

Paris, August 27th 2004

Dear Mr. Secretary General,

The CESR. just launched a call for evidence on credit rating agencies, so as to determine the items to be considered in the advice it must provide to the European Commission by April 1st 2005.

This advice, which will form the subject of a second consultation, will have to focus on the four following areas :

- Handling of potential conflict interests within rating agencies ;
- Transparency of rating agencies' methodologies ;
- The legal treatment of rating agencies' access to inside information; and
- Concerns about the possible lack of competition in the market for provision of credit ratings.

The four areas mentioned in the call for evidence are major interest topics for issuers. In particular, besides a clarification of the conduct to be applied and the modes of market supervision, issuers lend importance to the relationships with the rating agencies and to the quality of the information delivered to the market.

In these domains, AFEP wish that the CESR work also enable to better define the framework of the relationships between rating agencies and issuers –agencies' access to information, formalization of relationships – and to ensure an appropriate and regular market information, regarding the methodologies as well as the ratings themselves. These different topics are developed hereunder.

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Ensure transparency concerning the methodologies and their changes

Issuers wish that the scope of work includes for the *previous communication of the methodologies used to market participants as well as to issuers. It is important that all market participants, and not only issuers, can understand how rating agencies restate the figures they give them* (§ 3.3.2. of the call for evidence), *the agencies' methodologies and their changes.*

Complete the formalization of the relationship between agencies and issuers

It is advisable to *encourage the organization and formalization of the relationship between agencies and issuers*, by clarifying the modes of communication, the decision and ratings' update process, and considering the possibility of an appeal procedure before the rating agency.

Within this framework, several issues are worth considering in the CESR advice.

For agencies' opinions to be well informed (« informed opinions », according to IOSCO principles - September 2003 ; § 2.1.), *it is desirable that the issuers can review, prior to public release, the accuracy of the elements underlying the opinion or the change in the opinion.* It should be emphasized that an issuer should in no case be required to carry out such a review.

Moreover, the *access to inside information* might be covered by *confidentiality agreements or mutual understandings* (as mentioned by IOSCO; § 2.1).

As pointed out by CESR, it is necessary to make sure that such information is not inadvertently disseminated, selectively disclosed or misused (§ 3.3.1).

Lastly, in conformity with the European Parliament resolution, it would be *advisable that the CESR work explicitly consider the possibility of an appeal procedure before the agencies.* Such a procedure is *likely to clarify the decision process applied by the agencies, and thus improve the quality of the information delivered to the market* (in this sense, § 1.1. "European Parliament Resolution on role and methods of rating agencies).

Regularly review the ratings and inform the market

A regular review of the ratings and an appropriate communication are necessary for a good market information. Thus, it is important that CESR examine the modes of full rating review and of market information.

In this respect, as recommended by the associations of corporate treasurers (§ 6.2), a *full review* should be carried out *at least once a year* by the rating agency, in relation with the issuer. Moreover, *the date of the last full review and the date when a rating was last updated should be disclosed.*

Consider the appropriateness of an all agencies' access to issuer information

According to the call for evidence, the technical advice must consider « the need for all rating agencies to have access to the same information from companies (rating agency data room).” (§ 3.3.).

It is advisable to consider the appropriateness, and, if the need arises, the conditions of an “all agencies’” access to issuer information. In particular, before proposing such a principle, five important factors should be carefully considered:

- *The existence of unsolicited ratings ;*
- *The use by rating agencies of specific methodologies ;*
- *The risks related to the access to and the use of non public information ;*
- *The handling of potential conflicts of interest or management of such conflicts ;*
- *As mentioned before, the need to organize ongoing or regular exchanges of views with the agency (different from the exchanges relating to specific transactions), in particular, the rating assumptions and fundamental determinants, as indicated in the call for evidence.*

I remain at your disposal for all further information required,

Best regards,



Jean-Charles SIMON

Director