

BVI¹ position on ESMA's Consultation Paper Proposed Revisions to Commission Delegated Regulation (EU) 447/2012 and Annex I of CRA Regulation

At the request of the EU Commission, ESMA has developed [proposals](#) to amend the EU framework for credit rating agencies, in particular to systematically include relevant environmental, social and governance (ESG) factors in credit ratings and to improve transparency in ratings and rating outlooks. ESMA had already set out its expectations in this regard in its [guidelines](#) on disclosures applicable to credit ratings. ESMA assumes that the EU Regulation on credit rating agencies (CRA Regulation) and the associated Delegated acts already stipulate that credit rating agencies should include ESG factors in their methodologies where relevant and also disclose ESG factors in rating press releases where they are taken into account. We share ESMA's assessment and welcome the proposal to transpose the requirements contained in the guidelines into EU legislation. This will ensure uniform application by all rating agencies.

We also welcome the other proposed adjustments to the transparency of rating methodologies as a whole. However, ESMA should collect information and encourage more transparency from CRAs on the methodology to identify certain ESG factors as relevant (or not) for incorporating into issuers' credit rating, as well as further clarity on the impact of ESG factors on the creditworthiness of creditors and financial instruments.

Irrespective of this, however, we would like to take the opportunity to repeatedly suggest further improvements to CRA regulation. Now that a Regulation on the transparency and integrity of ESG rating activities has also been adopted, which eliminates significant deficits in the ESG rating market and at the same time attempts to repeat erroneous approaches of the CRA regulation (e.g. through proposals on data and methodology transparency as well as requirements for the costs charged), we believe that the CRA regulation should also be reviewed in due course. At least, the following points should be addressed.

- Credit rating agencies should be required to give access, on reasonable commercial terms and on a non-discriminatory basis, to the arrangements they employ for making public the information (as it is required in Article 13 MiFIR for trading venues).
- It should be required by law that ESMA should collect annual information on pricing, licences, costs, and revenues per types of ratings and ancillary services in addition to fees and costs for rating-related products and services sold by other entities within the group. Particular attention should be paid to any 'bundled services', i.e. binding purchase of credit rating products in the aim of sourcing ESG data.
- We would also like to take this consultation as an opportunity to point out that the requirements for the European Rating Platform (ERP) in the CRA Regulation need to be revised in order to enable

¹ BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 115 members manage assets of some EUR 4 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 27%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



the legally compliant, institutional use of ERPs. ESMA has already outlined the necessary changes in an [opinion](#). Section 4 of the opinion presents a number of legislative changes to the CRA Regulation which are needed to improve access to and use of credit ratings in the EU and highlights alternative measures which may achieve the same outcome:

*'57. In order to achieve its objective of ensuring high levels of investor and consumer protection to users of credit ratings in the EU, **ESMA finds that the CRA Regulation must be amended to enable the use of credit ratings in practice. This can be achieved by either changing the scope of the CRA Regulation to expressly include the distribution of machine-readable and downloadable credit ratings to subscribers, or by further developing the disclosure requirements of the CRA Regulation so that published credit ratings can be used for regulatory reporting purposes without entering into a fee-paying data licence.** These options, as well as alternative legislative action which may achieve the same result, are presented in the sections below for consideration by the legislators. Whilst drawing on evidence collected by ESMA, the analysis set out below should not replace a legislative consultation and detailed cost-benefit analysis.'*

We are available for further discussions to answer any follow-up questions on the impact on rating users.