

Madrid, November 27th

To the Committee of European Securities Regulators (CESR)

CONFIDENTIAL

Subject: Comments to the 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 CRAs systemic importance (Ref.: CESR/09-955)

The following comments refer to:

Section II. GUIDANCE ON THE REGISTRATION PROCEDURE (Articles 14-20 of the Regulation),

1. General issues applicable to the registration process

B. Scope of the Regulation - Credit scores, credit scoring systems or similar assessments related to obligations arising from consumer, commercial or industrial relationships.

12. Articles 14 to 20 of the Regulation provide for the process of registration for legal persons established in the Community whose occupation includes the issuing of credit ratings on a professional basis. The term credit rating is defined in Article 3.1 (a) as follows: "credit rating means an opinion regarding the creditworthiness of an entity, a debt, or financial obligation, debt security, preferred share or other financial instrument, or of an issuer of such a debt or financial obligation, debt, preferred share or other financial instrument, issued using an established and defined ranking system of rating categories". The expression of such opinions requires according to the Regulation also the performance of rating specific analytical functions by a person ("rating analysts"). Summarizing and expressing data according to a pre-set statistical system or model alone without any additional substantial rating specific analytical input from a rating analyst in the assessment process does therefore, like the activities listed in the exceptions in Article 2 (2) of the Regulation (e.g. private credit ratings, credit scores and others), not require a registration according to the Regulation.

Whereas,

A) INFORMA D&B (www.informa.es) is a Spanish company who provides commercial, marketing and financial information of companies and managers. Since 2002, INFORMA D&B has been offering to its clients a scoring to evaluate the credit risk of all Spanish commercial entities, as a valued added product. This scoring is entirely based on the information stored in its database and is generated automatically through the application of a statistical model, that is, without the intervention of any rating analyst except for the design of such mathematical model.

B) INFORMA D&B is actually considering the recognition as ECAI for this product with the objective of providing credit institutions with a credit assessment that could be used for the

purposes of determining risk weights under the Standardised Approach set out in the Capital Requirements Directive.

INFORMA D&B would like clarification on the following points:

1. CESR states that "according to the Regulation", a credit rating requires the intervention of a person ("rating analyst").

We would like to clarify where in the Regulation CESR observe such requirement.

Article 2.1. of the Regulation says:

"(...)

This Regulation does not apply to:

(...)

(b) credit scores, credit scoring systems or similar assessments related to obligations arising from consumer, commercial or industrial relationships;"

We understand that the Regulation excludes scoring systems that are consequence of a commercial relationship; **a contrario sensu, the Regulation includes those credit assessments generated by a credit reference agency, being those assessments with or without the intervention of an analyst.**

2. Article 2.3. states that "A credit rating agency shall apply for registration under this Regulation as a condition for being recognised as an External Credit Assessment Institution (ECAI) in accordance with Part 2 of Annex VI to Directive 2006/48/EC, unless it only issues the credit ratings referred to in paragraph 2. In addition, art 4.1 of the Regulation states that "Credit institutions as defined in Directive 2006/48/EC, ... may use credit ratings for regulatory purposes only if they are issued by credit rating agencies established in the Community and registered in accordance with this Regulation".

Therefore, we understand that all ECAI have to be registered under the Regulation and that it is not possible to be an ECAI without also being a CRA.

If several already recognized ECAIs, such as COFACE, LINCE and ICAP, provide automatic credit assessments, will this mean that they will be denied registration under the Regulation and thus, became non-eligible ECAI?

3. The CEBS states in its Guidelines on the recognition of External Credit Assessment Institutions that "the Capital Requirements Directive(CRD) allows institutions to use external credit assessments to determine the risk weight of their exposures, provided the External Credit Assessment Institutions (ECAIs) that produce those assessments have been recognised as eligible for that purpose by the competent supervisory authorities. This recognition is granted only if the competent authorities judge an ECAI to meet the recognition criteria laid down in the CRD".

There is no place in the CRD regulation or in the CEBS Guidelines where credit assessments require the intervention of a rating analyst in order to be considered a valid credit assessment. Furthermore, we understand that the requirements of objectivity, independence and transparency requested by the CRD regulation are better served with a system where human intervention is minimized.

4. The number of commercial entities that can be analyzed by a rating analyst is evidently limited. As an example, Moody's states in his web page that currently classify 20 Spanish companies. The intervention of an analyst makes unfeasible the assessment of a large

number of commercial entities. On the other hand, it is clear that credit institutions will benefit from an ECAI that emits valid credit assessments on a considerable larger number of commercial entities. Only in Spain, there are more than 60,000 companies that could be out of the scope of retail exposures and therefore could be considered corporate exposures and be subject to an assessment by an eligible ECAI.

CESR's view on the need of human analysis on credit ratings will prevent credit institutions to adopt the Standardised Approach for capital requirements calculation for the corporate exposures where CRA with rating analysts are actually not producing credit assessments.

We appreciate the opportunity to share this comments with you and we are at your disposal for any further clarifications. Please contact:

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Yours sincerely,