To:

Joint Committee of European Supervisory Authorities
EBA
EIOPA
ESMA

Submitted via EBA website

December 5th, 2013

Reference: EBA, EIOPA and ESMA Joint Consultation Paper on mechanistic references to credit ratings in the ESA's guidelines and recommendations (JC-CP-2013-02) dated November 7th, 2013.

Dear Sirs,

With reference to the above Consultation, we are pleased to submit the response of our association, which currently represents 8 ESMA registered Credit Rating Agencies and 4 agencies recognized or registered outside of the European Union. The short profiles of our members are attached as annex to this letter.
This Consultation relates to the latest amendment of the EU Regulation on Credit Rating Agencies, which widely implements the Principles for Reducing Reliance on CRA Ratings as issued by the Financial Stability Board in October 2010. While these principles include the objective of reducing mechanistic reliance by market participants on CRA Ratings, the principles do not further define the terms "sole or mechanistic". During the negotiations of CRA III, these terms were widely discussed without providing a detailed definition. We therefore welcome the ESA's intent to clarify this important concept.
In this letter, you shall find the responses to the three specific questions raised. But first, please allow for a short comment regarding the references to credit ratings. Additionally, while the consultation relates only to Art 5b (namely to references to ratings in the ESA's guidelines, recommendations and draft technical standards), our last section relates to Article 5a on over-reliance on credit ratings by financial institutions.

Reliance on and references to ratings
While the FSB Principles call on reducing reliance to credit ratings, in parallel, legislation on Credit Rating Agencies in Europe has been substantially strengthened over time and includes amongst others a Civil liability regime. In several jurisdictions, specific legislation on Credit Rating Agencies has been equally introduced or been amended.
Removing references to ratings means that investors/users of ratings but also supervisors will have less comfort going forward. First, CRA ratings are an established external benchmark used by a variety of different investors. Second, finding alternatives measures of credit risk is a challenging task. Third, specific sectoral alternatives measures may fragment the access to finance and may create new cliff effects. Finally, alternatives risk measures are currently not regulated and supervisory authorities have no powers to act if required. We

have therefore proposed to the FSB in its Stock Taking Exercise on Reference to ratings to expand the principles of “removing or replacing CRA ratings” to “removing, adapting, complementing or replacing” CRA ratings. The FSB acknowledges itself that the Principles are “not about abolishing CRA ratings or their use by banks and other investors”; our proposed expansion of the principles ensures that this important aspect is taken into account.

Q1: Do you agree with the definition of sole or mechanistic reliance on ratings provided in this document.
Yes, we agree with the definition proposed in paragraph 12. In the application of this definition, we would like to recall the principle of proportionality embedded in Art 5a of CRA III.

Q2 Do you agree with the proposed action as regard EBA and ESMA Guidelines and Recommendations?
We very much welcome the review exercise carried out by EBA, EIOPA and ESMA regarding references to ratings in their guidelines and recommendations. We positively note that the ESA’s have identified several references to ratings which do not trigger any “sole or mechanistic” reliance.
With respect the Standardised Approach for banking institutions and the mapping of ECAI ratings, we agree with the conclusion that level 2 legislation can’t change level 1 regulation. The recently amended Capital Requirements Directive (and Regulation) takes into account external ratings but on the same time promotes the use of the internal ratings based approach for calculating own funds requirements for credit risk.

Q3: In particular, do you agree with the proposed revisions of the ESMA Money Market Funds Guidelines? If not please suggest an alternative.
No, we do not agree with the proposed revision of these guidelines and propose instead that the outcome of the Money Market Funds Regulation currently under negotiations is awaited. While the proposed guidelines are fairly similar to the European Commission’s proposal, negotiations of this legislative file may end with a modified or different approach. This in turn could mean that the new guidelines would be revised soon again, thereby creating unnecessary burdens to users of money market fund ratings.
Please note that EACRA Members are currently not active in the rating of Money Market Funds and our position in this context is of general nature.

Recommendation: Review guidelines to make them generic and relating to all CRAs
Given that CRAs use very different rating scales, we propose that any requirement in a specific guidleine should be defined according to the standards used in the respective regulation and that the CRAs rating are mapped to these standards. This would make references to ratings less prominent, more precise and more generic (not linked to a specific CRA). We further recommend that alternative terms for credit risk categories like “high quality” or “investment grade” should be defined in sectoral regulation. Cross-sectoral convergent definitions would of course be welcomed.
As an example, we would like to cite the references on page 11 of the Consultation to “a minimum claims paying ability rating of A”. While the rating symbol of “A” is usually associated with the third highest rating category, this may not be the case for all registered

CRAs (eg FeriEuroRatings, ICAP or Assekurata). AM Best uses "a" instead of "A". Finally, a reference to the symbol "A" leaves users unclear whether the rating category is meant or whether the rating symbol (which represents a more stringent requirement).
Given that some CRAs do not notch at all their scales (eg Cerved of ICAP), references cannot be done to "downgrades by 3 notches" either.

On Article 5a "Over-reliance on credit ratings by financial institutions"
While the Consultation relates only to Article 5b, we would like to comment also on Article 5a of CRA III which calls on users of ratings not to rely solely or mechanistically on external ratings and requests sectoral competent authorities to "assess the use of contractual references to credit ratings". We would like to recall that CRD IV introduces 2 very important changes regarding the "External Credit Assessment Institution" (ECAI) status:

- The ECAI status will be granted automatically to ESMA registered Credit Rating Agencies
- The ECAI status will be an European wide one.

While the ECAI status was a national one and restricted in several EU Members States to just 3 well known CRAs, this legislative change means that banking institutions will be able to use going forward all ESMA registered and certified Credit Rating Agencies (currently 24).
We therefore call on all ESA's to inform all supervised entities about this important change and recommend that all users familiarize with all ESMA registered CRAs.
Similar to the above approach for the ESA's guidelines and recommendations, we think that contractual clauses to CRA ratings should be reviewed so that they generically relate to ESMA registered CRAs.

We thank you for your attention and remain at your full disposal for any clarifications or if we can be of any further assistance to you.

Sincerely yours

Thomas Missong	Thomas Morgenstern
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

Coface Services: French leader in business & marketing information and credit management solutions, providing a large range of tools to secure every step of companies' sales cycle and accompany their development

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.

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 while assigning ratings. All are deeply rooted in their respective markets; enjoy a high market share and a good reputation with local investors