

27th April 2011

Moody's Investors Service ("**MIS**") response to ESMA's consultation paper:

Technical Advice to the Commission on fees for CRA Supervision

Ref: ESMA/2011/114

MIS's RESPONSES TO ESMA'S QUESTIONS

Q1: Do you agree with ESMA's preferred option to raise a periodic supervisory fee? Do you agree with the proposed fee calculation method to ensure that the fee is proportionate to the turnover of the CRA?

MIS recognises the benefits of a simple metric for charging supervisory fees. MIS does not object that the periodic fee should be proportionate to the turnover of the EU registered CRA. MIS also does not object to the calculation method based on "the ratio of the CRA's applicable turnover to the total applicable turnover of all registered CRAs" (paragraph 11 of the consultation paper).

Q2: Do you agree that the minimum supervisory fee is charged regardless of the annual turnover of the CRA? Do you agree that this fee amounts at least around 2,000 - 5,000 euros?

MIS agrees to a minimum fee level to recognise a minimum level of supervisory activity in relation to a registered CRA. MIS does not have a view on the appropriate fee amount.

Q3: In case that audited revenues are not available, what should be the basis for calculation of the supervisory fees?

MIS would support using audited turnover figures to set the periodic fee. MIS does not support an obligation to produce interim audited accounts for the last calendar year in time to allow the fee calculation to be made by March each year as proposed in option 2 (e.g. 2011 revenues to calculate 2012 fees). Instead, MIS would propose that ESMA make an initial assessment of fees based on the unaudited revenue figures published in a CRA's annual transparency report as required under Annex 1, Section E III of Regulation (EC) No 1060/2009 on Credit Rating Agencies. An adjustment of the fee levels should then be made at the time of the last instalment of fees when the prior year's audited accounts should in most cases be available. See also response to question 8.

MIS does not have a view on the proposal for levying fees for CRAs without audited accounts as set out in option 1.

Q4: Do you agree that a flat fee for certification applications is established? Do you agree that the fee amounts around 2,000-15,000 euros?

MIS does not have a view on the appropriate fee amount.

Q5: Do you agree that an annual flat supervisory fee for certified CRAs is established? If the CRA is certified during the course of the year, do you agree to charge this supervisory fee on a pro-rata basis? Do you agree that the fee is set at a level close to the amount of the minimum supervisory fee?

MIS does not have a view on the appropriate fee amount.

Q6: Do you agree with the criteria ESMA is considering for establishing the fee bands (i.e. type of credit ratings (structured finance instruments), existence of branches and use of endorsement)? Do you agree with the criteria ESMA is considering to establish the exact fee amounts within the bands (i.e. number of employees)?

MIS does not have a view on the appropriate fee bands.

Q7: Do you agree that the registration fee is partly reimbursed in case of withdrawal of the application? Do you agree with the reimbursement proportions which ESMA is considering for its advice?


MIS does not have a view on the appropriate level of reimbursement.

Q8: Would you be in favour that the supervisory fees are paid in one single payment per year (option 1) or in two payments per year (option 2)? Would you agree with the proposed dates?

MIS supports the payment of fees by instalment. As the annual transparency report is only published at the end of March each year, MIS would propose that fees are paid half yearly in June and December at the rate of 50% per half year with the second instalment being used to adjust fees paid following receipt of final audited revenues for the preceding year. Please refer to question 3 for more information.

ADDITIONAL POINT

MIS notes, with reference to section VII of the consultation paper, that the proposal to levy fees in 2011 appears to be a change in the policy as recorded in the Frequently Asked Questions – A Guide to Understanding ESMA which was published on 3rd January 2011. The Guide states: “The costs of implementing the CRA Regulation will be financed via industry fees and levies from 2012.” In the event that ESMA does charge fees in 2011, MIS would note that the first supervisory fee payment to ESMA by a CRA should relate to the period from 1st July 2011, or the date of registration whichever is later, and 31st December 2011 on a pro-rata basis as there would be no basis for charging such fees until a CRA is registered and supervisory responsibility passes to ESMA.



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