CESR
ARRIVE
ON: 16/08-06
N° : 06-408

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Ms Ingrid Bonde
CESR Committee of European Securities Regulators
11-13 avenue de Friedland

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Friday, August 11, 2006

ANSWERS TO YOUR QUESTIONNAIRE ON THE DAY-TO-DAY APPLICATION OF THE IOSCO CODE BY THE CREDIT RATING AGENCIES

Dear Ms Bonde,

RATING EVIDENCE GmbH is a German company of Everling Advisory Services (www.everling.de), established in 1998. RATING EVIDENCE GmbH (www.rating-evidence.com) functions as an evidence center of given ratings for banks, insurance companies, corporates or any other legal entity requiring a credit rating. I participated in your hearing on January 14, 2005, in Paris. Please let me answer just to some of your questions.

1. Do you know of cases where the methodologies used by CRAs were not consistently applied or where changes of methodologies were not clearly explained and disclosed?

We find from time to time cases in which we could discuss the consistency of rating methodologies applied. Especially Moody's and Standard & Poor's frequently refrain from explaining and disclosing every aspect of their methodological changes and leave it open to discussion how they came to their conclusions. Nevertheless, it should be taken into account that the art of rating is subject to a continuing evolution, rating criteria are subject to frequent changes since circumstances and applicabilities are changing.

2. Do you know of ratings based on inaccurate information or issued without the credit rating agency having taken into account all relevant information?

Since the rating process is not completely disclosed, some dissatisfaction is inevitable.

3.1 Do you consider that the CRAs devote sufficient resources to assign high quality credit ratings?
3.2 Do you consider that the CRAs devote sufficient resources to assign high quality credit ratings of structured finance instruments and to monitor them on an on going basis?

In general, yes, the leading rating agencies devote sufficient resources to assign high quality ratings, e. g., DBRS analysts work within specific industries and products in the Corporate and Structured Finance business groups, respectively. Each entity rated by DBRS is normally covered directly by two analysts (a lead and back-up), who work together on the rating, attend meetings with the issuer's senior management, and make a recommendation to the Rating Committee with regards to a rating action for the entity and are generally familiar with, and responsible for, all current and recent events for that issuer.

We know a lot of analysts with credentials, expertise, and experience for particular industry sectors and product groups. Nevertheless, only a very few analysts undergo training to absorb the rating agencies' rating philosophies and approaches at one of the universities offering rating education. Analysts are given specific accountabilities within an industry team without any prior education at an independent academy.

Usually the analysts receive only on-the-job and in-house training on a variety of ratings, analytical, accounting, and governance topics provided by experienced senior management. Although in-house training and professional continuing education programs are supplemented with attendance at conferences, speaking engagements, and a few external courses, it would increase the confidence in ratings if rating analysts' education would be more structured like in other professions. In Germany, the Bundesverband der Ratinganalysten und Ratingadvisor (BdRA) strives for a common title "Certified Rating Analyst" for those rating analysts, who have proven to an external board of examiners that they understood analytical as well as ethical aspects of their work.

4. Do you consider that the period of time during which the rating decisions, the rating reports and the updates are publicly available is sufficient?

Since the publication of reports etc. in the internet is no longer a cost factor, all research should be made public continuously, even when changes in the methodologies have occurred. It would make it much easier to understand the evolution of rating criteria and processes. All of the major rating agencies publish their rating decisions, reports and updates on their websites generally on a timely basis.

5. It is always clear to you which are the critical elements underlying the rating decision (including its updates)?

Each rating report and industry study provides the criteria for rating decisions and an analysis including the strengths, challenges, and key characteristics of the Issuer. This is true for DBRS, Fitch Ratings and to a lesser extent for Moody's and Standard & Poor's. There are still ratings to which no explanation is available.

6. Do you think that the ongoing surveillance of CRAs on ratings, which can result in a rating action, is effective and timely?

In general, the rating agencies maintain ongoing surveillance of the entities that they rate and, from our experience, a rating is fully reviewed and a meeting arranged with senior management on an annual basis. Nevertheless, the rating agencies expect the cooperation of the issuer in keeping them up to date with any significant developments.

We came across a case in which a team of four rating analysts at Moody's was laid-off. There was no public disclosure why and when the team had left Moody's, even later on there was no press release explaining in any form the organizational changes at the rating agency. After the lay-off, ratings under the responsibility of those laid-off analysts were still published, although nobody visibly took care of the ratings. Since it is not their policy to disclose such disorders it is hard to provide evidence for such offences against the ongoing surveillance on ratings.

7. Have you ever experienced (or heard about) situations where the CRA or its employees have given any assurance or guarantee of a particular rating prior to a rating assessment?

No.

8.1 Do you consider that the CRAs disclose clearly in the rating decision whether
a. the rating was not initiated at the issuers request?
b. the issuer has not participated in the rating process?
8.2 Is the abovementioned disclosure valuable for you?
8.3 Do you know of cases where ratings of the type mentioned above (a and b) had a lower degree of quality than others?

Since rating agencies are not only serving issuer interests, but possibly also interests of many other parties, ratings could rightfully be solicited directly or indirectly by other clients than issuers. Unsolicited ratings might be based only on public information, but also solicited ratings might be based on public information only. Therefore, as BdRA pointed out in its paper dated January 28, 2005, it does not see questions arise such as the need to disclose this fact.

We agree with BdRA's support for and reservations against the public interest to know who takes the initiative. By defining solicited ratings as those where the initiative has been taken by the issuer, the designation "solicited rating" could become a mere marketing instrument of the leading rating agencies who are known to limit there activities in Europe more or less to issuers in the capital markets. The term unsolicited rating does not equate automatically to a rating produced without co-operation from the issuer. There is indeed a spectrum of possibilities ranging from no contact between the CRA and the issuer and full co-operation.

The concept of the initiative is no more appropriate than of the payment. Not only that issuers might end up paying for ratings that they did not solicit in the first place, but there is also no clear border line between "solicited" and "unsolicited" ratings, since rating mandates could be given in any legal form (oral, in writing). Some ratings services indicate if their ratings are unsolicited ratings; nevertheless, in some cases, issuers may provide limited information to the rating agency in question and the agency still considers those ratings to be unsolicited ratings.

We believe the quality of ratings is generally the same whether the issuer initiated the request and/or did not participate in the rating process noting that publicly available financial and other information continues to improve. Analysts generally have the expertise to understand and compare issuers across industries to derive appropriate relative ratings. Participation by management in the ratings process in terms of advising analysts of significant company changes with some additional color of the reason for the change helps rating agencies be more timely in publishing changes in ratings where appropriate.

9. Have you ever experienced (or heard about) situations where the CRA has denied the issuer the opportunity to clarify any likely factual misperceptions or other matters that the CRA should be aware of prior to issuing or revising the rating?

No.

10. Are you aware of cases where the rating decision was influenced by pressures from the issuers or other parties?

Yes, of course. To give an example: Moody's Investors Service announced on June 3, 2002, that it was withdrawing Iran's sovereign ratings because of U.S. government concerns that such ratings could be inconsistent with U.S. sanctions on Iran. Moody's has responded to the U.S. government's concerns and, if those concerns can be satisfied, would anticipate issuing updated ratings. This policy holds still today.

11.1 Do you consider that CRAs have put in place adequate separations and firewalls between credit rating analysts and staff involved in providing other businesses (such as rating advisory, consulting, credit assessment, research)?
11.2 Have you ever been in contact with credit rating analysts for other services than the one they provide within the context of credit rating?

The rating agencies officially do not engage in ancillary advisory or consulting service in the context of providing advice to management on how to structure a transaction or deal to achieve a particular rating. This is different than structured finance business for example responding to structures proposed by management with possible ratings.

12. As an issuer, have you ever negotiated the fees of the rating service with analysts involved in the rating process?

No comment, since we are not an issuer.

13. Have you experienced any situation where the rating disclosure was not done in a timely manner?

No.

14. Have you encountered any problems in relation to the use of confidential information in your day-to-day business with CRAs?

No.

15. Do you know of cases where the credit rating agencies are not applying the provisions of their own codes of conduct?

Yes, we acknowledge offences which were already disclosed by some rating agencies themselves, see your document of July 6, 2006.

16. Are there any other comments you would like to make?

We notice an increasing reluctance especially on the part of Moody's and Standard & Poor's to contribute to the local discussion of their rating policies and procedures. In comparison to the other institutions and in comparison with their behaviour in North America, they remarkably refrain from contributions to books and magazines on credit ratings, especially in other languages but English. This is notable since an invitation to contribute to a book or magazine means frequently to be invited to opinion on a specific problem or to answer a specific questions.

For the time being and considering the current situation of the rating market, we disagree with a government imposed regulatory regime (with 30 possibly disparate country approaches), and prefer the current market-based oversight model based on the IOSCO Code.

Yours sincerely,
RATING EVIDENCE GmbH
Dr. Oliver Everling
CEO

Oliver Everling