



NOTE

ESMA Consultation on CRA 3 Implementation – SMSG reply

I. ESMA Consultation Paper on CRA3 Implementation

1. SMSG welcomes the consultation paper on CRA3 Implementation and acknowledges the pragmatic approach ESMA has taken which we believe will minimize the cost of compliance for credit rating agencies while at the same time delivering transparency to investors.
2. However we feel it is important to note that the ultimate success for ESMA of delivering against the general objective “to provide enough information to enable investors to make an informed assessment” will be determined by the functionality and usability of the European Rating Platform. We provide more detail on this below.

II. Structure Financial Instrument / Annex I

Do you agree that issuers, originators or sponsors of structured finance instrument established in the EU shall jointly agree upon and designate the entity responsible for providing the information to ESMA?

3. Yes. This should ensure that there is no confusion or ambiguity about which entity is responsible for providing the information to ESMA and thus complying with the regulation.
4. However we believe it would be helpful to clarify which part of an organisation (such as internal audit, compliance or risk management) should be responsible for providing the information. Without clear and proper role of internal control system’s task descriptions the effective control supervision might be damaged.
5. *Do you consider that the national laws on protection of personal data could impact the publication of the information contained in this draft Regulation?*
6. Yes, there are member states where the law of personal data protection is stricter than in other MSs.
7. *Do you consider the list of information requested pursuant to Article 4 as appropriate?*

8. ESMA has listened to feedback from the industry and adopted templates already in use and consistent with existing compliance requirements elsewhere. This should help keep the cost of compliance with CRA3 to a minimum for those within scope of the regulation.
9. A phase in period of one year, where the Bank of England templates are to be used, so as to give non-UK market participants' time to prepare could be sensible.
10. Further, bonds linked to indices should be excluded from the SFI and RTS should only be applied to SFIs covered by the Prospectus Directive.

Do you consider the frequency of information to be reported pursuant to Article 6 as adequate?

11. Yes. ESMA has struck the right balance between cost of compliance and transparency for investors.

III. European Rating Platform / Annex II

12. We would prefer that information is published according to option C of the ESMA discussion paper (all data reported until midnight will be published in one shot the next day at 11am).

Do you agree with the chosen frequency of reporting?

13. Yes. ESMA recommended approach balances the cost of the industry against the needs of investors in a sensible and practical way.

Do you agree with the choice of including also press releases and sovereign rating reports in the ERP and why?

14. Yes. If investors are to be able to carry out their own due diligence it is important that they have access to the reasoning as to why that particular rating has been changed. We believe it is also important for investors that this information is kept in one easily searchable central place. ERP must, we believe, give investors the ability to compare the rating of instruments, not only across rating agencies but also across time.
15. Further to this we believe it will be important that the ERP provides investors with the ability to subscribe to email alerts for that specific rating actions (e.g. downgrading of an issuer). We would also suggest that including the capability to download rating action would be of assistance in helping ESMA reduce the mechanistic reliance on ratings by fund management industry.

IV. FEES / Annex III

Do you agree with the proposed approach? If not, and given the existing legal framework, please suggest an alternative or alternative, giving reasons.

16. We agree that fees should be cost-based.

Do you agree with the proposed tables and information required? Please explain and should you not agree with any fields, please suggest alternatives, giving reasons for the suggestions.

17. We support the tables and agree with the specificity of information which ESMA will require.
18. However we have concerns that ESMA will not be able to supervise CRAs with regard to their fees unless sufficiently resourced. Without enough statisticians, to interpret the collected fee information, as well supervisors to follow up and investigate outliers, it will be difficult for ESMA to deliver on this requirement of the CRA3 Regulation.