ASSEKURATA
TRANSPARENZ. ORIENTIERUNG. SICHERHEIT.

Comments on CONSULTATION PAPER

Guidance on Registration Process, Functioning of Colleges, Mediation Protocol, Information set out in Annex II, Information set for the application for Certification and for the assessment of CRA´s systematic importance

General remarks on the Consultation Paper

Assekurata hereby tries to answer as many questions as possible. We do that according to the question numbers set out in the consultation paper:

Furthermore we like to refer to our comments on the pre-consultation paper on the "Guidance on the information set out in Annex 2" dated on the 5th of august 2009.

Q 1: We do not envisage any significant problems with this approach.

Q 2: This approach is not applicable for Assekurata.

Q 3: This approach is not applicable for Assekurata.

Q 4: Assekurata agrees with the proposals for the language regime.

Q 5: Assekurata agrees with this approach.

Q 6: Assekurata agrees with this approach.

Q 7: This approach is not applicable for Assekurata.

Q 8: Assekurata agrees with this approach in general though it may depend on the type of additional information required by the competent authority whether 15 working days are sufficient.

Q 9: Assekurata agrees with this approach.

Q 10: Assekurata agrees with this approach.

Q 11: Assekurata agrees with this approach in general. We anticipate some problems in detail: If for example the home competent authority is nominated rather late in the ongoing certification process it will be very difficult for a small CRA to react, if specific exemptions are not granted.
Particularly the constitution of an administrative or supervisory board is not possible if it hasn´t been existing before.

Q 12: Assekurata agrees with this approach.

Q 13: In general CESR should give guidance about the transparency of the registration procedure: One of the main goals of the regulation is transparency!
1) The competent authority of the home member state should definitely publish the decisions – but only the fact, that a decision was made and the individual consequences, none of the internal information.
2) The competent authority should give full information and explanation for any decision made to the Commission, CESR and the applicant. But this type of information should not be disclosed to the public.

Q 14: Assekurata is not able to answer Q 14. From our point of view every significant change in circumstances with influence on the initial reasons for making a positive decision to register a CRA should be submitted to the home competent authority. An idea of the exact circumstances is only realistic by knowing the above mentioned reasons.

Q 15: Assekurata does not envisage endorsement.

Q 16: Assekurata does not envisage endorsement.

Q 17: Assekurata agrees with this approach.

Q 18: Despite the answers given to Q 15 and Q 16 Assekurata would be very interested in having a list of those third-country CRAs. Furthermore Assekurata considers it as necessary that such a list will be published.

Q 19: Assekurata does not deal with third-country CRAs so we are not able to comment this question.

Q 20: Assekurata does not deal with third-country CRAs so we are not able to comment this question.

Q 21: Assekurata does not deal with third-country CRAs so we are not able to comment this question.

Q 22: Assekurata does not deal with third-country CRAs so we are not able to comment this question.

Q 23: Assekurata does not deal with third-country CRAs so we are not able to comment this question.

Q 24: Assekurata does not deal with third-country CRAs so we are not able to comment this question.

Q 25: Assekurata does not deal with third-country CRAs so we are not able to comment this question.

Q 26: Assekurata does not deal with third-country CRAs so we are not able to comment this question.

Q 27: Assekurata agrees with this approach.

Q 28: Assekurata does not envisage any significant problems with this approach.

Q 29: Assekurata agrees with this approach.

Q 30: Assekurata does not have any suggestions for the assessment of these criteria.

Q 31: This question is not applicable for Assekurata.

Q 32: This question is not applicable for Assekurata.

Q 33: From Assekurata´s point of view it appears to be an appropriate system.

Q 34: From Assekurata´s point of view it appears to be an appropriate system.

Q 35: This question is not applicable for Assekurata.

Q 36: This question is not applicable for Assekurata.

Q 37: Assekurata can not oversee whether this process could cause any problems.

Q 39: This question is not applicable for Assekurata.

General comments on the remainder of section VIII:

§ 165: Historic data shouldn´t be requested if it didn´t exist before regulation. CRAs shouldn´t be forced to reproduce historic data and/or information. Therefore Assekurata agrees with the approach of this proposal.

§ 170, second bullet point: For Assekurata it is not clear what CESR defines as "number of employees … involved in the rating and non-rating business". All our employees are more or less involved in our business. A clear and transparent definition on this topic would be very helpful.
How would you envisage counting employees, on a headcount basis or on a FTE basis?

§ 170, fourth and fifth bullet point: What precisely does CESR as a timeframe for the planning period? Does CESR need information about an idea of founding a new subsidiary "sometimes", or does it request for information about a concrete plan which is to be set into forth within i.e. the next 12 to 24 months?

§ 177, first bullet point: In Assekurata´s organization it is not possible to separate rating business and ancillary business completely. Would there be a possibility to set out a specific portion (i.e. in % of total turnover) of ancillary services as to be not significant for the separation requirement?

Chapter 9, character F to H: As a small CRA it will be impossible for Assekurata to comply with the segregation of the functions listed in this area of the consultation paper. We are sure to fulfill the requirements of the regulation by avoiding conflicts of interests but it would be very helpful, if the guidelines could give some assistance due to the organizational manner of these topics.

Köln, den 27.11.2009
Dr. Christoph Sönnichsen