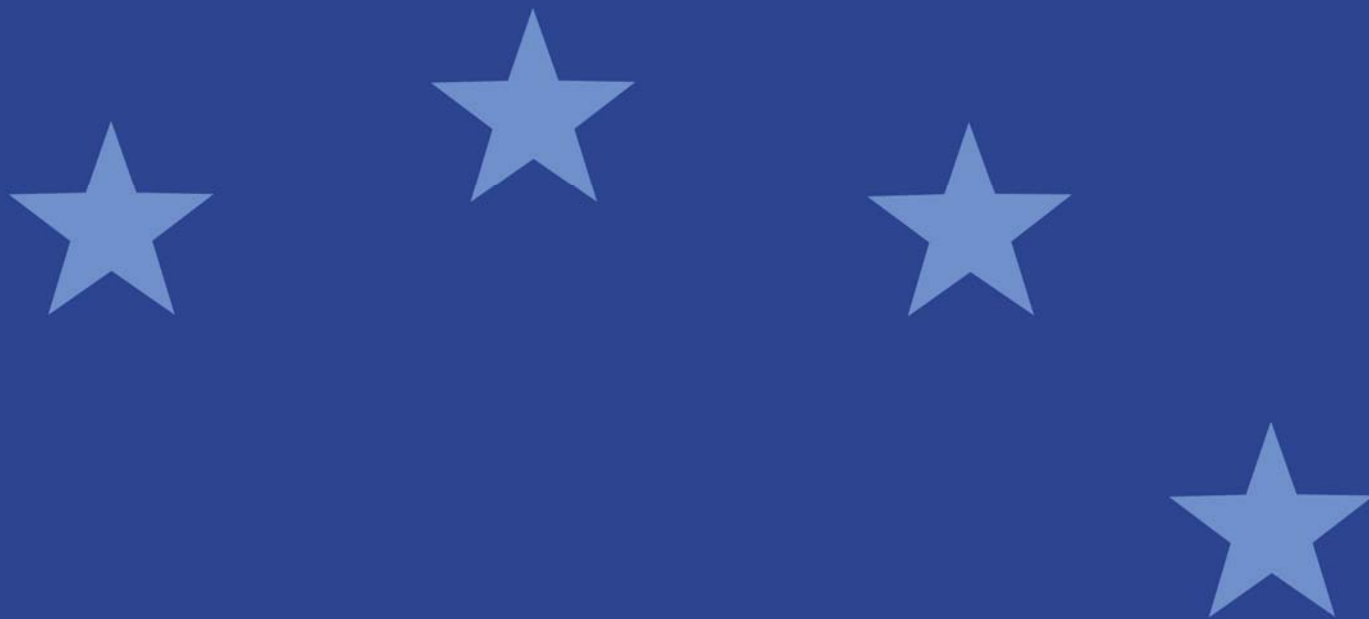


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Acronyms used

NCA	National Competent Authority
CRA	Credit rating agency
ESMA	European Securities and Markets Authority
RTSs	Regulatory Technical Standards

I. Executive Summary

Reasons for publication

This report is the first annual report on the application of Article 21(5) of the Regulation No (EC) 1060/2009¹ on credit rating agencies¹ as amended by the Regulation No (EC) 513/2011² (CRA Regulation), which mandates ESMA to publish annually a report on the application of the Regulation. The report shall contain, in particular, an assessment of the implementation of Annex I by credit rating agencies (CRA) registered under the CRA Regulation³. Finally, this report also includes an assessment of ESMA's staffing and resource needs as required by Article 39a of the CRA Regulation.

Content

Following the applications for registration by CRAs, national competent authorities made sure that CRAs were compliant with the integrity, transparency, good governance, independence and quality standards spelled out in the Regulation before adopting any positive registration decision. This report presents how ESMA and competent authorities dealt with the assessment of the completeness and compliance of the CRA applications (Section III).

CRAs have had to carry out significant changes to their organisational structures and procedures in order to fulfil all registration requirements. Section III.II(d) of this report explains how CRAs have adapted to the requirements set out in Annex I of the Regulation.

From 1 July 2011, ESMA has been entrusted with the exclusive responsibility for the registration and supervision of CRAs in the EU. Section IV of this report covers the supervisory actions carried out by ESMA in the course of 2011 and its assessment of staffing and resource needs.

Section V reports on the implementation of CEREP, the aggregated credit ratings database accessible to the public, which will go live in January 2012.

A description of ESMA's policy work in 2011 is included in section VI of this report.

Finally, section VII informs on the work carried out by ESMA regarding the assessment of third country regimes under the endorsement and certification provisions in the CRA Regulation.

¹ Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, OJ L 302, 17.11.2009.

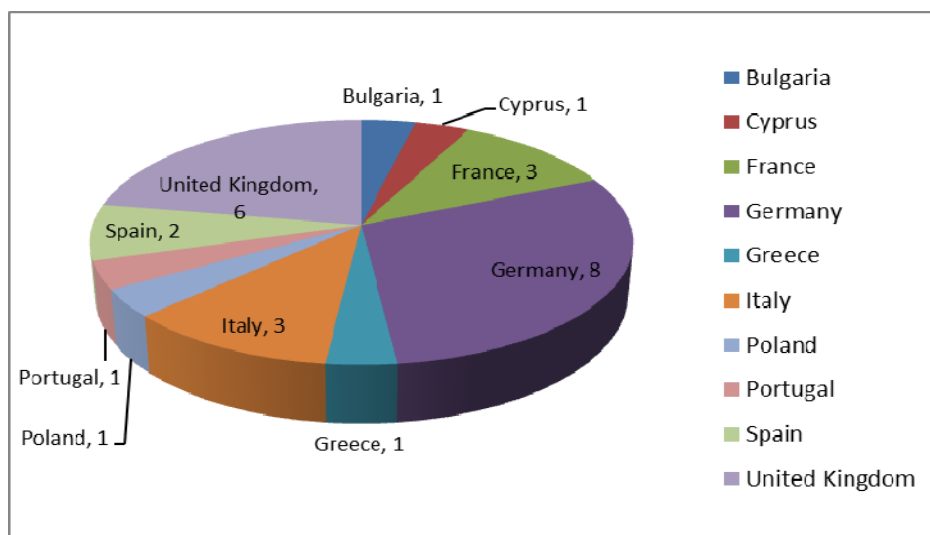
² Regulation (EC) No 513/2011 of the European Parliament and of the Council of 11 May 2011 on credit rating agencies, OJ L 145, 31.5.2011.

³ On 6 December 2010, CESR published a report (ESMA 10/1424) on the application of Article 21(4) of the Regulation No (EC) 1060/2009 and, in particular, on the implementation of the requirements established in Annex I by the credit rating agencies.

II. Introduction

1. This report summarises the work carried out by national competent authorities (NCAs) and ESMA during the registration process and presents the supervisory actions that ESMA has undertaken in the course of 2011 in order to ensure that registered CRAs comply with the standards established in the Regulation. The report informs on other policy activities carried out by ESMA under the Regulation during the same period.
2. In the months following the entry into force of the Regulation in September 2009, credit rating agencies operating in the EU submitted their application for registration or certification to the NCAs of their home member state. By 7 September 2010, 45 legal entities had applied for registration and one for certification⁴. It should be noted that amongst these legal entities were in particular three groups of CRAs (together accounting for 16 legal entities).
3. The NCAs of the home member states and the members of the colleges⁵ have examined these applications in the course of 2011. DBRS, Fitch, Moody's and Standard & Poor's were registered on 31 October 2011, while most of the smaller CRAs had been already registered at that time.
4. At the time of publication of this report, 16 CRAs have been registered and a Japanese CRA has been certified⁶. In the course of 2011, 2 applications have been refused and 4 withdrawn, including a group of CRAs with 9 legal entities. The assessment of 3 applications is still ongoing.
5. Registered CRAs are established in 10 different EU Member States. While 3 registered groups of CRAs have pan-European presence, the rest of the registered CRAs are active locally. The following chart presents the geographical presence of all legal entities registered in the EU.

Distribution of registered CRAs by country of establishment



⁴ See ESMA's annual report according to Article 21 of Regulation (EC) 1060/2009 on CRAs published on 6 December 2010 (ESMA/10-1424).

⁵ The functioning of the colleges is described in section III.II b) of this report.

⁶ The list of registered and certified CRAs is published in ESMA's webpage www.esma.europa.eu.

6. Regarding the types of ratings issued by the registered CRAs, all CRAs except one issue corporate ratings, whereas only 6 CRAs issue credit rating on sovereigns and public institutions and 4 CRAs currently issue credit ratings on structured finance products, and two more CRAs applied for issuing this class of rating.
7. Apart from the groups of CRAs and a medium sized-CRA, the other registered CRAs (10 legal entities) are small-sized entities with less than 50 employees. 7 of these small-sized CRAs applied for the exemption from having independent members in the supervisory board⁷, 5 from establishing and maintaining a separate compliance department⁸ and 5 from the rotation requirements⁹.

III. Registration and certification

III.I. Assessment of completeness

8. The assessment of completeness phase preceded the assessment of the applicants' compliance with the conditions set out in the Regulation. The completeness of the applications was checked against the information detailed in sections VIII and IX of ESMA Guidance on the registration process published in June 2009¹⁰.
9. ESMA provided advice in 2010 that the applications (according to Article 15 (4) ¹¹of the Regulation) were not complete when the first set of documents was submitted to the relevant NCA as part of the application material. Consequently, NCAs required additional information by the end of 2010. In 2011, ESMA provided only one advice on incompleteness for a CRA which subsequently withdrew its application.
10. Generally, NCAs asked several times for additional information during the first and second quarter of 2011 until the applications were considered complete.

III.II. Assessment of compliance

11. This section of the report aims at describing the work carried out by NCAs in their assessment of the compliance of the applicants with the independence, objectivity, transparency and quality standards spelled out in the Regulation. The report describes how the NCAs organized themselves as home competent authorities of stand-alone CRAs or as members of the colleges¹² assessing the applications of groups of CRAs.
12. The Regulation distinguishes two phases in the registration process: i) the assessment of the completeness of the application according to Annex II of the Regulation¹³ ii) the assessment of the compliance of the applicant with the regulatory requirements¹⁴. Most of the NCAs decided to delay the assessment of compliance until the applicants had provided all the information described in Sections VIII and IX of ESMA's Guidance on the registration process (CESR/10-347). On average,

⁷ Section A(2) of Annex I of the Regulation.

⁸ Section A(5) of Annex I of the Regulation.

⁹ Article 7(4) of the Regulation.

¹⁰ ESMA's Guidance on the enforcement practices and activities (ESMA/10-944 of 11 August 2010).

¹¹ As drafted before the amendments introduced by Regulation no (EC) 513/2011.

¹² The functioning of the colleges is described in section III.II b) of this report.

¹³ Article 15 of the Regulation before the amendments implemented by Regulation No (EC) 513/2011.

¹⁴ Articles 16 and 17 of the Regulation before the amendments implemented by Regulation No (EC) 513/2011.

NCAs have requested additional information at least twice before the applications were considered complete.

13. Furthermore, the colleges organised their internal work with the aim of exploiting synergies across applications and ensure consistency in their decisions. Therefore, the facilitators dedicated time to reconcile the different views of the college members on the compliance of the applicants. In the event of continued disagreement among the members of the relevant college on whether to register any applicant of the group, the NCA of the home member state of that applicant would have had to adopt a refusal decision on its registration¹⁵. The functioning of the colleges is described in section III.II b) of this report.
 14. Finally, all NCAs carried out a comprehensive analysis of the compliance of the applicants with the rules of conduct set out in the Regulation in order to mitigate possible conflicts of interest and ensure high quality and sufficient transparency of ratings and the rating process. As a consequence of this thorough revision, CRAs have been compelled to adapt their internal arrangements to meet the standards of independence, transparency and quality imposed by the Regulation. Section III.II d) of this report includes information on the enhancements implemented by CRAs before their registration.
 15. The decision making process on the compliance of the CRA with the Regulation was simplified with the entry into force of the Regulation No (EC) 513/2011 as ESMA was empowered with the exclusive responsibility of registration and supervision of CRAs in the EU, commencing on 1 July 2011. Furthermore, the periods for ESMA to assess the completeness and compliance of the applicants have been shortened in the amended Regulation.
- a. Single entity CRAs: the role of ESMA and the competent authorities of the home member state**
16. Most of the single entities CRAs are small companies with less than 50 employees, specialized in their local markets and issuing a limited number of credit ratings. In the light of the size of these entities, NCAs managed to find the right balance between imposing consistently high standards on all the applications and being proportionate so as to avoid creating barriers to entry into the market for smaller CRAs.
 17. ESMA's CRA Standing Committee acted as a forum of debate where NCAs exchanged their views on the compliance of the applicants. NCAs used internal position papers agreed within the Standing Committee in order to ensure that their decisions on compliance were consistent across applications.
 18. Moreover, consistency was also ensured through ESMA advice to NCAs on the compliance of the applicants with the Regulation¹⁶. ESMA provided advice where it considered it appropriate in order to promote convergence across NCAs to ensure a coherent application of the Regulation. ESMA provided 6 advice papers on single entity CRAs to the relevant NCAs.

¹⁵ Article 17 of the Regulation before the amendments implemented by CRA Regulation No(EC) 513/2011.

¹⁶ Articles 15(6) and 21(1) of the CRA Regulation

b. Groups of CRAs: functioning of the colleges and interaction with ESMA

19. The Regulation provided that colleges had to be established in cases where i) CRAs have set up branches in another EU Member State, ii) the use for regulatory purpose of credit ratings has been widespread or likely to have an impact on another member state, or where iii) NCAs have decided to participate in the college. Every college selected a facilitator to lead the college's work.
20. For the groups of CRAs, NCAs focused the assessment of compliance on the same concrete areas across the applications with the aim to ensure consistency in the three colleges' decisions. More concretely, the assessment of compliance within the colleges was split into six main areas: general organisation and governance, internal controls, business activities and resources, conflicts of interest, rating process and methodology, disclosures, and endorsement.
21. The facilitators chaired the meetings of the colleges, coordinated the work of members of the college, centralised communications with the applicants and ESMA and exchanged information among members of the college. Written coordination arrangements governing the functioning of the colleges were signed by all college members.
22. ESMA's participation as an observer in the colleges facilitated its provision of advice¹⁷. ESMA provided advice in cases of disagreement among members of the college or where colleges formally asked for ESMA's view regarding the compliance of the applicants with certain provisions. Furthermore, ESMA's pro-actively included in its advice suggestions regarding the criteria that the applicants should meet in order to comply with the Regulation with the aim to enhance the coherence across colleges' decisions. ESMA provided 4 pieces of advice to colleges.
23. Finally, where college members had different views on the compliance of the applicants, ESMA arranged meetings and drafted position papers on a variety of issues to facilitate agreement between college members toward common positions.

c. Main compliance issues in the course of the registration process

24. In the course of the registration process, CRAs were requested to adopt additional measures to be in compliance with the Regulation. Indeed, CRAs have undertaken organisational changes and increased their human resources, especially in the compliance and review teams. Many existing policies and procedures have been redrafted and new ones have been adopted. CRAs have implemented proper control mechanisms and developed IT systems for the new arrangements.

d. Organisational requirements

25. The suitability of the members of the CRA's supervisory/administrative boards was scrutinized by NCAs. CRAs provided curriculum vitae, criminal records and/or self-declarations of good repute to show that the members of the senior management have skills and experience in financial services¹⁸, and that the members appointed as experts in structured finance instruments have the knowledge and experience in structured finance markets and products¹⁹. NCAs carefully assessed the

¹⁷ Articles 16(6) and 21(1) of the CRA Regulation.

¹⁸ Section A(2) of annex I of the CRA Regulation.

¹⁹ Section A(2) of annex I of the CRA Regulation.

independence²⁰, knowledge and experience of the independent directors given the particular governance tasks conferred to them under the Regulation²¹.

26. Most NCAs have interviewed the independent directors. Following such an interview, one large-sized CRA appointed a new independent director, in the course of the registration process.
27. In cases where subsidiaries of groups of CRAs applied for the exemption from having at least one third but no less than two independent members in their board²², NCAs verified that at least two independent directors were present in one of the subsidiaries established in the EU. Where the exemption has been granted, NCAs paid special attention to the quality of the internal control system and the appropriateness of the procedures for the identification, elimination and management of conflicts of interest.
28. As explained above, CRAs, regardless of their size, made changes to their internal organisation in order to comply with the organisational requirements of the Regulation. CRAs have increased the resources employed by the internal governance functions and reinforced the reporting lines so as to ensure that the senior management of every applicant in the EU receives adequate information on a timely basis and that the independent directors in particular receive appropriate information in order to carry out the specific monitoring tasks that the Regulation confers to them²³.
29. Certain functions carried out in the EU entities of the groups of CRAs, such as compliance, review and internal audit/control functions, are supported by global group functions established at a worldwide level. In such cases, the applicants established intra-group service level agreements (“SLA”) covering the need to perform all required tasks for the EU entities in line with the relevant policies and providing the necessary resource to the activity.
30. Regarding the compliance function, CRAs were required to appoint a compliance officer based in the EU, operationally and hierarchically independent from the business lines. CRAs have developed a compliance annual plan setting out the activities that the compliance officer has to carry out in line with the tasks legally assigned to this function.
31. Where the applicants had applied for the exemption from establishing and maintaining a compliance function department²⁴, they implemented measures to ensure effective compliance with the objectives of the Regulation. For instance, single CRAs applying for the exemption have typically allocated the responsibilities of the compliance officer to a member of the supervisory board (in general, an independent member). In case of groups of CRAs, generally, the revision of entities applying for the exemption has been included in the compliance work plan of other EU CRAs belonging to the same group and the reporting lines to the senior management have been reinforced.
32. The review function has been arranged differently across applicants depending on their size and the complexity of their activities. Certain small CRAs use external experts to revise their credit rating

²⁰ NCAs have referred to the Commission Recommendation 2005/162/EC of 15 February 2005 as the framework to test the independence of the appointed directors.

²¹ Section A.2(d) of Annex I of the CRA Regulation.

²² Article 6 (3) of the CRA Regulation.

²³ Section A.2(d) of Annex I of the CRA Regulation.

²⁴ Section A(5) of Annex I of the CRA Regulation.

methodologies. If that is the case, the selection process has been formalised and structured in a way that ensures the selection of experts of adequate knowledge and experience. In addition, CRAs have made sure that they internally retain the control on the tasks assigned to the review function. Larger CRAs, where multi-level committees are commonly used to approve changes in the credit rating methodologies, have amended their internal policies and procedures, to ensure that all the voting members of the committees, at any level, are independent from the credit rating activities.

33. Finally, with respect to outsourcing of important operational functions such as rating review, lead analyst, rating methodology development and review, rating approval, internal quality control, data storage, IT systems, IT support and accounting, CRAs have made sure that the outsourcing arrangements do not impair either the ability of ESMA to supervise the compliance of the CRA with the Regulation, or the effectiveness of the CRA's internal control mechanisms. The CRAs ensured that regular controls are implemented and appropriate reporting to the senior management is in place.

e. Operational requirements

34. NCAs have paid special attention to the compliance of the applicants with the conflicts of interest provisions. CRAs have adjusted their policies and procedures in order to ensure that conflicts of interest are periodically identified. Typically, CRAs have established procedures for the maintenance and approval of a list of identified actual and potential conflicts of interest. The responsibilities have been allocated in a way that senior management is involved in periodic identification process.
35. Regarding the disclosure of conflicts of interest, CRAs have undertaken measures to disclose the potential conflicts arising from the interests that their shareholders may have in rated entities, including, the affiliations of the CRA directors with rated entities. Furthermore, CRAs modified their procedures on the review of the relevant work of an analyst who terminates his or her employment and joins a rated entity, so that the CRAs announce in a timely manner to the public the scope of credit ratings potentially affected by a possible conflict and clearly inform the public about the reasons for changing or confirming a credit rating after the rerate, if applicable.
36. As regards conflicts concerning analysts and other persons directly involved in credit rating activities, CRAs have adopted measures to prevent analysts from participating in issuing credit ratings where they may be conflicted because they own securities or have other relevant interests. Furthermore, certain smaller CRAs have reallocated responsibilities and modified their internal organisation in order to ensure that the employees involved in rating activities do not initiate or participate in negotiations regarding fees.
37. CRAs have adopted new mechanisms to prevent, manage and disclose potential conflicts linked to the performance of other activities carried out alongside the issuance of credit ratings, including research and distribution of credit data analysis. CRAs have organisationally and operationally separated rating activities from other businesses through IT firewalls and Chinese walls as well as established separated reporting lines. Regardless of whether the ancillary services are provided by the applicant CRA or another entity within its group, the CRAs procedures have been reinforced during the registration process in order to enhance the safeguarding of confidential information and deal with the potential conflicts of interest created by the provision of these services.

38. In particular, in respect of credit assessments or preliminary rating services, CRAs have introduced different formats to record meetings with clients, i.e., taping telephone conversations or physical presence of the compliance officer in order to prepare minutes of the meeting.
39. Finally, regarding the rotation mechanism, most of the small-sized CRAs and certain subsidiaries of the 3 groups of CRAs applied for the exemption from complying with the rotation mechanism²⁵. A large CRA has modified its rotation mechanism for structured finance products.
40. Where the exemption from complying with the rotation provisions has been granted²⁶, NCAs have paid special attention to the measures put in place by CRAs that ensure the quality, integrity and thoroughness of the credit rating process. This specifically applies to the procedures regarding the composition of the rating committee.

f. Credit Rating methodologies and rating process

41. The rating process has been subject to thorough examination by NCAs to ensure that CRAs issue independent and objective credit ratings of adequate quality. In cases where a rating committee approves credit ratings, CRAs have been asked to amend their policies and procedures so as to ensure that the approval of credit ratings within rating committees is assisted, and if needed challenged, by the presence of an appropriate level of diversity and plurality of opinions, skills and expertise. External consultants or experts participate in the rating approval in certain smaller CRAs. In these cases, special attention has been paid to the compliance with the conflicts of interest and confidentiality rules.
42. The ongoing monitoring and annual review of ratings has been scrutinised by NCAs. CRAs have adjusted their procedures so that, where ratings are not directly reviewed by rating committees, the annual revision is at least signed off by a senior manager different from the lead analyst responsible for the elaboration of the rating.
43. With respect to the credit rating methodologies, CRAs have reinforced their procedures to ensure that rating methodologies, including key assumptions and quantitative and qualitative criteria, are validated (ex-ante) and reviewed (ex-post) through appropriate forms of back-testing. The back-testing procedures were expected to identify the kind of tests to be carried out, allocate responsibilities for the performance of the tests and the analysis of the results and determine the process to report the results to ensure that they are taken into account in the credit rating methodologies.
44. Finally, following the compliance assessment carried out by NCAs, rating outlooks and credit watches have been covered in CRAs policies and procedures in a similar manner to credit ratings so that they are based on information which is relevant, reliable and of sufficient quality. Rating outlooks and credit watches must be signed-off by senior staff of the CRA, regularly monitored and reviewed and disclosed in accordance with the same requirements that apply to credit ratings²⁷, including the 12-hours notice period ahead of their publication.

²⁵ Article 7(4) and Section C(8) of Annex I of the CRA Regulation.

²⁶ Article 6(3) of the CRA Regulation.

²⁷ Section D of Annex I of the CRA Regulation.

IV. Supervision and resources

45. The amended Regulation confers all supervisory powers in the field of CRAs to ESMA (as of 1 July 2011) and stipulates that within two years, ESMA shall conduct at least one verification of all credit rating agencies falling under its supervisory competences²⁸.
46. The supervision of CRAs will be executed according to an internal risk assessment that is based on various information sources, including market intelligence by ESMA's CRA Unit and other departments within ESMA, CEREP, the periodic data reported to ESMA, the registration process²⁹, and the exchange of information and cooperation with NCAs or non-EU Authorities.
47. ESMA's investigatory powers consist of both on-site inspections and desk-based reviews and assessments. Desk-based supervision consists of the analysis of the periodic information which CRAs submit to ESMA according to ESMA's Guidance on the enforcement practices and activities³⁰. This Guidance will be superseded by the entry into force of the Regulatory Technical Standards on the content and format of ratings data periodic reporting to be submitted from credit rating agencies³¹, which ESMA has to submit to the European Commission for adoption by 2 January 2012³².
48. Furthermore, ESMA has evaluated any changes made during the registration process most commonly, changes in methodologies and the ownership structure. When necessary, CRAs have been requested to provide ESMA with further explanations on its compliance with the Regulation.
49. Finally, ESMA has carried out first on-site inspections that were combined with previous and subsequent desk-based investigations. ESMA intends to publish a report on its general findings of the first onsite inspections at the end of the first quarter of 2012.
50. As part of the supervision mandate conferred to ESMA by the Regulation, ESMA will also request CRAs to submit ongoing information on their ratings activity. To support an efficient, standardised and secure treatment of this data, ESMA is developing, for the sole purpose of internal supervision, the Supervision of CRAs Tool (SOCRAT). The tool will facilitate the processing of such data in a standard and automatic manner and support ESMA CRA Unit in the conduct of the supervisory activities.
51. It is clear that European financial supervision and in particular CRA supervision will continue to be a high priority and therefore a sufficient level of funding should be ensured. The CRA portion of ESMA's budget for 2011 had been calculated by taking a per head estimate of the budget; i.e. there will be 15 people in the CRA team, which is approximately 14.5% of the overall staff in 2011. Including IT costs for CRA supervision tools (e.g. SOCRAT) and specific supervision expenditure, this adds up to an amount of approximately 3,000,000€. This budget does not take into account the costs for possible delegation of tasks to national competent authorities.

²⁸ Article 40a of the CRA Regulation.

²⁹ ESMA has actively been involved in all the registration processes. Furthermore, in general, NCAs have suggested to ESMA areas for supervision in their fully reasoned decisions. Finally, all registration files have been transferred to ESMA according to 40a (2) of the CRA Regulation.

³⁰ ESMA's Guidance on the enforcement practices and activities (ESMA/10-944 of 11 August 2010).

³¹ Available on the ESMA website at http://www.esma.europa.eu/system/files/2011_464.pdf.

³² Article 21(4) of the CRA Regulation

52. As at December 2011, ESMA's CRA Unit consists of 12 officers. There are still various vacancies (for temporary agents, contract agents and seconded national experts of national competent authorities or other public bodies) to increase the team to the planned 15 and to cover all professional skills and expertise needed to deliver effective supervision. The CRA Unit is due to grow towards 20 officers by the end of 2012.
53. Following the publication of the CRA III proposal on 15 November 2011 by the European Commission³³, ESMA staff started an assessment of the potential staffing requirements to prepare for immediate implementation once the amended Regulation enters into force.

V. CEREP

54. ESMA has successfully established a Central Repository (CEREP) where all registered and certified CRA make available information on the historical performance of their ratings. The purpose of CEREP is to improve transparency and to contribute to the protection of investors by providing consistent information on the performance of CRAs' ratings. This includes data on the transition frequency of ratings, occurred defaults and overall information on the credit ratings issued.
55. In the course of the year, ESMA has finalised the establishment of the CEREP platform and assisted CRAs in the submission of historical data to CEREP. The reporting of ratings data to CEREP has followed the standardised form defined in ESMA Guidelines on the implementation of the CEREP³⁴. With the completion of CEREP testing exercise and the reporting to the CEREP platform, all CRAs registered and established in the EU (as of 1 November 2011) and all certified CRAs³⁵ (as of 1 November 2011) have reported to CEREP historical ratings data on 10 years of activity (if applicable) in accordance with CEREP reporting standards.
56. In addition, ESMA has drafted Regulatory Technical Standards (RTSs) on the information, including structure, format, method and period of reporting, that CRAs are obliged to disclose for CEREP³⁶. In preparing the draft RTSs, ESMA has considered the existing CESR's Guidelines for the implementation of the CEREP whilst enhancing its content with additional information on the structure, format, method and period of reporting. For further information on ESMA's policy activity, please refer to Section VI of this report.
57. The CEREP will be made publicly available in January 2012. The CEREP website will display rating performance statistics for public access by all interested parties. All registered and certified CRAs will continue reporting to CEREP every 6 months (in April and October). CEREP will update rating performance statistics reflecting the new data disclosed by the CRAs.

³³ Available on the European Commission website at

http://ec.europa.eu/internal_market/securities/docs/agencies/COM_2011_747_en.pdf.

³⁴ CESR Guidelines on the implementation of the CEREP (Ref. CESR/10-331) dated 4 June 2010.

³⁵ CRAs certified according to Article 5 of the CRA Regulation.

³⁶ Article 21(4) of the CRA Regulation. Available on the ESMA website at http://www.esma.europa.eu/system/files/2011_461.pdf.

VI. Policy

58. ESMA has been very active in policy development in the course of 2011, following the mandates for ESMA in the amended Regulation³⁷.
59. The Guidelines on the application of the endorsement regime³⁸ were published on 18 May 2011 after a consultation process which started with a call for evidence in January 2011. In this way, ESMA complied with Article 21(3) of the Regulation. Additionally, ESMA has worked on Guidelines on the cooperation between ESMA, the NCAs and the sectoral competent authorities as mandated under Article 21(2) of the regulation.
60. In May 2011, ESMA provided to the Commission its technical advice on technical aspects of the future Regulation on fees for CRAs which will be considered shortly by the European Commission³⁹.
61. Finally, ESMA has been given the responsibility to draft Regulatory Technical Standards (RTSs) on the following subjects:
 - Information to be provided by credit rating agencies for applications for registration and certification and the assessment of the systemic importance of CRAs applying for certification⁴⁰;
 - The presentation of the information that CRAs must provide so that ESMA implements CEREP⁴¹;
 - The assessment of the compliance of the rating methodologies with the requirements set out in the Regulation⁴²;
 - The content and format of ratings data periodic reporting from CRAs to ESMA⁴³
62. ESMA has conducted an open public consultation and cost-benefit analysis on the concerned draft RTSs and requested the opinion of the Securities and Markets Stakeholder Group and the other two European Supervisory Authorities, EBA and EIOPA. The RTSs have been submitted by end 2011 for further adoption by the European Commission.
63. For the coming years, ESMA expects to feed the information it gathers in its supervisory and risk analysis activities into the development of supervisory guidance and comply with any potential mandates to draft RTSs under the upcoming amendments of the Regulation.
64. The recently established Technical Committee on CRAs has been mandated to provide advice to ESMA on policy decisions regarding CRAs, more concretely, technical advice to the Commission, guidelines and recommendations concerning policy in the area of CRAs, technical standards or any other policy issue on which advice is requested.

³⁷ Article 21 of the CRA Regulation.

³⁸ Guidelines on the application of the endorsement regime under Article 4(3) of the CRA Regulation No 1060/2009 (ESMA 2011-39) 18 May 2011.

³⁹ ESMA's Technical Advice to the Commission on Fees for CRAs (ESMA/2011-144) 17 May 2011.

⁴⁰ Available on the ESMA website at http://www.esma.europa.eu/system/files/2011_463.pdf.

⁴¹ Available on the ESMA website at http://www.esma.europa.eu/system/files/2011_461.pdf.

⁴² Available on the ESMA website at http://www.esma.europa.eu/system/files/2011_462.pdf.

⁴³ Available on the ESMA website at http://www.esma.europa.eu/system/files/2011_464.pdf.

VII. Endorsement and equivalence

65. Article 4 (3) of the CRA Regulation provides that in order for a CRA to endorse a credit rating issued in a third country, the regulatory framework of the third country should set requirements “as stringent as” those provided by Articles 6 to 12 of the CRA Regulation. Moreover, Article 4(3) also requires that there is an appropriate cooperation arrangement between ESMA and the relevant competent authority of the credit rating agency established in the third country.
66. 4 registered CRAs applied to endorse credit ratings issued in third countries. A subgroup of the former Standing Committee of ESMA assessed third countries from which CRAs have indicated their intention to endorse credit ratings^[1] enabling Colleges to decide on whether these CRA regimes are as stringent as the one in the EU. From 1st July 2012, ESMA became more and more involved in the assessment of regimes in third countries
67. ESMA notified in a press release issued on 31 October 2011 that at that point only the regulatory framework applicable to CRAs in Japan was recognised to be in line with the requirements of the CRA Regulation. Any further decisions on endorsable third countries will be disclosed on ESMA’s webpage. On 21 December 2011, ESMA announced that Australian regime has also been assessed as “as stringent as” the EU requirements.
68. Given the ongoing recognition process of other third countries, a transitional period of three months (until 31 January 2012) had been granted and was extended recently by a further three months to 30 April 2012. This transitional period will allow market participants to continue using in the EU credit ratings issued in third countries, while the convergence assessment with the CRA Regulation requirements continues.
69. The Technical Committee on CRAs will act as an advisory body to ESMA regarding the assessment of whether a third country regime is “as stringent as” the EU requirements, and the establishment of cooperation arrangements with third country regulators and agreements on exchange of supervisory information with other authorities or public bodies, whether established in the EU or in third countries.
70. Finally, ESMA’s work on the assessment of the equivalence of third country CRA regimes for the purpose of certification⁴⁴ has continued in the course of 2011. However, no technical advice on equivalence has been provided to the Commission in this period.

^[1] Please, refer to ESMA’s press release of 31 October 2011 for a list of the third countries that were indicated by CRAs when applying for registration.

⁴⁴ Article 5 of the CRA Regulation.