To:

European Banking Authority (“EBA”)

European Insurances and Occupational Pensions Authority (EIOPA)

European Securities and Markets Authority (“ESMA”)

Submitted via ESMA website

February 27th, 2015

Reference: Discussion Paper 2014/01 dated December 23rd, 2014 on “the Use of Credit Ratings by Financial Intermediaries Article 5(a) of the CRA Regulation”

Dear Sirs,

First of all, EACRA very much welcomes the publication of the above Discussion Paper on reference to ratings by financial intermediaries. We much appreciate the ESA’s approach to collect views from National Competent Authorities and Financial Intermediaries in order to develop appropriate guidelines regarding references to ratings.

The Discussion paper includes a list of questions primarily addressed to National Competent Authorities and Financial Intermediaries. Our contribution does therefore not follow the list of questions, we instead would like to provide a general comment.

This discussion paper relates to Article 5(a) of the CRA Regulation, which calls on reviewing references to credit ratings by users of credit ratings with a view to mitigate their impact. The Regulation does not call on deleting references to credit ratings, but rather to assess their proper use. Additionally, in view of the high costs to set-up own credit risk assessment systems, §2 includes the principle of proportionality.

The Discussion Paper cites on page 18 that “external ratings are still considered a primary tool to display credit quality”. The AFM report on the Use of Credit Ratings in the Netherlands concludes that “the use of credit ratings is still widespread but is seldom the only source for investment decision making”. We agree with these findings and expect a similar picture for other EU countries.

As a point of comparison, Article 5(b) of the CRA Regulation relates to reliance on credit ratings by the ESA’s and the ESRB and requests that reference to ratings having “the potential to trigger sole or mechanistic reliance on credit ratings” shall be reviewed or removed where appropriate. In February 2014, the ESA’s published their final report, which outlined only few changes.

The Discussion Paper details for each category of financial intermediaries specific approaches undertaken to reduce the potential impact of these references. Interestingly the Discussion Paper does not address the area of central bank refinancing operations as “for the moment it is not deemed as a contractual reliance”. We highly regret that this topic is not covered by this Discussion Paper, as we think that the current references to ratings in the **ECB’s ECAF system** clearly represent an indirect reference.

We further note that this Discussion Paper does not address credit ratings from the **issuer perspective**, where a financial intermediary requests a rating from a credit rating agency. In view of Article 8d of the CRA Regulation, such references should relate to all ESMA registered or certified CRAs.

This review is an important opportunity to acknowledge the stringent requirements of the EU Regulation on credit rating agencies regarding independence and objectivity of the assessment. All ESMA registered or certified Credit Rating Agencies are supervised on an on-going basis, which ensures that quality requirements are met by all agencies.

Please allow for some recommendations on "references to ratings" which contribute to the goal of reducing mechanistic and sole reliance on CRA Ratings:

- **Define requirements on credit quality according to sectoral legislation.** As CRAs may use different ratings scales, the soon available mapping of ECAI credit ratings will translate the different requirements into credit ratings.
- **Make references to credit ratings generic and not relating to a specific CRA**. While until end of December 2013 only 2 CRAs were recognized as ECAI, the CRR Regulation grants automatic ECAI recognition to all 27 registered or certified CRAs.
- **Use several CRAs** Since CRA use different rating methodologies to derive their ratings, using several sources may shed additional light onto the rated entity (eg by identifying different risk drivers). Using several CRAs ratings automatically reduces dependence on a single CRA rating action and thereby increases financial stability (and reduces cliff effects).
- Supervisors should **propose rules on how to use several ratings**. Ideally, not one single rule should be proposed but different approaches could be presented. Users of ratings may then select the approach which best meet their own requirements and views. This "flexible approach" will avoid harmonizing the approaches and contribute to financial stability.
- **Avoid rating related margins, avoid rating related collateral calls**: some financing agreements link the interest margin (or the collateral requirements) to the level of the rating, thereby creating a potentially pro-cyclical loop. We recommend that such references should be replaced by specific financial measures (or other covenants) agreed by the financing parties.
- In case of a **downgrade beyond a specified rating level**, users of ratings should retain flexibility whether and when they sell the specific asset.
- With respect to **alternatives to ratings**, we would like to cite the FSB May 2014 findings on its stock-taking exercise on the FSB 2010 Principles on Reducing reliance on CRA Ratings, that "National authorities and financial entities should guard against the temptation to adopt a small number of alternative measures for assessing creditworthiness in place of CRA ratings, which can result in substituted procyclicality and herd behaviour"[1].
- Last but not least, we think that the size and the **degree of sophistication of the financial intermediary** needs equally to be taken into account. While very large and highly-sophisticated investors may use ratings as one component of their analysis (or to test their own assumptions), smaller investors may rely more on ratings.

[1] See "Thematic Review of the FSB Principles for Reducing Reliance on CRA Ratings" dated May 12th, 2014 available at the FSB website: http://www.financialstabilityboard.org/publications/r_140512.htm

We once again thank you for launching this important consultation. We hope that it will attract wide interest and provide you with strong feed-back. EACRA Members stand ready to provide further information in order to support the development of appropriate, proportionate and detailed guidelines on references to ratings in the different market segments.

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 have very different business models (issuer-pays, investor-pays, hybrid and special models) while assigning ratings. 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

Since January 2014, all ESMA registered or certified CRAs are considered ECAIs across the whole European Economic Area.

Reference the Article 8 d of the EU Regulation on Credit Rating Agencies (as amended) on the use of multiple CRAs and ESMA's report dated December 22nd , 2014, all EACRA members registered with ESMA have less than 10% market share in the EU (measured against revenues).