

European Securities and Markets Authority

Submitted via www.esma.europa.eu

April 11th, 2014

**Reference: Consultation Paper on CRA 3 Implementation (ESMA/2014/150)
dated February 11th, 2014.**

Dear Sirs,

With reference to your esteemed institutions consultation on the CRA 3 Implementation, we are pleased to hereby submit the response of our association, which currently represent 8 ESMA registered CRAs and 4 CRAs registered or recognized in Russia, Switzerland and Turkey.

Since your “CRA 3 Discussion Paper” in July 2013, we note that good progress has been done in several areas – we none the less would like to draw your attention to some important concerns. Please note that we are responding only to 2 out of the 3 draft RTS given the activities of our members. Additionally, please note that some EACRA members will provide to you additional direct answers.

General Comments

First of all, we kindly ask you to define more precisely the timing for all 3 RTS. Assuming that ESMA provides the RTS to the European Commission by June 2014, we proceed from the assumption that the RTS shall enter into force around end of 2014 or early 2015. We kindly ask you to inform the CRAs also on the “technical” timetable so that the CRA’s IT systems can be adapted to mirror the new requirements within time. Additionally, we propose that ESMA holds technical workshops with the CRAs in order to sort out the specifications in full details. Such an exchange between ESMA and the CRAs will ensure that all parties are “on the same page” and that the technical features of these RTS are properly addressed.

We note that the draft RTS uses several terms without defining them more precisely. In order to avoid misunderstanding, we would welcome if you could provide proper definitions for such terms as “investor-pays”, “issuer-pays”, “ancillary services”, non-rating activity, “preliminary rating”, “indicative rating”...

ERP

Question 1: Do you agree with the chosen frequency of reporting?

Yes, given ERP’s target to provide up-to-date ratings, we agree with the frequency and method of reporting. Given that a single reporting system for both public information and supervisory information will in place going forward, we remind that it is of outmost importance that the system being set-up ensures the confidentiality of certain information.

As mentioned above, we kindly ask you to clarify the timetable for the first reporting as much as possible so that CRAs can plan accordingly. In addition, kindly clarify which existing reporting obligation will continue to be required post-implementation of ERP.

In order to avoid any doubt, please describe also what action triggers the reporting to ERP – we proceed from the assumption that the triggering event is the publication of the rating (so after the decision of the rating and the subsequent information of the rated entity before general publication).

Last but not least, we assume that reporting to ERP will not be required on weekends, holidays and days where the CRA is on holidays (eg over Christmas period). In order to raise user friendliness, we recommend that ERP displays the applicable “off-days” for each CRA reporting to ERP.

Question 2: Do you agree with the choice of including press releases and sovereign rating reports in the ERP and why?

No, we do not agree with the choice that press releases should be directly available at ERP for several reasons.

First, providing this information to ERP represents a substantial burden to CRAs as the documents or links need to be uploaded separately. The Consultation Paper remains silent on how this information should be provided to ERP and updated at ERP in case of need. As an alternative route, we propose that each CRA provides to ERP a link to its press release section, where interested user can find the respective press release - this route can be integrated in the CRAs websites Content Management System more quickly and does not interfere with the CRAs business model.

Second, press releases by their nature provide only an overview on the specific rating and the reasoning behind it. A press release alone cannot substitute a rating report and the reading of the corresponding rating methodology/ies. A press release alone can't form the basis for a specific CRA rating being used for regulatory purposes: given that CRA 3 calls investors to carry out their own risk assessment, basing this on pure press releases for CRA is not a prudential route to take.

Third, having press releases published on ERP goes beyond the mandate in Level 1 Legislation which refers only to ratings in Article 11 (a). The CRA Regulation requires substantial disclosure requirements on CRAs (such as Transparency report or Conflict of interests) but states only in the context of ratings that they shall be available at ERP. In order to enhance ERP's user friendliness, we propose that ERP shall provide links to the mandatory disclosures of each CRA.

With respect to Sovereign reports, we also propose that links to the CRA ratings are being provided for. Setting up only a Content Management System at ERP for this purpose is not a cost-efficient approach.

Other Comments on ERP draft RTS:

Article 2 (8): the solicitation status of a rating is extended to 3 categories: solicited, unsolicited with participation and unsolicited without participation. As mentioned during the Public Hearing in Paris, in theory, based on the current definition of “unsolicited ratings” introduced by CRA 3 (art 3 (x)), we could envisage a fourth category: “solicited without participation”.

Article 10 (1) relates to “preliminary rating” without providing a clear definition of the term. We would recommend and appreciate a clear definition as this will allow better understanding for users, CRAs and supervisors alike. We again would like to recall that the reporting of this information to ERP relates to a supervisory need and that these ratings should not be republished at ERP.

Art 12 (1) defines the first time reporting as 3 months after entry into force. Given that the reporting templates include items yet not captured by the CRA systems (eg LEI identifier), it may take some time to compile the requested information. We therefore consider that this timeframe is too short.

Comments on feed-back statement

While we understand that users of ERP would like to download information from ERP, we think that such features are out of the legal scope of ERP. Additionally, as costs associated with the implementation of ERP shall be paid indirectly by CRAs, extending the technical capacities of ERP is associated with higher supervisory costs to CRAs.

According to §92 in your feed-back statement, ESMA will provide access to the historical data and default statistic through integrating CEREP into ERP. We kindly ask you to clarify how you will implement this feature: does this relate to the performance of the respective CRA only or to all CRAs rating the segment. In some cases, especially for smaller CRAs having a lower number of ratings outstanding, the default statistics may be misleading.

Last but not least, we note that the draft RTS is silent on when ERP will publish the rating information to the public.

Fees

Question 1: Do you agree with the proposed approach? If not, and given the existing legal framework, please suggest an alternative or alternatives, giving reasons?

Given that your “approach” contains a number of choices, the answer to your question is not straight forward. While we agree that the focus should be on reporting of revenues (and not on costs), we would appreciate if several items are clarified.

First, we understand that two reporting principles are being proposed (Article 2 (1) b and c): issuer-pays model and subscriber of investor-pays model. The Draft RTS does not define these terms, so it leaves room for interpretation. Additionally, we think that there are more models currently existing (eg mixed models, special models) and others could, in theory, be implemented. Assuming a CRA operating under a mixed model (charging the rated entity for the rating but also users of

ratings), how should the reporting be done, based on the issuer-pays template or the investor-pays template?

With respect the scope of reporting as described in Article 3 (2) e, we are highly concerned about the broad coverage and the costs associated with gathering of this information. We understand that a CRA being part of a larger group of companies would need to report that the pricing policies as well as the revenues of the whole group. For some CRAs, the share of “credit rating activities” is very small compared to the group activity, reporting the whole group revenue would represent a disproportionate burden to these players. As an alternative route, we propose that ESMA and the respective CRAs define together in detail the reporting boundaries in view of activities strongly related to the supervised activities under the CRA Regulation and leaving out all other activities. This more targeted approach will allow an efficient implementation by CRAs as well as an efficient supervision. In the pricing policies to be submitted by CRAs, Chinese-walls between regulated and unregulated activities should ensure that the pricing policies linked to regulated activities are fully independent from all other group activities.

With respect to Article 3 (3) point c and d, kindly clarify the difference between “the person responsible for monitoring the application” and “the person responsible to ensure compliance”.

We note that Article 7 on Initial reporting mandates different time frames for reporting depending on the 2 reference models. As some agencies may operate under a mixed model and that the gathering of information under the investor-pays model is equally burdensome, we propose to set one single initial reporting date of 9 months after the entry into force as foreseen under Article 7 (1).

We thank you for your attention and remain at your full disposal if you wish to clarify any of the above.

Sincerely yours

Thomas Missong
EACRA President

Thomas Morgenstern
EACRA Secretary General

About EACRA

The European Association of Credit Rating Agencies (“EACRA”), registered in Paris, was established in November 2009. The Members of the Association currently originate from 10 European countries and include the following companies:

A.M. Best Europe - Rating services Limited (AMBERS) is a subsidiary of A.M. Best Inc who have been providing ratings to the Insurance Sector since 1899. AMBERS' rating coverage includes regional, national and global insurers located throughout Europe, the

Middle East and Africa.

Assekurata Assekuranz Rating-Agentur is the first independent German rating agency that has specialized on the quality evaluation of insurance companies

Axesor: The first Spanish Rating agency registered with ESMA. Specialized in the middle market segment, with ample coverage of the Spanish corporate market.

Capital Intelligence (CI) offers independent rating opinions on financial institutions, corporates and governments in a wide range of countries, especially the emerging markets of Asia, Europe and the Middle East.

Cerved Group: Italian Credit Rating Agency recognized ECAI by Bank of Italy

Creditreform Rating: based in Germany, a company of the Creditreform Group that is European market leader in the sector of business information was founded 2000 and is specialised in ratings of companies, bonds, funds and structured finance products across Europe..

CRIF: International Credit Rating Agency based in Italy providing both solicited and unsolicited Corporate ratings.

Ellisphere: French leader in business & marketing information and credit management solutions, providing a large range of tools and solutions to secure companies' supply chain financing and improve their development.

Fedafin AG : is registered with the Swiss Financial Markets Authority and acts as rating provider to the Swiss stock exchange

Informa D&B is the Marketing, Financial and Business Information leading company in Spain, offering currently more than 3.7 million online ratings on Spanish companies

Informa is the Marketing, Financial and Business Information leading company in Portugal, offering currently more than 820K online ratings on Portuguese companies

JCR Eurasia is an international credit rating institution based in Turkey.

National Rating Agency (NRA) is one of the leading independent rating agencies in Russia. As of today National Rating Agency has assigned ratings to over 750 leading Russian and international companies.

RusRating is a credit rating agency based in Moscow, with sister agencies in Armenia and Kazakhstan. It is accredited with the Ministry of Finance of the Russian Federation.

Scope was founded as an independent rating agency in Berlin, Germany, in 2002. The company is specialized in ratings and analysis of SMEs, bonds, certificates and funds across Europe.

The Members of the Association have very different business models while assigning ratings. All are deeply rooted in their respective markets; enjoy a high market share and a good reputation with local investors