

# POSITION PAPER



## **ESBG's comments on the ESMA's guidelines on the application of the endorsement regime under Article 4 (3) of the Credit Rating Regulation (1060/2009)**

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ESBG Register ID 8765978796-80

**31 March 2011**





The European Savings Banks Group (ESBG) herewith provides its comments on the European Securities and Markets Authority (ESMA)'s draft guidelines on the application of the endorsement regime under Article 4 (3) of the Credit Rating Regulation (1060/2009).

### **General Remarks:**

In general ESBG positively values any regulation, the aim of which is to protect the stability of financial markets and investors, and particularly in relation to rating agencies, which were proved to be partially responsible for the financial crisis.

As a result, ESBG, as an overall statement, supports the framework established by the ESMA through guidelines on the application of the endorsement regime set out in the Credit Rating Regulation (CRR).

ESBG does however, call for a proportionate implementation of these guidelines in the banking sector.

### **Specific Remarks:**

- **Relationship between equivalence and endorsement:**

Regarding the question as to whether the Regulation establishes two different tests depending on which method is followed ('at least as stringent as' vs. 'equivalent to') for the two mechanisms by which ratings issued outside the EU can be used for regulatory purposes – either endorsement or certification based on equivalence – ESBG agrees with the approach proposed by the ESMA. There does not seem to be any objective reasons to set different requirements for the third country CRAs depending on the mechanism used, as the requirements according to which the ratings are produced should achieve the same objectives irrespective of the route the foreign CRA has to follow.

- **Impact of a decision on equivalence on the condition set out in Article 4.3 (b) for endorsement:**

ESBG also supports the understanding of the 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 fulfils requirements that are at least as stringent as those set out in Articles 6 to 12 of the Regulation.

ESBG furthermore supports that of 1 July 2011, the ESMA shall be the only organism fully responsible for the supervision of CRAs in Europe. ESBG is in agreement with the fact that the ESMA shall directly assess and monitor compliance of the CRA with requirements of the EU Regulation according to Article 4.3 (c) and not authorise the endorsement, or withdraw the authorisation to endorse where the third-country CRA is not subject to requirements as stringent as those set out in Articles 6-12 of the CRR under local legal and regulatory requirements.



ESBG as a result agrees with the interpretation of the ESMA regarding Article 4.3 (b), which requires local third country legal and regulatory systems to impose requirements ‘as stringent as’ those found in Articles 6-12 of the EU Regulation.

- **Enforcement of the endorsement regime:**

Although ESBG agrees with the overall framework proposed by the ESMA’s draft guidelines, we also stress that in order to avoid the expected burdensome short-term costs for market participants, especially for smaller and medium sized financial institutions, that a further transition period be introduced, during which these institutions are allowed to use third country ratings without those ratings being subject to the restrictions imposed by the new framework.

The further transitional period should be for at least one year, in order to ensure that those smaller and medium sized financial institutions are able to adjust to the new framework of endorsement and certification procedures without being placed under an additional financial burden. Without such a further transitional period, the institutions in question risk being placed at a competitive disadvantage.

- **Concluding remarks:**

Overall, ESBG would like to stress that market participants will only benefit from the regime of high quality endorsed ratings proposed by the ESMA if appropriate cooperation and coordination exists between supervisors at the international level, and not just within the EU. Furthermore it should be ensured that there is an improvement in transparency and the quality of information to which market participants, particularly investors, have access.



## About ESBG (European Savings Banks Group)

### ESBG – The European Voice of Savings and Retail Banking

ESBG (European Savings Banks Group) is an international banking association that represents one of the largest European retail banking networks, comprising about one third of the retail banking market in Europe, with total assets of over € 6.000 billion, non-bank deposits of € 3.100 billion and non-bank loans of € 3.300 billion (all figures on 1 January 2009). It represents the interests of its members vis-à-vis the EU Institutions and generates, facilitates and manages high quality cross-border banking projects.

ESBG members are typically savings and retail banks or associations thereof. They are often organised in decentralised networks and offer their services throughout their region. ESBG member banks have reinvested responsibly in their region for many decades and are a distinct benchmark for corporate social responsibility activities throughout Europe and the world.



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International not-for-profit association

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Published by the ESBG, March 2011