



Date: 30 March 2005  
Ref.: CESR/05-198

**PRESS RELEASE**

**CESR favours Self-Regulation of Credit Rating Agencies established around an Internationally agreed code for the time being**

CESR published today its advice (ref. CESR/05-139b) for the European Commission on possible measures concerning credit rating agencies. This paper discusses the issue of how to deal with credit rating agencies in a regulatory context within Europe. In particular, the report identifies whether market failures might arise, and, as a result, whether there is a need for the introduction of some sort of recognition and/or regulation of rating agencies as these are generally not regulated in Europe today.

In its main conclusions, CESR proposes that on the development of appropriate rules of conduct, CESR advises the European Commission that, overall, the **substance agreed by the International Organisation of Securities Commissions (IOSCO) Code published in December 2004** provides the right answer to the issues raised by the Commission's mandate and analysed throughout the paper. It is felt that the IOSCO Code will improve the quality and integrity of the rating process and the transparency of credit rating agencies' operations and reflects the message received from the responses to the consultation.

Therefore in relation to the aspect of the **enforcement of the IOSCO Code** and more specifically, in respect to the final question asked by the Commission's mandate: *does CESR consider it appropriate that credit rating agencies should be registered in the EU?*, CESR is proposing two possible ways of handling this issue, narrowing down the four alternatives originally considered: A clear majority of CESR members supports a 'wait and see' approach, where no recognition system is set up at present, and the effects of the IOSCO Code are given time to work, as IOSCO and its members have committed to monitoring the implementation of the code. Should self regulation fail to deliver, there might be a need for statutory regulation. Overall, this approach was shared by respondents to the consultation. A distinct minority of CESR members advocates an EU voluntary recognition system, along with a subsequent reporting on the compliance with the IOSCO code.

The paper itself also analyses a potential set of rules of conduct that might apply to rating agencies and the provisions of the IOSCO code in relation to the aspects studied. In particular, the paper considers the various potential conflicts of interests that might arise as well as the fair presentation and methodologies of rating agencies, staff requirements and the relationship between issuers and credit rating agencies. In addition, an analysis of the use of ratings in private contracts and in European legislation is provided.

Amongst the various **potential conflicts of interest** which CESR discusses, a number arise in the context of the relationship between issuers and credit rating agencies. For example, ratings agencies are often remunerated by the issuers they rate and sometimes provide the issuer with ancillary services which some might consider could lead to a conflict of interest.

In relation to **methodologies** for example, CESR discusses a number of transparency requirements that could be placed on rating agencies. For example, one might wish to require ratings agencies to disclose and explain the key elements underlying the rating and to provide an explanation of the assumptions on which the rating is based and the factors to which the rating of an issuer is most susceptible to change.

A further key aspect of advice is the analysis on **how credit rating agencies and issuers might effectively work within the requirements of the Market Abuse Directive**, in relation to the handling of confidential and market sensitive information.

Finally, as regards the competitive direction of Credit Rating Agency activity in the EU, CESR is of the opinion that the impact of regulatory requirements is not clear and therefore it cannot conclude that any regulatory requirement would either increase or decrease the entry barriers to the rating industry. Thus, CESR does not recommend the use of regulatory requirements as a measure to reduce or remove entry barriers to the market for credit rating.



## Notes for Editors:

1. To develop the technical advice, CESR has formed a task force chaired by Ingrid Bonde, Director General of the Swedish Finansinspektionen. Javier Ruiz del Pozo from the CESR secretariat acts as rapporteur.
2. In developing CESR's advice, CESR has co-ordinated closely with fellow regulators both within the EU in the form of the fellow regulatory banking committee (CEBS), and internationally, with the SEC through its more regularised and intensive dialogue announced by CESR on 4 June 2004. CESR's proposal have also taken into account how this might interact with existing EU legislation and in particular, the Market Abuse Directive (which will come into effect by the end of 2005) and drawn heavily on the useful groundwork laid down by IOSCO and the Basle Committee.

### 3. Context:

The decision to consider whether and, how, credit rating agencies might be regulated stems from discussions by Ministers of Finance and MEPs following Enron in 2002 and latterly the Parmalat scandal in 2004. This also arose in the context of CESR work to prepare the technical advice on implementing measures for the Market Abuse Directive particularly in relation to conflicts of interest and fair information. A further key dimension, which has led to consideration of this issue has been the Basle II agreements and the forthcoming Commission's Draft proposal on the review of capital requirements for banks and investment firms (CRD), which will reinforce at international and EU level, the deployment of credit ratings into banking legislation. As such the credit ratings given to issuers will have a material impact on banks which will have to hold differing capital requirements as a result of the ratings given by Credit Rating Agencies on issuers. A third dimension, is that discussions have been held in many public fora, including IOSCO, in recent years as well as in the United States Securities and Exchange Commission (SEC), which is currently working on this subject. Further co-ordinated work in this area by the EU will therefore maximise the opportunity for the convergence of principles, between the European and US regulatory approaches and those adopted internationally, in a coherent way. A summary of these various initiatives is included in the introduction to the Advice (Ref: CESR/05-139b).

4. CESR is an independent Committee of European Securities Regulators. The role of the Committee is to:
  - Improve co-ordination among securities regulators;
  - Act as an advisory group to assist the EU Commission, in particular in its preparation of draft implementing measures in the field of securities;
  - Work to ensure more consistent and timely day to day implementation of community legislation in the member states.
  - The Committee was established under the terms of the European Commission's decision of 6 June 2001 (2001/1501/EC). It is one of the two committees envisaged in the Final Report of the group of Wise Men on the regulation of European securities markets. Baron Alexandre Lamfalussy chaired this group. The report itself was endorsed by the European Council and the European Parliament. The relevant documents are available on the CESR website.

Each Member State of the European Union has one member on the Committee. The members are nominated by the Members States, and are the Heads of the national public authorities competent in the field of securities. The European Commission has nominated the Director General of the DG Market as its representative. Furthermore, the securities authorities of Norway and Iceland are also represented at a senior level.

### 5. For further information please contact:

**CESR**  
Fabrice Demarigny  
Secretary General of CESR  
Tel: +33 (0)1.58 36 43 21  
Email: [secretariat@cesr-eu.org](mailto:secretariat@cesr-eu.org)

**Or** Victoria Powell  
Communications Officer  
Fax: +33 (0)1.58 36 43 30  
Web site: [www.cesr-eu.org](http://www.cesr-eu.org)