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Bundesverband Investment
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Mr. Carlo Comporti
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- 1. Guidance on the Enforcement Practises and Activities to be Conducted under Article 21.3 (a) of the Regulation – Ref.: CESR/10-536**
- 2. Guidance on Common Standards for Assessment of Compliance of Credit Rating Methodologies with the Requirements set out in Article 8 (3) – Ref.: CESR 10-537**

Dear Mr. Comporti,

BVI¹ is grateful for the possibility to comment on the two consultations mentioned above.

Ad 1:

The consultation describes the means of interaction with the credit rating agencies (CRAs), including regular information requests, which shall be available to CESR members in order to assess the CRA compliance with the regulation. The means described in the consultation seem to be sufficiently detailed in order to allow the competent authorities to fulfil the task at hand.

However, we would like to make one additional comment with respect to the scope of the enforcement of the regulation. We strongly suggest that the

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¹ BVI Bundesverband Investment und Asset Management e.V. represents the interest of the German investment fund and asset management industry. Its 85 members manage currently assets of nearly EUR 1.7 trillion both in mutual funds and mandates. For more information, please visit www.bvi.de

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competent home state authority of a CRA as part of its enforcement practice should also review the ancillary activities of each registered CRA. The consultation is lacking in this aspect as it focuses entirely on the meetings and the collection of operational data for the sole purpose of evaluating the credit rating activities of a CRA.

The broadening in the scope of enforcement activities is necessary because EU law and regulation continues to require the use of CRA ratings in a number of situations. The provision of rating requirements in regulation establishes effectively at a minimum a CRA oligopoly and sometimes even a monopoly. As a result CRAs have acquired nearly unlimited pricing power for their products and services in the area covered by regulation. A case at point are the three large CRAs which are accepted as ECAI under the Capital Requirements Directive. Credit institutions and other users of ECAI ratings are in practice required to subscribe to all ECAI rating data delivery services in order to be able to fulfil the CRD requirements in their client or regulatory reporting. The excessive price increase on ratings data delivery contracts we have seen in the recent past clearly demonstrates that the CRAs are using their power to excessively boost their total revenue take.

CESR members should be aware of such business practices used to advance ancillary business besides CRA activities and properly address them in their enforcement activities.

Ad 2.:

We welcome the comprehensive guidance on Common Standards for Assessment of Compliance of Credit Rating Methodologies with the Requirements set out in Article 8(3) paper and have no additional comments on this consultation.

Please feel free to contact us with any questions or comments. Our position can be made public.

Yours sincerely

BVI Bundesverband Investment und Asset Management e.V.

Signed: Rudolf Siebel LL.M

Signed: Marcus Mecklenburg