European Securities and Markets Authority (ESMA)
European Banking Authority (EBA)
European Insurance and Occupational Pensions Authority (EIOPA)

Submitted via EBA website

Date: July 14th, 2014

Reference: **ESA's consultation on draft RTS on risk mitigation techniques for OTC-derivative contracts not cleared by a CCP (JC/CP/2014/03)**

Dear ESA's,

With reference to the above publication published on April 14th, 2014, we are pleased to hereby provide the views of our association. EACRA currently represents 9 ESMA registered CRA and 4 CRAs registered outside of the European Union. While the consultation relates to a number of topics, our response relates exclusively to the proposals relating to the use of credit ratings.

On Cliff effects

The EMIR Regulation defines high quality assets eligible for collateral as those having a Credit quality step ("CQS") of 1 or 2. The EMIR regulation therefore excludes all assets having a CQS of 3 to 6.
The potential cliff effect linked to a downgrade of an asset is therefore not linked to the credit rating itself but rather to the requirements of the EMIR regulation. An alternative route would consist in taking into account all 6 CQS and increasing the collateral requirement depending on the CQS. Such a differentiated approach is being used under the CRR where the capital requirements increases with the CQS (in addition the CRR differentiates for the market segment of the issuer.

In more general terms, cliff effects can occur at all levels of the rating scale as market participants may define their own requirements. While the timing of a rating action is rarely acceptable by all (some claiming that the action should not have occurred while others saw the requirement existing for a period of time), CRAs take their rating decisions independently without taking into account potential repercussions. This ability to act independently and when required is fundamental to a CRA.
It should be noted that the cliffs defined under EMIR are not valid in all other market segments. The potential sell-off risk therefore does not concern all market participants in the same way. This differentiated approach by market segments contributes therefore to more financial stability.

July 14th, 2014

Mapping of credit ratings

We welcome that the CQS can be determined by reference to ECAI ratings. We note that the consultation relates to Article 136 CRR but not to Article 138, which relates to the use of several ratings. We recommend that users should take into account the diversity of ratings, as this reduces reliance on one single ECAI and reduces substantially the cliff effect.

Grace period following a down-grade

The idea of introducing a grace period following a downgrade below the EMIR established cliffs is interesting as it allows for a reflection time for the market participant. We think that the timeframe of 2 months may be too short, as potential formal requirements for the replacement of the collateral may require documentation and approval time. We therefore propose that this grace period should be extended to a 6 months period. Additionally, after this analysis period, the market participant (especially for long-term investor holding to maturity) should be able to keep the collateral. These “formerly” high quality assets could be limited to eg. 10% of all collaterals held between the counterparties.

On the use of the internal rating based approach

The CRA III Regulation requires investors/users of ratings to carry out their own risk assessment and not to rely mechanistically and solely on credit ratings. The proposal to use the IRB approach to assess the credit quality is in line with this proposal, but will face numerous organizational questions (which IRB should be used, what happens when the so calculated credit quality deteriorates and crosses the cliff?). We therefore think that ratings should be used in parallel to the IRB process.

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	Adolfo Estevez Beneyto
EACRA President	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.

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.

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 (issuer-pays, investor-pays, hybrid and special models) while assigning ratings.