Call for evidence

Availability and use of credit rating information and data

Responding to this paper

ESMA invites comments on this paper and in particular on the specific questions summarised in **Chapter 7**. Chapter 7 contains three separate questionnaires addressed to three groups of stakeholders.

ESMA will consider all comments received by **3 August 2020**.

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - 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 publicly 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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Who should read this paper

While all interested stakeholders are invited to respond to this call for evidence, this call for evidence contains a dedicated questionnaire for each of the following three target groups:

(i)   Users and potential users of credit ratings (Questionnaire A in Section 7.1) including but not limited to:

   a. **Public authorities such as** financial supervisors, ministries of finance, debt management offices, central banks;

   b. **Financial corporate entities such as** credit institutions, investment firms, insurance undertakings, reinsurance undertakings, institutions for occupational retirement provision, management companies, investment companies, alternative investment fund managers and central counterparties;

   c. **Individual users acting in a professional capacity such as** financial advisors and analysts;

   d. **Other individual users such as** retail investors and academics.

(ii)   CRAs (Questionnaire B in Section 7.2)

(iii)   Distributors of credit ratings (Questionnaire C in Section 7.3) including:

   a. Affiliates of CRAs; and

   b. Third-party information service providers.

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1 Introduction

1. The Credit Rating Agencies Regulation (hereinafter: "CRAR")[1] aims to ensure that credit ratings used in the EU are independent, objective and of adequate quality[2] to maintain the stability of financial markets and protect investors and users of credit ratings. To achieve this goal, the CRAR, among other measures, requires that only credit ratings which are issued by a registered CRA or endorsed in accordance with the CRAR can be used for regulatory purposes in the EU such as for the calculation of capital requirements. However, credit ratings are used for many other purposes/activities.

2. With this Call for Evidence (CfE), ESMA aims to map the principal activities (regulatory and otherwise) undertaken by various types of users in which credit ratings are required as an input. For each activity (e.g. risk management, market research, regulatory reporting), ESMA aims to identify users' specific rating data needs (e.g. format, frequency, scope, downloadability etc) and how these needs correspond with the information currently provided on the European Rating Platform and on CRAs' public websites.

3. In accordance with the CRAR, all credit ratings issued by a registered CRA[3] must be disclosed on the website of that CRA or by other means[4]. Since 2016, credit ratings are also published by ESMA on a centralised [European Rating Platform](#) (ERP)[5]. However, ESMA has observed a very low level of traffic on the ERP since its launch in 2016. In addition, ESMA has seen that unsupervised affiliates of some CRAs offer the same information through paid data-feeds. Some CRAs also licence their credit ratings to third-party data service providers for incorporation in other credit rating related products and services[6]. As set out in its Thematic Report on Fees charged by Credit Ratings and Trade Repositories[7], ESMA understands that many users pay to subscribe to data-feed services to access and use credit ratings issued by certain CRAs rather than obtaining them through the public websites of those CRAs.

4. As a part of this CfE, ESMA seeks input from CRAs to better understand why some CRAs engage in this practice whereas others do not. At the same time, by collecting

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[1] The European Credit Rating Agencies Regulation was adopted in 2009 and the subsequently amended in 2011 (hereinafter: "CRA 2") and 2013 (hereinafter: "CRA 3").

[2] See Recital 1 of CRA the CRA Regulation.

[3] See Article 10(1): "*A credit rating agency shall disclose any credit rating or rating outlook, as well as any decision to discontinue a credit rating, on a non-selective basis and in a timely manner. In the event of a decision to discontinue a credit rating, the information disclosed shall include full reasons for the decision.*

The first subparagraph shall also apply to credit ratings that are distributed by subscription."

[4] See Article 10 and Article 4(2) of the CRAR.

[5] See Article 11a of the CRAR "*ESMA shall publish the individual credit ratings submitted to it on a website ('European Rating Platform')*"

[6] See "*Thematic Report On fees charged by Credit Rating Agencies and Trade Repositories*" 11 January 2018 | ESMA80-196-954, available at:

https://www.esma.europa.eu/sites/default/files/library/esma80-196-954_thematic_report_on_fees_charged_by_cras_and_trs.pdf

[7] See "Follow up Report On fees charged by Credit Rating Agencies and Trade Repositories" 20 December 2019 | ESMA80-196-3218, available at: https://www.esma.europa.eu/sites/default/files/library/esma80-196-3218_follow-up_report_on_fees_charged_by_cras_and_trs.pdf

evidence from users of credit ratings, ESMA aims to understand why users choose to rely on these fee-bearing sources of credit rating information rather than the information published free of charge on the ERP and on CRAs' websites. Based on information from CRAs and users, ESMA aims to assess whether there may be scope to improve the usability of information published on the ERP and CRAs' websites and what the likely costs and benefits might be to users and CRAs of implementing such improvements.

5. The following section discusses the different activities which require credit ratings as input and the specific credit ratings data which may be needed to enable those activities. The remaining two sections briefly summarise the disclosure requirements for credit ratings made through CRAs' websites and through the ERP.

2   Different credit rating data needs for different activities

6. Credit ratings are used by several types of stakeholders (Public authorities; financial corporates, professional and retail investors etc.) as an input into many different types of activities. One of the major uses of credit ratings foreseen by the CRAR is "regulatory use", i.e. use of credit ratings for the specific purpose of complying with Union law, or with Union law as implemented by the national legislation of the Member States[8]. This includes in particular, but not exclusively, the calculation by banks or insurance companies of their capital requirements[9]. However, credit ratings are also used for non-regulatory purposes such as investment strategy, market research etc.

7. Some of these activities may require automated processing of credit rating information and related data whereas others might not. Some of these activities might require real-time information about ratings whereas for other activities, a time-lag of a second, a day, a week or a month may be acceptable. Some of these activities may require credit ratings to be accompanied by other data and information about the rated entity or by the rating history whereas others might not. Some of these activities may require the ability to freely share the rating data and information within the organisation or with a third party such as a client or a supervisor, whereas others might not. By better understanding the specific needs associated with specific activities, ESMA will be able to assess which type of activities the ERP and certain CRA websites currently enable.

8. As a part of this CfE, the questions in Questionnaire A (section 7.1) aim to enable ESMA to map the activities of different types of users which rely on credit ratings as an input. The questionnaire also aims to give ESMA a better understanding of the specific credit rating data needs corresponding to each of these activities as well as users reliance on the different available sources of credit rating data. At the same time, ESMA

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[8] See Article 3(1)(g) of CRAR.

[9] See Recital 1 of CRAR

seeks feedback from CRAs in Questionnaire B (Section 7.2) as to why their public websites currently do not offer a maximum level of accessablity and usability.

3 Credit ratings published on the website of a CRA

9. The CRAR states that a CRA established in the Union and registered in accordance with the Regulation is deemed to have issued a credit rating when the credit rating has been published on its website or by other means or distributed by subscription and presented and disclosed in accordance with the obligations of the Regulation[10]. The requirements in relation to the disclosure and presentation of credit ratings on a CRA's website can be grouped into three main areas:

    o   Content and presentation;

    o   Timing and nature of disclosure; and

    o   Fees charged.

10. Content and presentation: A credit rating disclosed and presented in accordance with the requirements of the CRAR on the website of a CRA must be accompanied by certain information to enable the user of the credit rating to understand the main reasons for the credit rating, any limits or uncertainties underpinning the credit rating as well as where further information can be found to facilitate their own due diligence.[11]

11. This includes information about the origin of a credit rating (i.e. if it was issued in the EU and if not if it was endorsed by a registered CRA). It also includes information about the drivers and sensitivity of a credit rating, the solicitation status and potential participation of the rated entity. These requirements were further strengthened as a part of the 2013 amendments to CRAR[12] (CRA 3), notably for sovereign ratings[13], and recently ESMA published a set of Guidelines on how to apply these requirements in practice[14].

12. Timing and nature of disclosure: Apart from the obligations relating to the content and presentation of the credit ratings, the CRAR requires a CRA to disclose any credit rating or rating outlook, as well as any decision to discontinue a credit rating, on a non-selective basis and in a timely manner [15]. This requirement was also further strengthened in CRA 3 which established that until disclosure to the public of credit

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[10] See Article 4(2) of CRAR.

[11] See intern alia Article 10 and Section D of Annex I of the CRAR.

[12] Regulation (EU) No 462/2013 of the European Parliament and of the Council of 21 May 2013 amending Regulation (EC) No 1060/2009 on credit rating agencies, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0462

[13] See Article 8a of CRAR.

[14] Final Report Guidelines on Disclosure Requirements Applicable to Credit Ratings 18 July 2019 | ESMA33-9-320.

[15] See Article 10(1) of the CRAR.

ratings, rating outlooks and information relating thereto, they are deemed to be inside information[16]. In addition, disclosure of sovereign ratings has since the entry into force of CRA 3 been subject to even stricter rules regarding the timing of disclosure[17].

13. <u>Fees charged:</u> Beyond ensuring that credit ratings are accompanied by the appropriate information and disclosed in a timely and non-selective manner, Article 13 of the CRAR further specifies, that a CRA shall not charge a fee for the information provided in accordance with the Regulation[18]. This requirement was complemented by CRA 3 by a separate requirement that any fee which a CRA does charge to a client for the provision of credit ratings and ancillary services must be non-discriminatory and based on actual costs[19].

14. As a part of this CfE, the questions in section 7.1.3 of Questionnaire A and 7.2.2 of questionnaire B aim to give ESMA a better understanding of how many users and which user types rely on the information published on a CRA's website. They also aim to identify potential changes which could be made to the CRAs' public websites to improve their usability and to assess the potential costs and benefits of these potential changes to CRAs and users of credit ratings.

4 Paid data-feeds

15. As mentioned above, credit ratings issued by some CRAs are offered through third-party data service providers including providers which are members of the same group as a CRA. These are paid services which bundle credit rating data with other types of data.

16. As a part of this CfE, the questions in section 7.1.4 of Questionnaire A, 7.2.3 of Questionnaire B, and 7.3.2 of Questionnaire C aim to give ESMA a better understanding of how many users and which user types rely on the information provided by these third parties and why. Furthermore, the CfE seeks to collect information about these services and why only some CRAs offer them.

5 Credit ratings published on the European Rating Platform

17. Under CRA 3, ESMA was given a mandate to establish a [European Rating Platform](#) (ERP). The objective of the ERP was for investors, issuers and other interested parties to have access to up-to-date rating information on a central website and to allow investors to easily compare all credit ratings that exist with regard to a specific rated

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[16] See Article 10(2a) of CRAR
[17] See Articlr 8a(3)-(4) of CRAR
[18] See Article 13: A credit rating agency shall not charge a fee for the information provided in accordance with Articles 8 to 12.
[19] See Annex I Section B(3) of CRAR

entity. The ERP was also meant to help smaller and new CRAs to gain visibility. Finally, the intention was for the ERP to incorporate ESMA's central repository thereby creating a single platform to access all available credit ratings by instrument as well as information on historical performance data[20].

18. On the ERP, ESMA has published all credit ratings which can be used for regulatory purposes in the EU issued or updated after July 2015. Credit ratings published on the ERP are accompanied by all the regulatory disclosures required by the CRAR. The full set of information reported and published on the ERP is set out in the Commission Delegated Regulation (EU) 2015/2 of 30 September 2014 supplementing the CRAR. As stated above, ESMA has observed a very low level of traffic on the ERP since its launch in 2016.

19. As a part of this CfE, questions in section 7.1.5 of Questionnaire A, 7.2.4 of Questionnaire B, and 7.3.3 of Questionnaire C aim to give ESMA a better understanding of the reasons for the limited use by stakeholders of the ERP. They also aim to identify potential changes which could be made to the ERP to improve its usability and to assess the potential costs and benefits of these potential changes to CRAs and users of credit ratings.

6 Next steps

20. Based on the feedback received, ESMA will publish a report describing the current disclosure practices of the CRAs including via third-party data service providers as well as the consumption patterns of rating users. This report will consider options to improve access to and use of credit ratings, including ways to improve the usability of the information provided on the ERP and/or on the CRAs' websites and will assess the potential costs and benefits to CRAs and users of credit rating data/information of each option.

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[20] See Recital 31 of CRA 3.

7 Questionnaires

7.1 Questionnaire A for users and potential users of credit rating data

7.1.1 Background information

Q1 Name of respondent or organisation

Q2 Country of residence

Q3 Type of stakeholder (Supervisory authority; other public authority; industry association; bank; insurance undertaking; investment firm; asset manager; NGO)

Q4 If applicable, please provide an estimate of the organisation's annual turnover in the financial year 2019.

7.1.2 Activities in which credit ratings are used as an input

Q5 Please describe in as much detail as you can, each of the main activities for which you use credit ratings as an input (e.g. risk management, investment strategy, market research, supervision, etc). Subsequently, please answer the following questions for each of the described activities:

(A) Is the activity necessary for your organisation to be able to fulfil a regulatory requirement (if so, please explain which one)?

(B) Is the activity necessary for your organisation to be able to deliver a part of your core business (if so, please explain how)?

(C) How important are credit ratings in enabling to carry out this activity? (indispensable/important/desirable/optional. Please explain why).

(D) Does this activity necessitate the transmission of credit rating data within your organisation and/or to third parties such as clients or public authorities (if so, please explain to whom, how and why)?

(E) For the purposes of this activity, what frequency of updates is necessary (real-time / lag of less than 15 minutes / daily / monthly / quarterly / other)?

(F) For the purposes of this activity, is there a specific software format in which you need to receive the data (e.g. XML, CSV, JSON, other). Please explain which and why?

(G) For the purposes of this activity, which specific data characteristics do you need and why (e.g. rated instrument ISIN, rated entity LEI, CRA LEI, date, solicitation status, endorsement status…)?

(H) For the purposes of this activity, what other CRA information is indispensable (e.g. press releases, ratings reports, data models, methodologies, research papers etc.)?

(I) For the purposes of this activity, which coverage of rated entities/instruments do you need (e.g. all German corporates, all instruments traded on regulated markets in the EU etc.).

(J) For the purposes of this activity, which CRAs' credit ratings do you need and why (i.e. only some ESMA registered CRAs, all ESMA registered CRAs, all ESMA registered CRAs as well as one or more non-EU CRAs)?

7.1.3 CRAs' websites – current use and potential changes

Q6   Please indicate the level of use by you/your organisation (exclusive, primary, secondary, occasional, none) of the public website of CRAs, explaining why or why not you rely on CRAs' websites as your primary source of rating information. Please specify which CRAs' websites you use in practice.

Q7   Some CRAs recently changed the terms of use of the free public information disclosed on their websites, for example to permit internal use and use of credit ratings for regulatory reporting. Please explain what impact, if any, this has had on your use of the public websites of those CRAs?

Q8   Please explain what further changes to CRAs' websites would be necessary in order for you to make the credit ratings published there more useful and easier to access? Please explain the positive and negative impacts to your organisation of implementing those changes.

Q9   Please explain the positive and negative impacts to your organisation of making the following changes to CRAs' websites:

(A) Making credit rating data freely downloadable in CSV format?

(B) Making credit rating data freely machine-to-machine downloadable in XML or JSON format?

(C) Making further changes to the terms of use?

(D) Other?

Q10   Where you have identified negative impacts to making any of the changes listed in response to Q9 above, please explain whether there are any measures which could be adopted to mitigate these negative impacts.

7.1.4 Credit ratings via a paid data-feed – current use and characteristics

Q11   Please indicate the level of use by you/your organisation (exclusive, primary, secondary, occasional, none) of a paid data-feed as the source of rating

information/data explaining why or why not you rely on a paid datafeed as your primary source of rating information.

Q12 If you or your organisation relies on a paid datafeed, please describe the characteristics of this datafeed:

(A) What is the name of the data-feed and the name of its provider?

(B) Does this datafeed allow for the transmission of credit rating data internally within your organisation and/or to clients, contractors or public authorities (to whom and how is transmission permissible)?

(C) What is the frequency with which you receive updated rating data through this source (real-time / lag of less than 15 minutes / daily / monthly / quarterly / other)?

(D) In which format (e.g. XML, CSV, JSON, other) do you currently receive rating data?

(E) Which specific data characteristics does the rating data you currently receive include (e.g. rated instrument ISIN, rated entity LEI, CRA LEI, date, solicitation status, endorsement status…)?

(F) Which coverage of rated entities/instruments does the rating data you currently receive include (e.g. which geographic zones, asset classes etc)?

(G) Which CRAs' ratings are included in the rating data-feed?

(H) Does your subscription include other CRA products or services (e.g. press releases, ratings reports, data models, methodologies, research papers etc.)?

(I) Please provide the total fees paid by you or your organisation in 2019, 2018 and 2017 to access and use credit rating data. If your organisation pays a fee to more than one entity (*e.g. several CRAs/ CRA affiliates/data service providers/Intellectual Property right holders etc*) please break down the fee per entity. Please provide explanations as necessary.

7.1.5 Credit ratings via the ERP – current use and potential improvements

Q13 Please indicate the level of use by your organisation (exclusive, primary, secondary, occasional, none) of the ERP, explaining why or why not you rely on the ERP as your primary source of rating information.

Q14 Please explain what specific changes to the ERP (e.g new technical functionalities, data presentation and accessability) would be necessary in order for your organisation to use it as your primary source of rating information?

Q15 Please explain the positive and negative impacts to your organisation of making the credit ratings on the ERP and indicate if you are in favour of such changes:

(A) Freely downloadable in CSV format?

(B) Freely machine-to-machine downloadable in XML or JSON format?

(C) Making further changes to the terms of use?

(D) Other?

Q16 Where you have identified negative impacts to making any of the changes listed in response to Q14 and Q13 above, please explain whether there are any measures which could be adopted to mitigate these negative impacts.

7.1.6 Additional relevant information and evidence

Q17 Please use this space to provide any further information you would like to bring to ESMA's attention and to attach any relevant evidence in support of your responses to the questions above.

7.2 Questionnaire B for CRAs

7.2.1 Background information

Q1   Name of organisation

Q2   Country of residence

Q3   Please provide an approximation of the organisation's annual turnover in the financial year 2019.

7.2.2 Credit Rating Agencies' Websites – characteristics and potential changes

Q4   Are users required to register with your organisation in order to be able to access the credit ratings published on your public website? If yes, please explain what information visitors are required to provide and why this is necessary.

Q5   Please briefly summarise the aim and content of any terms of use which a user must formally accept in order to access the credit ratings information published on your public website. As a part of your summary, please specify if your terms of use prohibit the use of the rating data for any particular purposes or activities e.g. copying, storing, onward sharing, redistributing "commercial use" and "regulatory use". Please explain the reasons for these restrictions.

Q6   Please explain how the credit ratings published on your public website can be accessed and downloaded, specifically whether they are:

(A) Including historical rating actions and, if not, at what point a rating action is removed from the website.

(B) searchable by time period (i.e. all rating actions of 2018) and by broad search criteria e.g. by sector, geographic location, rating etc: "All rating actions relating to German, BBB-rated corporates in 2018";

(C) downloadable via in CSV format. Please clearly specify any potential limitations or restrictions and the reasons for these restrictions;

(D) machine-to-machine downloadable in XML or JSON format. Please clearly specify any potential limitations or restrictions and the reasons for these restrictions.

Q7   Please summarise any recent changes to your organisation's public website terms of use and explain whether you observed an impact on the traffic to your public website following these changes.

Q8   What further changes could be made to your public websites in order to improve the access and useability of the credit ratings published there?

Q9   Please explain the positive and negative impacts to your organistion (e.g. costs, technical challenges, regulatory/legal challenges, improved visibility, ease of use and reference etc etc.) of potentially making the following changes to your public website:

(A) Making all ratings searchable by time period (i.e. all rating actions issued in 2018) and by broad search criteria e.g. by sector, geographic location, rating etc: "All rating actions relating to German, BBB-rated corporates issued in 2018";

(B) Making all credit rating information freely downloadable in in CSV format;

(C) Making all credit ratings machine-to-machine downloadable in XML or JSON format.

Q10   Where you have identified negative impacts to making any of the changes listed in response to Q8 and Q9 above, please explain whether there are any measures which could be adopted to mitigate these negative impacts.

7.2.3   Distribution of credit ratings via a paid data-feed - characteristics

Q11   Please list all the paid data-feeds which contain your credit ratings including the name of the company which offers the feed. For each data-feed, please indicate:

(A) The approximate number of subscribers;

(B) The approximate annual revenue generated through these data-feeds in EUR;

(C) The different data characteristics (Date, rated entity LEI/ISIN etc) which are provided in these data-feeds;

(D) The formats (e.g. XML, CSV, JSON, other) in which your organisation currently provides credit rating data through these data-feeds.

Q12   Please explain what controls are in place to ensure the quality, accuracy and timely distribution of the credit ratings supplied through these data-feeds.

Q13   Please explain why you choose to offer your credit rating through a data-feed provided by a third-party rather than directly to your clients.

7.2.4   The European Rating Platform - potential improvements

Q14   Please provide your views and suggestions on how the ERP could be improved to increase its usefulness to rating users.

Q15   What would be the positive and negative impacts to your organisation (e.g. costs, technical challenges, regulatory/legal challenges, improved visibility, ease of use and reference etc.) of improving the accessibility of the ERP, including for example to allow for:

(A) all ratings to be searchable by time period (i.e. all rating actions issued in 2018) and by broad search criteria e.g. by sector, geographic location, rating etc: "All rating actions relating to German, BBB-rated corporates in 2018".

(B) all credit rating information to be freely downloadable in in CSV format.

(C) all credit ratings to be freely machine-to-machine downloadable in XML or JSON format.

Q16 Where you have identified negative impacts in response to Q14 and Q15 above, please explain whether there are any measures which could be adopted to mitigate these negative impacts.

7.2.5 Additional relevant information and evidence

Q17 Please use this space to provide any further information you would like to bring to ESMA's attention and to attach any relevant evidence in support of your responses to the questions above.

7.3 Questionnaire C for distributors of credit ratings including CRA affiliates

7.3.1 Background information

    Q1   Name of organisation

    Q2   Country of residence

    Q3   Type of organisation (CRA affiliate distributing of credit ratings data feeds or third party information services provider)

    Q4   Please provide an approximation of the organisation's annual turnover in the financial year 2019.

7.3.2 Distribution of credit ratings via a paid data-feed

    Q5   Please list all the paid data-feeds which your organisation offers and which contain credit ratings. For each data-feed, please indicate:

        (A) The CRAs whose ratings are included in the feed;

        (B) The approximate number of subscribers;

        (C) The approximate annual revenue generated through these data-feeds in EUR;

        (D) The different data characteristics (Date, rated entity LEI/ISIN etc) which are provided in your these data-feeds;

        (E) The formats (e.g. XML, CSV, JSON, other) your organisation currently provides credit rating data through these data-feeds.

    Q6   Please explain what controls are in place to ensure the quality, accuracy and timely distribution of the credit ratings supplied through these data-feeds.

7.3.3 The European Rating Platform - potential improvements

    Q7   Please provide your views and suggestions on how the ERP could be improved to increase its usefulness to rating users.

    Q8   What would be the positive and negative impacts of improving the access and usability of the ERP on your organisation, including for example to allow for:

        (A) all ratings to be searchable by time period (i.e. all rating actions issued in 2018) and by broad search criteria e.g. by sector, geographic location, rating etc: "All rating actions relating to German, BBB-rated corporates in 2018";

        (B) all credit rating information to be freely downloadable in in CSV format;

       (C) all credit ratings to be machine-to-machine downloadable in XML or JSON format.

Q9   Where you have identified negative impacts in response to Q7 and Q8 above, please explain whether there are any measures which could be adopted to mitigate these negative impacts.

7.3.4 Additional relevant information and evidence

Q10   Please use this space to provide any further information you would like to bring to ESMA's attention and to attach any relevant evidence in support of your responses to the questions above.