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To The Committee of European Securities Regulators (CESR)

Date 31 July 2007
Reference CB2610

Subject CESR Questionnaire Credit Rating Agencies

Main information
CESR has released a questionnaire on the rating of structured finance instruments, which is intended to feed into CESR's second annual report on CRAs. Representing the common interests of the Dutch banks, please find below the answers to the second part of the questionnaire from the Netherlands Bankers' Association (Nederlandse Vereniging van Banken, NVB) .

B) QUESTIONS ADDRESSED TO THE USERS OF RATINGS AND OTHER INTERESTED PARTIES

<u>Rating Proces</u>

1 Do you consider that access to and availability of structured finance ratings (and any subsequent changes) is satisfactory?
In general Dutch banks consider this as satisfactory. However, from time to time:
- the availability of analysts is not sufficient and causes delays;
- some rating agencies can behave as monopolists. Some Dutch banks experience similar behaviour in the procedure of working aswell in the associated fee structure.

2 Are you satisfied with the CRAs disclosures on their fees policy?
Depending on the CRA, disclosure practices differs from no disclosure information on fee policy to yearly agreement on the fee schedule. In some cases the fees seem to be disproportionate considering the fact that several deals are just to be analyzed on a "short tail" basis.

<u>Rating Methodologies</u>

3 What are your views on the fact that the agencies use different analytical models to assess the portfolio credit risk? Are you satisfied with the way the rating agencies assess such risk?
Overall the Dutch banks are satisfied, however the high turnover of employees in the agencies can result in much more difficult and not always consistent processes. Due to the use of standard procedures and checklists rating agencies can lose the overall picture of a company. Sometimes banks are surprised, that after all those years of analyzing how little is understood of the underlying business, the products and the operational processes. In addition the NVB observed that ratings can be quite different

from one rating agency to another (e.g. subprime mortgages) due to the use of different analytical models and parameters. The NVB would appreciate more transparency on differences and assumptions of the analytical models.

4 Are you satisfied with the way the rating agencies assess the structural risks of the deals (i.e. legal risks, cash flow analysis, third parties' involvement in the transaction)?

Yes, for specific transactions. For Asset Backed Commercial Paper structures, the industry has experienced some limitations with respect to understanding the full mechanics of the programmes and support structures. Some rating agencies spend a disproportional amount of time in analyzing data of the underlying assets and insufficient take into account the context and structure of the transaction. Since the industry also has to assess operational risk on a continuous basis the NVB believes that servicer rating should continue to develop, even if the servicer is the originator.

5 Are you satisfied with the way the CRAs disclose their methodologies?

Overall the industry is satisfied, however, for some asset classes the transparancy of the used methodologies could be improved aswell as the disclosure of the impact of quantitative and qualitative factors. In some cases the methodology does not always seem consistent with the rating outcome.

<u>On-going surveillance of the transactions</u>

6 Are you satisfied with the frequency and quality of the information provided by the rating agencies to the market in connection with the monitoring of rated structured products (e.g. monitoring reports, special comments, etc.)? Are you satisfied with the frequency and quality of the information provided by the issuers/arrangers of structured transactions in order to monitor rated structured products?

In general the industry is satisfied with the frequency and quality of the information provided by the CRA and issuers/arrangers. There are some transactions (especially in case of less frequent issuers) where the surveillance reports are provided quite late. The information provided is of high standing and issuers/arrangers are available to provide further details. However, it is perceived that CRA give less importance to outlooks for structured transactions than for corporate ratings. This view is critical for the industry.

7 Are you satisfied with the CRAs disclosures on the reasons for a change in a structured finance rating?

Yes

<u>Potential risks (conflicts, resourcing)</u>

8 Are there any risks unique to rating structured finance compared to corporate credit rating?

Yes. The corporate credit rating is more focused on the going concern of a corporate/institution, on its business and different stakeholders, and on its capacity to repay debt. The structured finance deals will mostly rely on the structure and performance of the assets so all aspects concerning legal, insolvency / bankruptcy, servicing of the assets, valuation and performance of the assets are of major importance. A structured finance transaction on a pool of assets also implies

assessment of correlation dynamics, which is unique to these transactions. Since the structured finance process is more specialistic, one needs to understand the underlying collateral, the structure of the deal and the process. The deal is normally ring fenced from the Originator / Corporate / Institution.
The impact of off-balance sheet structured transactions on the issuer rating could be more transparent.

9 Are you aware of any CRAs which provide ex post ancillary/advisory services? If so, do you perceive any potential conflicts of interest between the structured rating activity and any ex post ancillary/advisory services those CRAs may provide (i.e. pricing or valuation models)?

So far the Dutch banks perceive no conflicts of interest, however:

- some rating agencies do not accept deals backed by structures rated by other agencies;
- in case an investment fund or a financial guarantor is rated by one specific agency, usually the rating agency does not allow such entity to purchase assets (or in case it allows it, the threshold is very low). This can create an almost monopolistic or oligopolistic situation.

10 Is there a risk of conflicts of interest when a rating agency provides the rating of the provider of credit enhancement to structured finance products it has also rated?

No, the NVB believes that this is not relevant in terms of conflict of interests, as long as the corporate rating desk and the structured finance desk can decide independently from each other.

11 Are you satisfied with the way the agencies' communicate the measures they have adopted to manage those potential conflicts of interests?

So far yes.

12 Do you think those measures are effective?

So far yes.

13 Is there sufficient resource and experience at the rating agencies to deal effectively with the demand for structured finance ratings?

Some rating agencies have a quite high turnover of junior analysts. The senior members are usually stable and guarantee some consistency at the committee levels. The turnover of the junior analysts (they are the ones who normally look at the transactions) might influence the execution of the deal or allow for some oversight. Apparently rating agencies do not have sufficient (stable) resources allocated to the structured finance activities.

IOSCO Code on Structured Finance

14 Does the current IOSCO Code of Conduct for CRAs deal appropriately with the risks in the rating of structured finance?

No comments.

Additional comments

15 Are there any additional points you would like to raise, on the basis of your experience in the structured finance business?

The main issues to be dealt with related to Rating Agencies are :

- inability to analyze a transaction from another point of view than their policy ("either fits the box or cannot consider it");
- turn-over of junior analysts;
- insufficient resources allocated to Structured Finance deals;
- fees charged are not always adapted to the nature of the structure;
- limitations to accept non- rated exposures into rated structures or institutions (investment funds, financial guarantors);
- tendency to behave as monopolists, which is dangerous running into a Bazel II environment;
- too much focus on details, standard procedures and their checklist, pitfall to lose the overall view.