



Open Letter to:

European Securities and Markets Authority

European Commission, DG Financial Stability, Financial Services and Capital Markets Union

National Competent Authorities

Copy to:

European Parliament, MEPs acting as rapporteurs on the CRA file

Date: December 5th , 2014

Reference: Article 8d of the CRA III Regulation

Dear Sir,

With the adoption of the CRA III Regulation, European policy makers have opted to increase competition in the rating market by introducing amongst others the following requirements:

- Rotation of rating agencies in the resecuritisation market
- Minimum of 2 ratings in SF otherwise considered unrated
- Article 8d on the use of multiple rating agencies
- Revision clauses in Article 39 focusing on the situation in the rating market.

In addition, the Capital Requirement Regulation (CRR), which was negotiated in parallel to the CRA III Regulation, modifies the rules on the recognition of External Credit Assessment Institutions by granting automatic recognition of all registered or certified CRAs on an EU wide basis. This change substantially expands the choice of potential ECAs on an EU wide basis and removes one important barrier for the development of new agencies, whilst creating an environment that enables them to grow and compete.

Article 8d targets to increase competition in the rating market by channeling some demand for ratings to non-systemic rating agencies. With reference to ESMA's report on Article 8d dated December 16th, 2013, 3 CRAs dominate the market in Europe and all other players have market shares below the threshold of 10%.

While CRA III entered into force in June 2013, we note that awareness by issuers, arrangers and originators' regarding Article 8d is still very limited. In addition, for those being aware of Article 8d, we believe based on market feedback that there is no real intention to change current practices as a result of this initiative.

Competition in the rating market is positive as:

- It drives innovation: as each CRA needs to be registered by itself, each has to develop specific rating methodologies. All CRAs have made substantial investments in establishing or upgrading their methodologies.

- Increases choices to issuers and impacts on pricing: the more CRAs participate in the market, the higher the choice for issuers. Ultimately, this results in higher competition and has a direct impact on the pricing of rating services.
- Increases information available to investors/users: as each CRA has its own methodologies, additional ratings will result in a greater availability of information to users of ratings.
- Reduces reliance and dependence on single CRAs: the more CRAs are taken into account, the less a user of ratings has to rely on the ratings of a single CRA, resulting in greater market stability (ie. forced sale in case of rating downgrade by one agency)
- Contributes to financial stability: in view of specific rules on the uses of several ECAI ratings embedded in the CRR Regulation, using 3 or even more CRAs to derive risk weights substantially increases the outcome over time.

In order to reach the goal of more competition in the rating market, we think that stronger action is a necessity. With respect Article 8d, we propose a three step approach “information, action and measurement” as outlined below.

- 1) “Information”: awareness of Article 8d should be raised among issuers, arrangers, advisors, syndication teams, capital market authorities , both through national as well as European initiatives.**

Article 8d not only targets “issuers” but also “related third parties” (such as arrangers, advisors, syndication teams), who may advise issuers on the selection of CRAs. At present, based on market feedback, we can say that these parties are not aware of the requirements in Article 8d nor of the fact that all registered CRAs are now ECAIs across the whole European Union.

National Competent Authorities (NCA) should be actively involved in the implementation of Article 8d. Under a coordinator role of ESMA, NCA could exchange best practices in the transposition and monitoring of this requirement.

At the European level, we propose that ESMA acts as facilitator (as foreseen under Article 8d 2) and that the list of registered and certified CRA is being amended with the information whether a CRA has more or less than 10% market share. Having a reference to Article 8d in this list will substantially increase awareness in the market. In addition, we propose that the list of registered and certified CRAs should include direct links to the respective CRAs main website.

We further ask the European Commission, as the guardian of the treaties and regulations, to keep a constant eye on Article 8d and support the information and awareness campaign.

Finally, a special event in Brussels could be set up to inform European stakeholders (eg associations of banks, issuers, advisors), as they may forward the information to their national members and thereby have a multiplier effect.

In parallel, at national level, we propose that a targeted information campaign is carried out, so that Market Authorities show a clear sensitivity on the topic, and ensure that market participants cannot claim that they are not familiar or aware with this regulation.

- 2) a requirement has to be set so that the engagement and evaluation process of the CRAs is documented in a clear, transparent and explicit way.**

In order to facilitate compliance by issuers and related third parties with the requirements of

Article 8d, we propose that a detailed guideline should be developed. We think that the guideline should contain at least the following requirements:

- As a starting point, Issuers should consult the annual report by ESMA in accordance with Article 8d (2).
- As CRA are constantly expanding their coverage, both in terms of geographies and market segments, issuers should contact small CRAs in order to ask for more detailed information.
- The issuer should document the information received from the CRAs and thereafter ask for quotation of rating fees by a selected group of CRAs.
- When selecting the CRAs, issuers should follow a two-step approach. First, the issuer selects his “first choice CRA”. Bearing in mind his first choice, the issuer should thereafter select his “second choice CRA”
- If the “second choice CRA” has more than 10% market share in the EU, the issuer should envisage selecting three CRAs as this may stabilize the rating outcome and increase information to users of ratings. In any case, a detailed explanation for not choosing a CRA with <10% market share should be given.

Issuer should document the above process in a detailed manner so that National Competent Authorities can monitor compliance with the legal requirement of Article 8d.

3) Expected target results should be defined, to ensure a concrete monitoring of progress.

We believe that no significant result will be achieved if some expectations are not clearly set by Authorities. Therefore, in order to facilitate the implementation of Article 8d, we propose that the following targets should be set:

- Common guidelines for issuers and related third parties should be developed as soon as possible by the National Competent Authorities.
- Ratings issued by small CRAs in year 1; year 2 and year 3 should be monitored against an explicit target number. Thereafter and based on the common guidelines, the compliance with Article 8d by issuers and related third parties should be enforced.

In view of the Report under Article 39 (5) by the European Commission on the review of the situation in the credit rating market, the European Commission should envisage strengthening the wording of the Article 8d and modify the current “comply-or-explain” provision to a mandatory requirement, at least for an initial roll-out period.

Further measures to increase competition

Further to the provision in Article 8d, the CRA III Regulation introduces other elements to foster competition in the rating market. Article 5a (2) calls on Sectoral competent authorities responsible for monitoring the use of ratings “assess the use of contractual references to credit rating and, where appropriate, encourage them to mitigate the impact of such references”.

Current references to ratings usually relate to specific, CRAs (the top 3 or 4 in terms of market share) and represent therefore a barrier to entry to the rating market that may prove to be insurmountable as well as a barrier to the application of Article 8d. We therefore call on all users of ratings and on sectoral competent authorities to review these references and to substitute them with references to ESMA registered or certified CRAs.

It is of outmost importance, therefore, that European and Public institutions “*in primis*” align as soon as possible to the European goal of facilitating competition, by eliminating from their investment guidelines any reference to specific individual CRA names.

Sincerely yours

Thomas Missong
EACRA President

Adolfo Estevez Beneyto
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 11 countries and include the following companies:

ESMA registered Credit Rating Agencies

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 Rating Agency: 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.

Dagong Europe Credit Rating, headquartered in Milan, was registered by ESMA in June 2013. It is a joint venture between Dagong Global Credit Rating (60% ownership) and Mandarin Capital Partners (40%), led by Ulrich Bierbaum as General Manager. Dagong Europe provides European and Asian investors with credit opinions on financial institutions (including insurance companies) and non-financial corporate.

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.

ESMA certified Credit Rating Agencies

Kroll Bond Rating Agency (KBRA) was established in an effort to restore trust in credit ratings by creating new standards for assessing risk and by offering accurate, clear and transparent ratings. KBRA is registered with the U.S. Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization (NRSRO). In addition, KBRA is recognized by the National Association of Insurance Commissioners (NAIC) as a Credit Rating Provider (CRP).

CRAs registered or recognized according to national legislation outside of the European Union

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

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.

Other EACRA members

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.

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

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

The Members of the Association have very different business models (issuer-pays, investor-pays, hybrid and special models) while assigning ratings. Since January 2014, all ESMA registered or certified CRAs are considered ECAs across the whole European Economic Area.

Reference the Article 8 d on the use of multiple CRAs and ESMA's report dated December 16th, 2013, all EACRA members registered with ESMA have less than 10% market share in the EU (measured against revenues).