esma European Securities and Markets Authority

Consultation Paper

ESMA Guidelines on the application of the endorsement regime under Article 4 (3) of the Credit Rating Regulation 1060/2009

18 March 2011 | ESMA/2011/97

European Securities and Markets Authority

Date: 18 March 2011
ESMA/2011/97

Responding to this Consultation Paper

The European Securities and Markets Authority (ESMA) invites comments on all matters in this paper. Comments are most helpful if they:

(a) respond to the question stated;

(b) contain a clear rationale; and

(c) describe any alternatives ESMA should consider.

ESMA will consider all comments received by **31 March 2011.**

All contributions should be submitted online at www.esma.europa.eu under the heading 'Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

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European Securities and Markets Authority

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Executive Summary

Reasons for publication

1. In June 2010 CESR has issued its Guidance on the Registration Process and related issues (CESR/Ref. 10-347), as required by article 21.2 of the EU Regulation (1060/2009/EC) on credit rating agencies. CESR's Guidance has also dealt with the endorsement regime established to allow the distribution and the use for regulatory purposes in the Community of credit ratings issued in third countries.

2. After the discussion by the EU Parliament and the Council on the revised Regulation on Credit Rating Agencies (CRAs) (Regulation v2), that modifies EU Regulation 1060/2009 on CRA (Regulation v1) in order to empower ESMA with full responsibility for the supervision and enforcement of CRA's in Europe from the second half of 2011, this new Regulation was agreed in December 2010 and will be published in the following weeks.

3. The Article 21.3 of Regulation v2 provided that "In accordance with Article 16 of Regulation (EU) No 1095/2010, ESA (ESMA) shall, in cooperation with ESA (EBA) and ESA (EIOPA), issue and update guidelines on the application of the endorsement regime under Article 4.3 of this Regulation by 7 June 2011."

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4. The Consultation Paper present ESMA's interpretation of Article 4.3 of the Regulation, providing some reasons in support of the interpretation that third country regulation has to contain enforceable rules that are "as stringent as" the one in the EU regulation.

5. Secondly, the Consultation Paper asks market participants to provide comments on the content of the attached Annex I by considering also the attached Cost-Benefit analysis in Annex II.

Next steps

6. ESMA will consider the feedback it would receive to this consultation in April 2011 in order to adopt and publish final guidelines on endorsement by the 7 June 2011.

I. Background

7. In June 2010 CESR has issued its Guidance on the Registration Process and related issues (CESR/Ref. 10-347), as required by article 21.2 of the EU Regulation (1060/2009/EC) on credit rating agencies. CESR's Guidance has also dealt with the endorsement regime established to allow the distribution and the use for regulatory purposes in the Community of credit ratings issued in third countries**.**

8. The EU Parliament and the Council are in the process of publishing the revised Regulation on Credit Rating Agencies (CRAs) (Regulation v2) that modifies EU Regulation 1060/2009 on CRA (Regulation v1) in order to empower ESMA who will be fully responsible for the supervision of CRA's in Europe from the second half of 2011.

9. Although the text has not been published yet in the Official Journal of the European Union, the Article 4.3 of the Regulation will remain unchanged. It is expected that the Regulation v2 will come into force at the latest at the end of the first half of 2011.

10. ESMA notes that the Article 4.3 (b) on the endorsement is unchanged and the Regulation introduced a new Article 21.3 mandating ESMA the following: "*In accordance with Article 16 of Regulation (EU) No 1095/2010, ESA (ESMA) shall, in cooperation with ESA (EBA) and ESA (EIOPA), issue and update guidelines on the application of the endorsement regime under Article 4 (3) of this Regulation by 7 June 2011*".

11. Accordingly, ESMA is required, as stated by Article 16 of ESMA Regulation (EU) No 1095/2010 to "*conduct public consultations regarding the guidelines and recommendations (...).*"

12. The final Guidance will be published by 7 June 2011 and will replace the paragraphs dealing with the interpretation of Art 4.3 (b) of the Guidance published by CESR on the 4th of June 2010 (Ref. CESR/10-347), and will integrate other parts of this CESR Guidance on the application of the endorsement regime.

13. The EU Regulation provides for two means by which ratings issued outside the EU can be used in the EU.

    a. Endorsement (Article 4.3(b))

    b. Certification (Article 5)

14. The introduction of these two approaches was necessary, because the EU Commission favored an EU Regulation containing a very limited access of credit ratings issued outside the EU whereas the EU Parliament and parts of the EU Council supported an EU Regulation that would allow ratings issued outside the EU to be used in the EU.

15. Endorsement allows the use of ratings issued outside the EU under certain conditions. One of the conditions that an EU-registered (or seeking registration) CRA must comply with, in order to endorse ratings, is to verify and to demonstrate on an ongoing basis that the conduct of credit rating activities by the third-country credit rating agency resulting in the issuing of the credit rating to be endorsed fulfills requirements which are at least as stringent as the requirements set out in Articles 6 to 12.

16. The second method is certification based on equivalence which only refers to credit rating agencies which are not of systemic importance to the financial stability or integrity of the financial markets of one or more Member States.

17. Under the certification procedure, one of the conditions for a foreign credit rating agency to be certified is that the EU Commission has adopted an equivalence decision recognising the legal and supervisory framework of the third country as equivalent to the requirements of the Regulation. The equivalence decision would state that the legal and supervisory framework of a third country ensures that credit rating agencies authorised or registered in that third country comply with legally binding requirements which are equivalent to the requirements resulting from the Regulation and which are subject to effective supervision and enforcement in that country (Article 5.6).

18. Under the endorsement procedure, a CRA, registered or seeking registration, might endorse ratings issued by a foreign CRA belonging to the same group or ratings issued by a foreign CRA when the EU

CRA has undertaken partly or entirely the rating activities leading to the issuance of the endorsed rating. Endorsement is only possible provided that the conditions established by Article 4.3 (a) to (h) are met.

19. The EU CRA that intends to endorse ratings of a foreign CRA belonging to the same group (or from a CRA outside its group where the endorsing CRA has undertaken in whole or in part the rating activities resulting in the issuing of the rating to be endorsed) has to inform its home competent authority (ESMA) in the application for registration (item 16 of Annex II of the Regulation). Annex II requires the CRA applying for registration to submit "documents and detailed information related to the expected use of endorsement". As part of the registration process competent authorities would check that the conditions set out in Article 4.3 are complied with.

20. The procedural aspects of the registration process, with regard to endorsement, are described in par. 75 to 82, par. 98 and par. 107 to 110 of the Guidance published by CESR in June 2010 (CESR/10-347)[1].

II. The assessment of the requirements "at least as stringent as" those set out in Articles 6 to 12 of the Regulation

21. ESMA has been asked to provide guidance on the application of the endorsement regime under Article 4.3 of the Regulation.

22. Article 4.3 (endorsement) requires that all of the following conditions are met**:**

> *1. the credit rating activities resulting in the issuing of the credit rating to be endorsed are undertaken in whole or in part by the endorsing credit rating agency or by credit rating agencies belonging to the same group;*
>
> *2. the credit rating agency has verified and is able to demonstrate on an ongoing basis to the competent authority of the home Member State that the conduct of credit rating activities by the third country credit rating agency resulting in the issuing of the credit rating to be endorsed fulfils requirements which are at least as stringent as the requirement set out in Articles 6 to 12;*
>
> *3. the ability of the competent authority of the home Member State of the endorsing credit rating agency to assess and monitor the compliance of the credit rating agency established in the third country with the requirements referred to in point (b) is not limited;*

[1] By seven months after the entry into force of the Regulation v2 and pursuant to Article 21.4 of the Regulation, fields of CESR Guidance dealing with (a) the information to be provided by a CRA in its application for registration as set in Annex II, (b) the information that CRA must provide for the application for certification and for assessment of its systemic importance to the financial stability or integrity of financial markets referred to in Article 5, (c) the presentation of the information, including structure, format, method and period of reporting, that CRAs shall disclose in accordance with Article 11.2 and point 1 of Part II of Section E of Annex I, (d) the assessment of compliance of credit rating methodologies with the requirements set out in Article 8.3 and the content and format of ratings data periodical reporting to be requested from the CRAs for ongoing supervision by ESMA shall be replaced by draft Regulatory Technical Standards for endorsement by the Commission in accordance with article 10 of ESMA Regulation (1095/2010).

4. *the credit rating agency makes available on request to the competent authority of the home Member State all the information necessary to enable that competent authority to supervise on an ongoing basis the compliance with the requirements of this Regulation;*

5. *there is an objective reason for the credit rating to be elaborated in a third country ;*

6. *the credit rating agency established in the third country is authorised or registered, and is subject to supervision, in that third country;*

7. *the regulatory regime in that third country prevents interference by the competent authorities and other public authorities of that third country with the content of credit rating methodologies; and*

8. *there is an appropriate cooperation arrangement between the competent authority of the home Member State of the endorsing credit rating agency and the relevant competent authority of the credit rating agency established in a third country. …..such cooperation arrangements shall specify at least:*

9. *the mechanism for the exchange of information between the competent authorities concerned; and*

10. *the procedures concerning the coordination of supervisory activities in order to enable the competent authority of the home Member State of the endorsing credit rating agency to monitor credit rating activities resulting in the issuing of the endorsed credit rating on an ongoing basis.*

23. Pursuant to the article 21.3 of the revised Regulation, in accordance with article 16 of ESMA Regulation (No 1095/2010), ESMA shall, in cooperation with EBA and EIOPA issue and update guidelines on the application of the endorsement regime under Article 4.3.

III. Endorsement regime

24. ESMA's current interpretation, as reflected in CESR Guidance (CESR 10/347), is that to allow the endorsement of credit ratings issued by a CRA in a third country, it is necessary that the "as stringent as" requirements are established by law or the regulation of the third country, which should also provide for rules on authorisation (or registration), and supervision, to be incompliance with Article 4.3 (f) and (g). If these conditions are met the EU CRA can be allowed, according to Article 4.3, to endorse ratings issued by a CRA based in that third country.

25. This interpretation was adopted in the CESR Guidance on Registration and related issues (CESR/10-347) on the basis of the European Commission service's informal view communicated to CESR.

26. The reasoning for this interpretation is that third-country CRAs need to be subject to supervision and enforcement by the relevant authority of the third-country for endorsement to be effective. Therefore the competent authorities of the endorsing CRA should assess and monitor compliance of the CRA

with requirements of the EU Regulation according to Article 4.3 (c) and not grant the authorisation to endorse, at the moment of the decision on registration – or withdraw the authorisation to endorse afterwards – in cases where the third-country CRA does not comply with requirements, according to the third country's regulatory framework, as stringent as those set out in Articles 6 to 12 of the Regulation.

27. In fact, if the requirements for endorsement could be established on a voluntary basis the risk of non compliance by the third-county CRA would be significantly higher as those requirements would not be subject to supervision by the third-country authority (if the law of that third-country does not include provisions as stringent as those set out in the EU Regulation). A regime based on the conduct of business rules of the foreign CRA on a voluntary basis could be understood as a self regulating system. In the absence of ex ante supervision by the third-country authority, based on strong legal requirements, the supervision ex-post by the EU home competent authorities could not be sufficient and effective, because, in the absence of stringent rules and supervision in the 3rd country, a rating might have been published for the EU market for months or even for years before the breach of any requirements is spotted and the EU authorities may react. This situation could produce material negative effects for the EU financial market. It is also questionable whether a cooperation arrangement with such a third-country supervisor could fulfil the objectives and criteria as specified in Article 4.3 (h). Therefore, interpreting the endorsement criteria as not requiring local regulations and a legal structure at least as stringent as the EU Regulation could make it much more difficult to achieve the principal aim of the Regulation, i.e. to protect the stability of financial markets and investors.

28. Furthermore, the interpretation of Article 4.3 (b) as referring only to requirements established by law or by regulation is reinforced by other conditions for endorsement, i.e. Article 4.3 (f) and (g), which require:

    Article 4.3 (f): "*the CRA established in the third country is authorised or registered, and is subject to supervision, in that third country*"

    Article 4.3 (g): "*the regulatory regime in that third country prevents interference by the competent authorities and other public authorities of that third country with the content of credit ratings and methodologies*".

29. In fact, considering that according to letter (f) the CRA should be authorised or registered and subject to supervision in the third country, it could be argued that the requirements "as stringent as the requirements set out in Articles 6 to 12" of the Regulation are established by law or regulation, and not on a voluntary basis. It seems not consistent to require for endorsement that the third country regulatory system provides for authorisation/registration and supervision of CRAs, and at the same time the requirements "at least as stringent as" can be also met on a voluntary basis. Moreover, letter (g) refers to a "regulatory regime in that third country", which could be interpreted as clearly indicating rules established by law or regulation.

30. The Regulation does not envisage admissibility of a dual system of compliance with its requirements, whereby local legal/regulatory rules in a third country would be "topped up" by policies and procedures voluntarily followed by the third country CRA or the EU-registered, endorsing CRA. Therefore, the requirements as stringent as those set out in Articles 6 to 12 may only be established in law or regulation of that third country in order to satisfy the condition laid down in Article 4.3 (b).

31. The costs and benefits associated to the above interpretation are highlighted in the Cost-Benefits Analysis attached to this Consultation Paper (Annex II).

Q1: Please comment on the content of the "Guidelines on the application of the endorsement regime under Article 4.3" attached to this Consultation Paper (Annex I), by considering also the attached Cost-Benefit Analysis (Annex II).

Annex I

ESMA Guidelines on the application of the endorsement regime under Article 4.3

A. Background

1. The EU Regulation 1060/2009 on credit rating agencies (the Regulation) was published in the EU Official Journal on 17 November 2009 and came into force on 7 December 2009. The Regulation was modified by the entry into force of the EU Regulation XX/2011 on XX XXXX 2011. The amendments to the Regulation empowered the European Securities and Markets Authority (ESMA) with the full supervision of the credit rating agencies (CRA) in Europe.

2. In June 2010 CESR issued its Guidance on the Registration Process and related issues (CESR/Ref. 10-347) (The Guidance). The Guidance dealt with the endorsement regime established to allow the distribution and the use for regulatory purposes in the Community of credit ratings issued in third countries.

3. Article 21.3 was inserted in the Regulation mandating ESMA, in cooperation with ESA (EBA) and ESA (EIOPA), to issue and update guidelines on the application of the endorsement regime under Article 4.3 of the Regulation, in accordance with Article 16 of ESMA Regulation (EU) No 1095/2010, by 7 June 2011. ESMA is issuing these Guidelines in accordance with the mandate it received.

4. Indeed, according to the inserted Article 40a of the Regulation "*all competences and duties related to the supervisory and enforcement activity in the field of credit rating agencies, which were conferred on the competent authorities of the Member States, whether acting as competent authorities of the home Member State or not, and on colleges of competent authorities where those have been established, shall be terminated on 1st July 2011*".

5. However, according to the inserted Article 40a of the Regulation, "*an application for registration received by the competent authorities of the home Member State or the relevant college by 7 September 2010 will not be transferred to ESMA, and the decision accepting or refusing registration or refusal decision will be taken by those authorities and the relevant college*".

6. Pursuant the amendments of the Regulation, ESMA replaced the national competent authorities in the provisions set in Article 4.3. However, the requirements of Article 4.3 of the Regulation remained unchanged. The entry into force of letters (f), (g) and (h) of Article 4.3 remained effective after 7 June 2011.

7. Upon their publication, these Guidelines will replace the paragraphs 93 to 111 of CESR Guidance published in June 2010 (Ref. CESR/10-347).

B. Relationship between equivalence and endorsement

8. The Regulation provides for two means by which ratings issued outside the EU can be used for regulatory purposes by regulated entities in the EU. The first is endorsement. One of the conditions that an EU CRA must verify in order to endorse ratings is that "*the conduct of credit rating activities by the third-country credit rating agency resulting in the issuing of the credit rating to be endorsed fulfills requirements which are at least as stringent as the requirements set out in Articles 6 to 12*". The second method is certification based on equivalence.

9. One of the conditions for a foreign credit rating agency to be certified is that the Commission has adopted an equivalence decision recognising the legal and supervisory framework of the third country as equivalent to the requirements of the Regulation. The equivalence decision would state that the legal and supervisory framework of a third country ensures that credit rating agencies authorised or registered in that third country comply with legally binding requirements which are equivalent to the requirements resulting from the Regulation and which are subject to effective supervision and enforcement in that country (Article 5.6).

10. The question that arises is whether the Regulation establishes two different tests depending which method is followed ("at least as stringent as" versus "equivalent to").

11. The last sentence of Recital 13 of the Regulation stipulates that the third country CRA should comply with requirements that achieve the same objective and effects in practice (as the EU Regulation). This suggests an objective based assessment of the condition set out in Article 4.3 (b) for endorsement and therefore a similar test than that required for equivalence.

12. Recital 14 of the Regulation clarifies that the certification regime is envisaged for smaller CRAs that are not systemically important. But the only adaptation to the endorsement mechanism that the Recital considers necessary is the requirement of physical presence in certain cases.

13. Therefore, ESMA considers that there would be no objective reasons to set different requirements for the third country CRAs depending on the mechanism used. The requirements according to which the ratings are produced should achieve the same objectives irrespective of the route the foreign CRA has to follow. This would ensure a level playing field for all rating agencies.

C. Impact of a decision on equivalence on the condition set out in Article 4.3(b) for endorsement

14. It is in the understanding of ESMA that an equivalence decision from the European Commission recognising the legal and supervisory framework of the third country as equivalent to the requirements of the Regulation would certainly facilitate the obligation of the endorsing EU CRA to demonstrate that the third-country CRA fulfills requirements that are at least as stringent as those set out in Articles 6 to 12 of the Regulation (assuming that no material changes to the framework of the third-country have occurred since the date of the Commission's decision).

15. ESMA considers that the impact which a negative Commission's decision on equivalence would have on the endorsement procedure could depend on the nature of the requirements the endorsement regime is based upon. This would also be relevant in case an EU CRA wishes to endorse ratings from a

CRA established in a foreign country and there has not been a previous European Commission decision on the equivalence of its legal and supervisory framework.

16. ESMA understands that the Article 4.3(b) should be interpreted as requiring local legal and regulatory system to impose requirements as stringent as those found in Articles 6 to 12 of the EU Regulation. ESMA has interpreted Article 4.3(b) as requiring the local third country legal and regulatory system to impose requirements "as stringent as" those found in Articles 6 to 12 of the EU Regulation.

17. Therefore, by the 1 July 2011, ESMA shall directly assess and monitor[2] compliance of the CRA with requirements of the EU Regulation according to Article 4.3(c) and not authorise the endorsement, or withdraw[3] the authorisation to endorse, in cases where the third-country CRA is not subject (or ceased to be subject) to requirements as stringent as those set out in Articles 6 to 12 of the Regulation under local legal and regulatory requirements.

18. ESMA considers that Article 4.3(f) requires CRA to be authorised or registered, and subject to supervision, in the third country, therefore the requirements "as stringent as the requirements set out in Articles 6 to 12" of the Regulation must be established by law or regulation, and not on a voluntary basis. In fact, it seems not consistent to require that in the third country there is a regulatory system which provides for authorisation/registration and supervision of the CRAs, whereas the requirements "as stringent as" can be also met on a voluntary basis.

19. Letter (g) refers to a "regulatory regime in that third country", which could be interpreted as clearly indicating rules established by Law or Regulation.

20. The Regulation does not envisage admissibility of a dual system of compliance with its requirements, whereby local legal/regulatory duties in a third country would be "topped up" by policies and procedures voluntarily followed by the third country CRA or the EU-registered, endorsing CRA. Therefore, the requirements as stringent as those set out in Articles 6 to 12 may only be established in law or regulation of that third-country in order to satisfy the condition laid down in Article 4.3 (b).

21. Moreover, the absence of a positive equivalence decision would not prevent the use of endorsement as ESMA could directly verify[4] the presence, within the local laws and regulations, of the requirements set out in Article 4.3 (b), (f) and (g), based on the information provided by the CRAs to comply with this demonstration, according to Article 4.3 (b). Conversely in case the Commission had decided that the framework of a third country is not equivalent there would be a strong indication that endorsement was unlikely.

[2] The home Member State shall assess and monitor the compliance with Article 4.3 (c) requirements of registered CRA's until 1 July 2011, according to inserted Article 40a(1) of the Regulation .

[3] The decision on the authorisation withdrawal for registered CRAs shall be the responsibility of the home Member State until 1 July 2011, according to inserted Article 40a(1) of the Regulation.

[4] Or the EU competent authorities for the applications for registration received by the home competent authorities or the relevant college before 7 September 2010 which are not transferred to ESMA on 1 July 2011 according to inserted Article 40a(1) of the Regulation.

22. However endorsement would still be possible if, for example, the CRA could demonstrate ESMA[5] that the third country regime had changed since the negative assessment to impose requirements at least as stringent as those outlined in Articles 6 to 12.

D. Enforcement of the endorsement regime after 7 June 2011

23. During the transitional period ending the 7 June 2011, the endorsing CRA were required to confirm to the EU authorities that the third country CRA is meeting requirements at least "as stringent as" Articles 6 to 12 on a self-imposed basis if there was no equivalent local regulatory regime.

24. Article 4.3 (b) of the Regulation provides for an obligation imposed upon CRA to demonstrate 'on an on-going basis' to ESMA[6] that the conduct of the third-country CRA fulfills requirements which are 'as stringent as' those of the EU Regulation.

25. Therefore, the CRAs will need to be able to demonstrate, with regard to the ratings elaborated in a third country, that the requirements 'as stringent as' are fulfilled not only ex-ante, but also ex-post. To demonstrate this, either the EU endorsing CRA should provide information on this aspect, in particular concerning possible criticalities that it would notice regarding the fulfillment of these requirements from the third country CRA, or ESMA should be able to collect information concerning the conduct of the third country CRA from an equivalent supervisory authority.

26. According to Article 41 of the Regulation, after 7 June 2011 letters (f), (g) and (h) of Article 4.3 will apply. The demonstration of the fulfillment of compliance on a "de facto" basis may be obtained by some on-going information/confirmation from the competent authority of the third country. This on-going information/confirmation - that would be asked in the framework of the cooperation arrangements provided for by Article 4.3 (h) - would concern information on any proceedings of a third country competent authority against the third country CRA, or the confirmation that there are no proceedings.

27. The conditions set out in Article 4.3 (b) will be evaluated via an objective based assessment. This means that ESMA will assess[7] that the crucial and core aspects of the EU Regulation have to be fulfilled and met by law or regulation in the third country, apart from the information provided by the CRA by their monitoring of the activity of the third country CRA but an exact replication of all the EU Regulations requirements would not be necessary.

[5] Or the EU competent authorities for the applications for registration received by the home competent authorities or the relevant college before 7 September 2010 which are not transferred to ESMA on 1 July 2011 according to inserted Article 40a(1) of the Regulation

[6] CRAs registered before 1 July 2011 shall be able to demonstrate it on an on-going basis to the competent authority of the home Member State until 1 July 2011, according to inserted Article 40a(1) of the Regulation.

[7] Or the authorities for the registration decisions taken before 1 July 201-1 and for the applications for registration received by the home competent authorities or the relevant college before 7 September 2010 which are not transferred to ESMA on 1 July 2011, according to Article inserted 40a(1) of the Regulation.

European Securities and Markets Authority

Date: 18 March 2011
ESMA/2011/98

IMPACT ASSESSMENT

Accompanying document to the consultation on ESMA Guidelines on the application of the Endorsement regime under Article 4(3) of Regulation no. 1060/2009 on Credit Rating Agencies

Annex II

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Executive Summary

1. The new Article 21.3 of the CRA Regulation v2 is expected to mandate ESMA to issue and update guidelines on the application of endorsement regime under Article 4.3 of the Regulation.

2. This impact assessment examines the costs and benefits that are linked to the proposed implementation of the "*as stringent as*" requirements set out in article 4.3 (b) of the Regulation.

3. The proposed endorsement regime that is analyzed in this document is the one established in June 2010 by CESR's Guidance, this requires that "as stringent as" requirements be met at the level of the legislative or regulatory framework applicable to the third-country CRAs issuing the endorsed ratings. This regime is designed to ensure the quality of the endorsed ratings. However, these benefits could be particularly appreciated in the medium to long term.

4. This impact assessment should be read in combination with ESMA's consultation document on the endorsement regime (ESMA-2011-97), to which it is annexed.

I Introduction

7. The Regulation of the European Parliament and of the Council no. 1060/2009 (hereinafter also "the Regulation") on credit rating agencies (CRAs) was signed on September 16 and entered into force on 7 December 2009. Articles 2.1 and 14.1 of the Regulation have introduced a registration regime for credit rating agencies established in the Community that intend to disclose ratings to the public or distribute them by subscription.

8. The Regulation provides for two means by which ratings issued outside the Community can be used for regulatory purposes in the EU. The first is the endorsement mechanism established by article 4.3 of the Regulation. A credit rating that a registered CRA endorses in compliance with the conditions set out in article 4.3 "*shall be considered to be a credit rating issued by a credit rating agency established in the Community and registered in accordance with this Regulation*" (art. 4.4). These ratings can be therefore used for regulatory purposes and be distributed to the public by registered CRAs. The second method, certification based on equivalence, is provided for by art. 5 of the Regulation; this regime only applies to third-country CRAs without a physical presence in Europe who issue ratings that have no systemic relevance for the stability or integrity of the financial markets of one or more Member States.

9. The new Article 21.3 of the CRA Regulation v2 is envisaged to mandate ESMA to formulate secondary measures issued in accordance to article 8.1 of Regulation no.1095/2010 (hereinafter also referred to as "the ESMA Regulation") on a number of subjects which have been to a large extent already covered by the existing CESR Guidance. These measures include guidelines on the application of endorsement under Article 4.3 of the Regulation; the guidelines shall be issued by ESMA, in cooperation with EBA and EIOPA, by the 7th of June 2011, corresponding to the date of full entry into force (including the requirements in points (f), (g) and (h) of Article 4.3 of the endorsement regime (Article 41) and of the end of the transitional phase described in paragraph 108 of CESR's Guidance on Registration published in June 2010(CESR/10-347).

II. Procedural Issues and Consultation of Interested Parties

10. In issuing its guidelines on the endorsement regime, ESMA shall meet the requirements set out in Article 16.1 of its establishing Regulation. Procedural requirements compel ESMA to conduct, where appropriate, a prior public consultation and cost-benefit analysis on the content of the guidelines, and to request the opinions of the Securities and Markets Stakeholder Group established according to Article 37 of the ESMA Regulation.

11. Pursuant to the requirements explained above, ESMA has published, on 14 January 2011, a "*Call for Evidence on the Criteria for Endorsement*" (ESMA/2011/005), with the aim to gather relevant information from financial institutions and other interested parties. By means of this Call for Evidence, ESMA has sought input, in particular from CRAs and users of ratings, on those aspects of the endorsement regime where ESMA has perceived that clarification is necessary.

12. The Call for Evidence closed on 24 January 2011; ESMA has received 16 responses, of which 7 came from financial institutions, 4 from CRAs and 5 from other stakeholders. These responses have as far as possible been taken into account in developing the analysis presented in this document.

13. In parallel with the Call for Evidence, ESMA has liaised with EBA and EIOPA with the intent to gather their contributions and views, both from a quantitative and a qualitative angle, regarding the use in the Community of credit ratings issued in third countries, and the outcome which could be linked to the implementation of the guidance which is the subject of this paper. ESMA will continue to cooperate with EBA and EIOPA during the all process relating to the issuance of the guidelines.

14. The consultation period will close on **31 March 2011**. ESMA will then review the responses from the consultation and publish its guidelines on the endorsement regime under article 4.3 of the Regulation by the 7th of June 2011.

III Economic background

15. The information provided in this section is based on publicly available data as well as data provided by the respondents to the Call for Evidence, the accuracy of which ESMA has not been in the position to verify. This needs to be taken into consideration when drawing conclusions.

16. The credit rating industry is intrinsically international in its nature. The following table provides a snapshot of the situation concerning the rough number of ratings issued outside of the European Union by the largest four international groups of CRAs at the end of 2010. It clearly shows the leading role of the US, probably linked to the development of the securitization market in that jurisdiction.

Country of issuance	Total number of ratings
United States	376,055
Canada	4,932
Mexico	1,323
Australia	8,865
Russia	1,636
Turkey	47
Argentina	1,198
Brazil	815
Chile	18
Japan	3,242
Hong Kong	1,339
Singapore	2,230
China	38
India	66
Taiwan	8
Thailand	17
UAE (with Dubai)	372
Israel	27
Tunisia	18
South Africa	201
Grand Total	**402,447**

Source: ESMA's rough calculation of ratings based on data from Credit Rating Agencies

17. Financial institutions which responded to the Call for Evidence launched by ESMA have highlighted the risk of increases in their capital requirements as a consequence of the possible non endorsability of some third-country ratings in the EU. These capital costs would mainly derive from the securitization positions, in particular when rated from CRAs established in the US and Canada, but also in South America and Australia. In addition, intermediaries have flagged risks linked from the possible non endorsability of ratings referring to corporate and sovereign exposures in Asia.

18. Some of the respondents to the Call for Evidence provided estimates of the additional capital requirements in case their non-EU-rated exposures became unrated. These indications are set out below:

- one respondent indicated that the inability to endorse ratings from all third countries (except for EU and Japan) could lead to an additional € 0.64 billion of regulatory capital for corporate portfolio. It also noticed that the impact in terms of additional capital requirements concerning the securitisation exposures could be close to € 9.3 billion. This would derive mostly (around 64%) from exposures towards the US.

  The respondent highlighted that the location of the lead analysts, which is needed to establish the country of issuance of the ratings, could not be identified. As a consequence, it has responded under the assumption that the ratings were issued in the country of establishment of the CRA that provided them.

- a second respondent estimated a potential impact in terms of additional capital requirements of around € 8 billion.

  The respondent indicated a concentration of investments in the US (around 68% of assets), consisting for one third in securitisation exposures. However, the response provided no detailed indication of the asset classes potentially originating the need of additional capital;

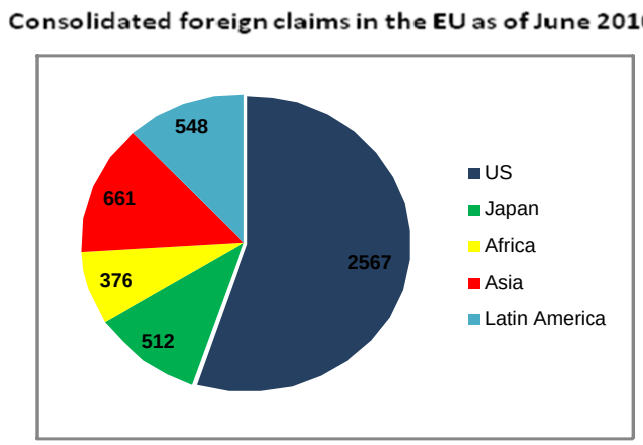
- a third respondent indicated that the increase in capital requirements if all non-EU exposure in its trading book were unrated could be of around € 271 million, mainly (50%) originated from exposures towards the US.

  ESMA points out that due to the differences in the nature of the information provided by different stakeholders it is not possible to present an analysis in an aggregated format.

  It shall be noted that the data provided above do not represent an estimation of the impact of the endorsement regime. In fact, this impact will depend on the situation on 7 June 2011 in a number of jurisdictions where the ratings are issued, in terms of either a possible determination of equivalence or as for the presence of requirements at least as stringent as to those of the EU Regulation. In addition, the impact would depend on the use of ratings made by financial institutions (use under the Standardized Approach or as factors within the IRB methods).

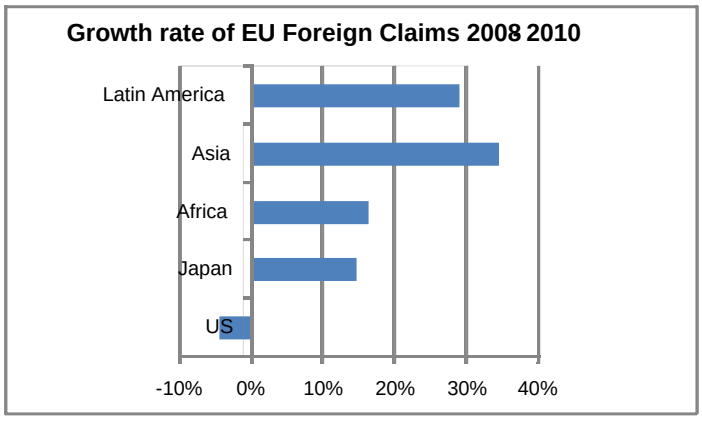
19. According to the data provided by EBA, in 2009 about 60% of the capital held by European financial institutions for prudential purposes referred to exposures treated according to the Standardized Approach, which entails the use of credit ratings for regulatory purposes.

20. The graph below illustrates the investments by the EU financial sector in countries outside of the Community.



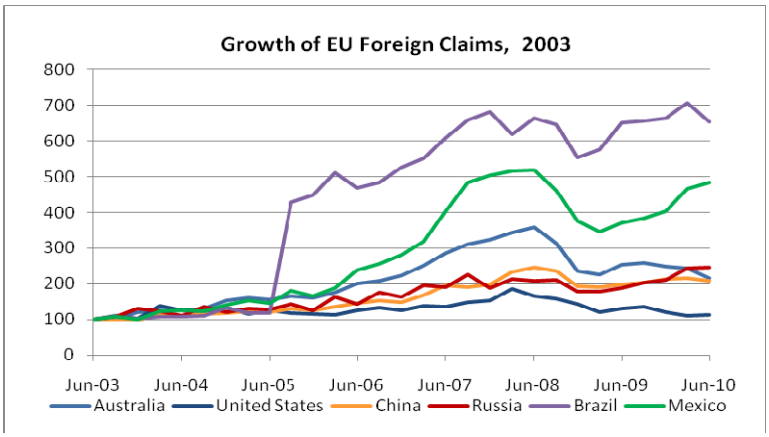
Source: BIS, June 2010 Quarterly Statment, data in €/billions

This graph shows the extent of the exposure of the EU financial industry in the US. However, this information shall be compared to the data reported in the graph below, which shows the growth in the investments by EU financial institutions in other countries, in particular Latin America and Asia.



Source: BIS, 2008-2010 Quarterly Statment

21. The increasing importance of Latin America (Brazil and Mexico) and Asia in terms of source of investment opportunities for the EU financial institutions is illustrated in the graph below, which shows the growth of EU financial institutions' foreign investments from 2003 to 2010.



Source: BIS, 2003-2010 Quarterly Statment

IV Objective

22. The objective of this impact assessment is to assess the costs (transaction, adjustment and opportunity costs) and benefits that are linked to the implementation of the requirements in Article 4.3(b) of the Regulation. This impact assessment should be read in combination with ESMA's consultation document on the endorsement regime (ESMA-2011-97), to which it is annexed.

V. Methodology

23. In order to assess the costs and benefits linked to the endorsement regime, ESMA has identified the costs and benefits which each option has in terms of its impact on the following stakeholders:

- market participants (all stakeholders in general: investors, issuers etc..);

- financial institutions and users of ratings;
- regulators; and
- CRAs.

24. The analysis provides a high-level view of the potential impact of these costs and benefits on the stakeholders in both the short (up to 18 months from 7 June 2011) and the medium/long term (after 3/5 years).

25. The analysis differentiates between the costs, which are discussed individually for each group of stakeholders, and the benefits, that are treated collectively for all market participants, including issuers and any kind of investors.

26. The costs and benefits that have been considered in this analysis are set out below:

COSTS:

a) for regulators:

- supervisory costs
  - assessment costs
  - ongoing supervisory costs
- legal and reputational risks

b) for CRAs:

- compliance costs
- operational costs
- (business) opportunity costs
- legal and reputational risks

c) for financial institutions:

- higher capital requirements/cost of capital
- adjustment costs/investments
- higher operating costs

BENEFITS for market participants are measured in relation to:

- the quality of (endorsed) ratings
- the efficiency of securities/capital markets

- the availability of ratings
- the access to funding or investment opportunities
- the cost of the ratings

27. A key assumption of this analysis is that a high probability of compliance with the requirements of the Regulation brings benefits to market participants, as this means a high level of:

    i) the protection of investors;

    ii) the quality of the credit ratings;

    iii) the overall efficiency and integrity of the market.

28. The overall impact of the costs and benefits of each option are graphically represented using the following scale system:

Key of the impact of the overall costs and benefits of an individual option on stakeholders		
High	**Medium**	**Low**
✓✓✓	✓✓	✓

29. Final comparison between the two options is done by calculating the impact of the overall costs and benefits of the two options for stakeholders. This requires the calculation of a single figure for the costs pertaining to the different stakeholders: i) financial institutions, ii) CRAs and iii) regulators. The analysis uses different weights in order to calculate this figure. The weighting system is the following.

Weighting System of Costs		
Costs for Regulators	**Costs for CRAs**	**Costs for Financial Institution**
5%	**25%**	**70%**

30. The weighting system illustrated above is meant to reflect the impact of the additional costs of each stakeholder group taking into account its role in the economic system as a whole.

VI The Endorsement Regime set out in CESR's Guidance of June 2010

31. The regime for endorsement which is presented in the aforementioned consultation paper, and here analysed, is based on CESR's June 2010 Guidance (paragraphs 100 to 113) and the informal interpretation provided by the European Commission in October 2009. This regime is grounded on the understanding that the "as stringent as" requirements set out in Article 4.3 (b) should be met at the level of the legislative or regulatory framework applicable to the third-country CRA in the jurisdiction where it issues the ratings (the location of the lead analyst).

COSTS

IMPACT ON REGULATORS

Supervisory costs:

32. The EU competent authorities (and in the future ESMA) would have to review and assess the legal and regulatory frameworks concerning CRAs of a number of jurisdictions outside the Community. The burden of these reviews is likely to be significant especially in the short term, because of the initial number of requests for endorsement that will need to be assessed. However, competent authorities should also monitor and analyse on an ongoing basis (in the medium/long term) the changes to the legal and regulatory frameworks concerning CRAs in the third countries.

33. The presence of similar ("as stringent as") requirements in the legislative or regulatory framework applicable in third-countries should foster synergies between the action of the EU and the third-country supervisors. This should reduce the cost of ongoing supervision of the third country CRA, and of the endorsed ratings, for the EU competent authorities, in particular in the medium/long term.

34. In fact, the existence of a common legal platform will allow the EU regulators to also rely upon the supervisory activities carried out by the third country regulators. These regulators will be well placed to assist effectively the EU competent authorities in the assessment of several aspects relating to activities of the third-country CRA, and to exchange information obtained from periodic reporting from CRAs or received in response to *ad-hoc* requests.

Legal and reputational risks:

35. The functioning of the endorsement mechanism as set out in CESR's Guidance entails the development of a level playing field in the regulation of CRAs on an international scale, which may require creation, changes and/or adjustments to the national legislation of certain countries. The possibility that third-country regulators may have to promote changes to the legal and regulatory frameworks concerning CRAs at different steps of the rule making process in their jurisdictions, and the need for the EU competent authorities to assess those developments, could in some circumstances add reputational risks for supervisors on either side.

36. The legal and reputational risk for ESMA in respect of its assessment of the "as stringent as" test and the endorsability of the third country ratings will not decrease significantly over time, as its position regarding the foreign legal and regulatory frameworks must be up to date. Any changes to the third country frameworks will have to be assessed in order to determine whether they would lead to a change in ESMA's assessment. Also, any amendment to the EU Regulation will imply a re-assessment of all foreign countries whose ratings are being endorsed by EU CRAs.

OVERALL ASSESSMENT

37. On the basis of the above, it can be concluded that the overall impact of the endorsement regime as set out in CESR's Guidance in terms of costs for regulators is high in the short term, due to the number of third country regimes that may need to be reviewed and assessed, and low in the medium to long term, as the burden linked to the ongoing supervision of the activities that refer to the endorsed ratings is shared between EU and local regulators in the third countries.

Costs for Regulators	
Short Term	**Medium/Long Term**
✓✓✓	✓

IMPACT ON CRAs

Compliance costs:

38. The endorsing EU CRAs could have to bear high initial costs linked to the provision of the information regarding the legal and regulatory frameworks of third countries and the preliminary assessment of whether these satisfies the "as stringent as" test. These costs may be significant, as some CRAs may wish to endorse ratings from a number of countries.

39. However, the impact of the ongoing compliance costs for the endorsing CRAs should be mitigated over the medium/long term, as their burden in terms of demonstration that the third-country CRAs fulfil requirements "as stringent as" those set out by the Regulation should be alleviated in part. In fact, the EU competent authorities would largely receive demonstration of the actual compliance with the prerequisites of article 4.3(b) at the level of the third country CRA directly through the exchange of information with the concerned third country regulators.

Operational costs:

40. The non endorsability of the credit ratings issued in some jurisdictions may act as an incentive for CRAs to reorganize their rating processes on a cross border basis, in order to recover the supply of the concerned ratings and maintain the market share.

41. However, in the short term these adjustments may generate significant costs linked to the extraordinary restructuring (e.g. relocations of systems, analysts, ect...) of the business. This is consistent with some responses received from the Call for Evidence, which highlighted how CRAs would be reluctant to modify their operations in order to ensure that ratings issued outside of the Community are only issued from countries from which endorsement is possible.

42. In addition, also the ongoing operational costs relating to the issuance of the concerned ratings may increase, as the procedures for the collection, elaboration and transmission of the information underlying these ratings may become more burdensome, alongside the control and monitoring mechanisms which should ensure the quality of these ratings.

Opportunity costs:

43. The non endorsability of the credit ratings issued in a number of jurisdictions may force some CRAs into high costs, at least in the short term, from the loss of business opportunities relating to the inability to distribute and make use of these ratings in the EU.

Legal and reputational risks:

44. The endorsement of ratings issued from a credit ratings agency established in a third country would always bring additional legal risk for the endorsing CRA, as a consequence of its responsibility for the

endorsed ratings as set out in Article 4.4 of the Regulation. However, the extent and materiality of this risk for the endorsing CRA should be somehow reduced by the fact that the third-country CRA is subject to the ongoing supervision from its local regulator, and it has the legal obligation at a local level to comply with requirements that are "as stringent as" those of the EU Regulation.

OVERALL ASSESSMENT

45. On the basis of the arguments illustrated above, it can be concluded that the overall impact of the endorsement regime set out in CESR's Guidance with regard to the costs for CRAs is medium in the short term, given the initial compliance, operational and opportunity costs, and low in the medium to long term, in light of the low ongoing compliance costs.

Costs for CRAs	
Short Term	**Medium /Long Term**
✓✓	✓

IMPACT ON FINANCIAL INSTITUTIONS

Higher capital requirements:

46. The functioning of the endorsement mechanism as set out in CESR's Guidance may require changes to the national legislations in certain third countries. In some circumstances, these changes may not be feasible or rapid enough to meet the timeline defined by the Regulation. As a consequence, financial institutions using the ratings issued in those jurisdictions for regulatory purposes may have to face increases in the capital requirements (see paragraph 18) associated to the exposures to which these ratings refer to, as these could not be endorsed in the EU.

47. These additional charges could increase the cost of capital in particular for smaller and less sophisticated institutions, which may face difficulties in raising capital on the market.

48. In general, the non endorsability of some ratings could aggravate the competitive disadvantage for the financial institutions that calculate their capital requirements according to the Standardized Approach- which is based on the use of external credit ratings- with respect to those institutions that have –extensively – adopted internal methods (IRB). The use of IRB methods is supposed, as such, to allow savings of capital requirements and, in case of non endorsability of some ratings, should in theory not necessarily lead to increases of capital charges, except for the securitization exposures, for which also IRB methods may imply the use of external credit ratings.

Adjustment costs/investments

49. The lack of appropriate regulatory requirements in a number of jurisdictions can make the access to the ratings that are issued in such jurisdictions more difficult or expensive, as these ratings could not be distributed to the public in the EU from registered CRAs. As a consequence, financial institutions could have to support relevant (one-off) investments in order to adjust their risk management systems and procedures that, for different purposes and in different phases (set-up, calibration, benchmarking, ect...), made use of these credit ratings.

Higher operating costs

50. The adjustments mentioned in the previous paragraph could also determine an increase of the operating costs for financial institutions. This is because financial institutions may have to elaborate, consistently and effectively through their existing investment and risk management processes, on a number of variables in order to extract information on the credit risk pertaining to certain exposures. As suggested by some responses to the Call for Evidence, financial firms may find difficult to identify reliable alternative measures which could be taken as substitute indicators of credit risk in lieu of the external credit ratings (market variables are often exposed to high volatility).

51. As highlighted in some of the responses received the Call for Evidence, the impact of the above mentioned capital, adjustment and operating costs for financial institutions may be significant in the short term. However, it appears reasonable to assume that this would not persist at the same level in the medium/long horizon.

52. Competition among CRAs should be able to remedy for the initial shortage, or increase of cost, of non endorsable ratings in the EU, as the agencies could adjust their processes and organization in the medium/long term in order to recover the supply of these ratings in the Community (from endorsable offices). However, as explained in the paragraph above (51), it can be concluded that this process may take rather a long time.

53. Similarly, it seems possible to anticipate that in the medium/long term a number of intermediaries should be able to calculate the capital requirements of several types of exposures according to internal methods.

OVERALL ASSESSMENT

54. On the basis of the arguments above, it can be concluded that the impact on the costs for financial institutions of the endorsement regime set out in CESR's Guidance is high in the short term, because of the increase in the cost of capital and the need to adjust internal risk management systems and procedures, and medium in the medium to long term, as the increase of the capital requirements and of the operating costs would be reduced as a consequence of the use of more advanced technology in the mentioned investment and risk management processes.

Costs for financial institutions	
Short Term	**Medium /Long Term**
✓✓✓	✓✓

BENEFITS FOR MARKET PARTICIPANTS

High quality of the endorsed ratings

55. In terms of the benefits for the market, the conditions set out in CESR's Guidance seem to be particularly effective in order to ensure the quality of the ratings endorsed in the Community. This high potential is based on the possibility for the EU competent authorities to rely upon an additional layer of

supervisory activities directly carried out in respect of the third country CRA by its local regulator. Cooperation with third country regulators in monitoring and enforcing common (as stringent as) requirements can be construed as a valid safeguard against supervisory risk[8].

56. All market participants should in general benefit from the high quality of the endorsed ratings, including investors of all types. This applies, in first place to financial institutions and other intermediaries, which should be able to improve the efficiency of their investment (and trading) portfolios, making decisions on the basis of more robust information concerning the credit quality of the assets.

57. The availability of better information on the credit worthiness of issuers or debtors should also allow financial institutions to enhance the quality of their dynamic provisioning against expected losses, and to build up solid capital cushions to resists unexpected credit events. This would help increase the resilience of these institutions in advance of possible crises, or individual problems occurring at the firm's level (e.g. illiquidity etc), preventing contagion in the market and, on the overall, adding to the stability and efficiency of the financial system.

58. The regime established in CESR's Guidance provides a credible mechanism to guarantee the endorsement of ratings of higher quality particularly in the medium/long term, based on the functioning of a harmonized supervisory framework at the EU and the third-country level. However, part of these benefits cannot be assured, because this regime relies on third country regulators to either establish the legal and regulatory framework, or make changes to existing frameworks in order to make them "as stringent as" the EU Regulation. In this respect, ESMA points out that those countries for which CESR has been mandated to assess their legal and supervisory frameworks have received incentives to create an equivalent regime.

Efficiency of securities/capital markets

59. As explained in paragraphs 55 and 56, the benefits delivered by the analysed regime in terms of safeguards for the high quality of the endorsed ratings, should have a clear positive impact on the overall efficiency and stability of the financial and capital markets, especially in the medium/long term. In fact, a high quality of the endorsed ratings should allow a more reliable evaluation of financial assets, and consequently could determine more efficiency and less volatility of the financial markets.

60. Nonetheless, some other effects may reduce these benefits in the short term. In fact, as indicated by some respondents to the Call for Evidence, a number of financial intermediaries may have to relatively quickly adjust the composition of their portfolios in response to the non endorsability of some ratings in the EU. This could have a potential significant impact on the market price of the concerned assets and cause negative consequences to investors (losses due to fire sales, in particular on foreign investments) and, potentially, foster volatility on the financial market (cliff effects).

Availability of ratings

61. Also, in the short term the non endorsability of some ratings may reduce the overall set of financial information at the disposal of market participants, triggering distortions in the price discovery mechanism and curbing the offering of some types of securities.

[8] Supervisory risk as used in this analysis is the risk of the inability of supervisors to mitigate the impact of or prevent conducts or actions in breach of the Regulation.

Access to funding opportunities

62. As highlighted by some respondents to the Call for Evidence, part of the benefits linked to the endorsement regime may be counterbalanced in the short term by the implications which would derive from the non endorsability of some ratings, as this could mean lower access to funding for a number of entities or individuals established in the Community.

63. In particular, these effects may propagate in the system through the impact on the securitization market, as the supply of credit to some entities/individuals may be rationed because of the lack of appetite for structured finance instruments – due to the increase in their capital or information costs- by financial institutions or professional investors. As previously highlighted, it appears reasonable to assume that these effects would be reduced in the medium/long term, because of some adjustments in the process and organisation of the CRAs and of a possible use of ratings issued by competitors.

Cost of the (endorsed) ratings

64. Finally, the benefits of the endorsement regime may be reduced, always in the short term, by the possible decrease in the EU of the number of ratings issued in third countries which miss appropriate legal conditions. This may put pressure on the demand of the alternative ratings still available in the EU, or induce the CRAs, as explained in paragraph 40, to embark in adjustment costs in order to keep the supply of ratings and defend the position in the market. In all cases, the costs of these ratings may increase, with negative consequences for investors.

OVERALL ASSESSMENT

65. For the reasons above, the impact of the benefits for market participants can be indicated as low/medium in the short term, because of the loss of information relating to the possible withdrawal of a number of credit ratings from the EU market, and high in the medium to long term, since market efficiency and integrity is enhanced by the high probability of the high quality of the ratings endorsed in the EU.

Benefits for market participants	
Short Term	**Medium /Long Term**
✓✓	✓✓✓

VII Summary of the Impact Assessment

66. This section illustrates a summary of the impact assessment of the proposed endorsement regime in both the short and the medium to long term.

67. The analysis presented in section VI has addressed the impact on some stakeholders (regulators, financial institutions and CRAs) from the point of view of the costs which the endorsement regime as established in CESR's Guidance would bring to them. These impacts are measured by the number of ticks in the tables illustrated in the previous paragraphs.

68. These measures of the cost impacts must be now aggregated across the concerned stakeholders, in order to obtain a single figure for the cost of the regime for endorsement over the different time hori-

zons. This calculation has been carried out using the weights presented in paragraph 29, in order to adequately reflect the importance of the different stakeholders in the financial system.

Calculation of the overall cost of the endorsement regime						
Stakeholders		Financial institutions	CRAs	Regulators	Aggregation of costs	Overall Impact
Short term	cost	✓✓✓	✓✓	✓✓✓	✓✓✓	High
	weight	70%	25%	5%		
Long term	cost	✓✓	✓	✓✓	✓✓	Low/Medium
	weight	70%	25%	5%		

69. The overall impact in terms of costs can be then compared with the benefits of the endorsement regime over the different time horizons (short term and medium to long term). In fact, the benefits are collectively presented in the analysis with respect to all the concerned stakeholders (the generality of market participants) with respect to the different time horizons.

70. From the comparison illustrated in the table below it appears clear that the endorsement regime as set out in CESR's Guidance provides greater benefits in the long term, while in the short term the benefits may be reduced from possible disruptions concerning the availability of a number of ratings in the Community after the 7th of June 2011.

Impact of the benefits of the endorsement regime		
Stakeholders	Benefits for all market participants	Overall Impact
Short term	✓✓	Low/Medium
Long term	✓✓✓	High

71. In terms of the costs of the endorsement regime, as can be seen from the table below, this can be significant in the short term, as it could increase the cost of capital for financial institutions and the operational costs for CRAs.

72. However, the impact on the costs side shall be reduced in the medium to long term. This is because the pressure on the (capital and) operating costs for financial institutions and CRAs should be partly

relieved by effects linked to the improvements of the technology and the organization of the concerned risk management or rating processes.

SUMMARY OF THE IMPACT ASSESSMENT		
	COSTS	**BENEFITS**
Short term	**High**	**Low/Medium**
Long term	**Low/Medium**	**High**

73. In conclusion, as explained above, the regime set out in CESR's Guidance for endorsement seems to deliver higher benefits in the medium to long term, because it minimizes the supervisory risks[9] linked to the endorsement of third-country ratings in the Community and reinforcing the safeguards for the quality of these ratings. This framework would also deliver benefits for all market participants in the medium/long horizon, also in terms of higher market efficiency.

[9] As already mentioned in this document, supervisory risk is intended as the risk of the inability of supervisors to mitigate the impact of or prevent conducts or actions in breach of the Regulation.