

European Securities & Markets Authority
European Banking Authority

February 18th, 2013

ESMA consultation

Guidelines and recommendations on the scope of the CRA Regulation

Af2i, the French Association of Institutional Investors ¹ welcomes the ESMA consultation about guidelines and recommendations on the scope of the CRA Regulation for these institutions are important actors in the risks assessment process for the investment and credit industries.

Af2i members are important users of CRAs used inside especially their bond portfolios which represents in average 70% of their portfolios.

So a new regulation has to clarify and secure the credit rating activities in one hand and to allow them to issue smart and useful ratings in the other hand.

Besides CRAs are worldwide actors providing notations about worldwide issuers to investors and creditors in the whole world through every kind of media including the net without any consideration about any local regulation. A credit rating is a piece of information which circulate as any piece of information, but the use of rating for regulatory purposes might be strictly regulated.

Obligation to register

Q1. Do you agree with the approach set out above on the obligation to register?

Q2. What may be alternative/additional criteria to require registration and certification

¹ Af2i is the French Association of Institutional Investors, created in 2002 to represent the different families of Institutional Investors (insurance companies, pension institutions, foundations, corporate, special institutions (Caisse des Dépôts, FRR) etc., to promote institutional asset management techniques, to organize training and transmission of best practices. Af2i wish also to defend interests of his members in France and in Europe.

Af2i meet 76 major institutional investors as members representing more than 1.6 trillion € of assets under management and 60 asset management companies or providers as associate members.

Each year, Af2i realize a survey on investment and assets.

Yes, we agree to the approach set out above on the obligation to register for regulation or regulation compliant purposes. Nevertheless, it will be difficult to forbid someone outside the EU, even a non-EU-regulated CRA, to give a credit opinion of a European State, a public or private entity. It will not be a credit rating, in an EU regulatory sense, but this opinion may have the same consequences on the financial market.

We still think that the EU agreement should be given by specific agreements concerning different sectors of the economy, thus forcing the main CRAs to declare their universe of skills and allowing specialized CRAs to be launched for more competition.

The EU agreement should be a compulsory disclosure for CRAs.

Credit rating activities Exemptions from registration

Q3. Do you agree with the explanation of credit ratings provided in this document?

We agree with the proposed guidelines that the CRA regulation should include quantitative and sufficient qualitative analysis.

Q4. Do you believe that the intervention of rating analysts in the assessment of the relevant information is the key element to distinguish credit ratings from credit scorings?

Of course the intervention of rating analysts in the assessment is a key element to distinguish credit ratings from credit scorings, as soon as this intervention is disclosed.

Private ratings

Q5. Do you agree with the explanation of private ratings provided?

We agree with the opinion that a private rating activity has to be limited to a small number of subscribers and third parties on a strictly confidential basis, even if difficult to enforce.

Establishment of branches outside the Union by registered credit rating agencies

Q6. Do you agree with the approach taken in the text above regarding the establishment of branches of registered credit rating agencies outside the Union?

Q7. Do you agree that credit rating agencies should demonstrate that there is an objective reason to conduct certain credit rating activities in branches established outside the Union?

Q8. Do you agree that ESMA's capacity to deliver effective supervision would be impaired where credit rating agencies conducted entirely or prevalently important operational functions, and in particular credit rating activities, in branches out-side the EU?

We do agree with the general concern of the enforcement of the EU regulation on CRAs, but we should consider that the main CRAs are established or might be established outside of the Union.

Of course, nobody can imagine that CRAs could issue different ratings from different places on the same issuers. This is a matter of recommendations.

CRAs may have to demonstrate that there are objective reasons to conduct some activities outside the Union.

The ESMA enforcement capacity is obviously limited by the world wide role and activities of CRAs.

Specific disclosure best practice

Q9. Do you agree with the disclosure best practices indicated above and with their remit?

Q10. Do you agree that credit scoring firms and export credit agencies that distribute their products to the public in EU should consider ESMA's suggested disclosures that such scores or ratings are not issued in accordance with the CRA Regulation?

Q11. Do you agree with ESMA recommendations that the credit scoring firms and ex-port credit agencies retain full responsibility for the disclosure indicated above when their scores or ratings are distributed to the public in the EU via agreement with third parties?

Yes we agree with the disclosure best practices indicated and with their remit and we generally approve any kind of clarifying provision.

We also agree that issuers of credit ratings or credit scorings retain full responsibility when distributing their ratings or scorings through agreements with third parties.

Enforcement of scope of the CRA Regulation

Q12. Do you agree that ESMA should take action to prevent any entity from abusively distributing credit ratings in the EU?

The Af2i association agrees with the provisions allowing the ESMA to take action to prevent any entity from abusively distributing credit ratings in the Union.

If you need further information, please do not hesitate to contact us.

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