

IFLR Structured Products And Derivatives Forum - Credit Ratings

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Credit Ratings

- EU Regulation on credit rating agencies (CRA1) – March 2009
- Transfer of regulatory responsibility to ESMA (CRA2) – December 2010
- European Commission Consultation – November 2010 to January 2011
- Draft European Parliament Resolution on credit rating agencies – November 2010

EU Regulation (CRA1)

- Use of ratings for regulatory purposes, by regulated entities – only ratings issued by registered/certified CRAs
- Independence requirements to avoid/ manage conflicts of interest
- Requirements as to policies/ processes and monitoring of ratings
- Disclosure/ transparency requirements
- Enforcement/ supervision by national competent authorities

Recent Developments

- Amendment of CRA1 relating to transfer of supervisory powers from national competent authorities to ESMA
- Also proposed new articles 8a and 8b requiring issuers to provide access to their information to all interested registered/certified CRA's, as well as the appointed CRA
- For the time being omitted from provisional legislation published by European Parliament
- European Commission Consultation on CRA's

European Commission Consultation

- Overreliance on external credit ratings
- Sovereign debt ratings
- Competition
- Civil liability
- Conflicts of interest – business models

Overreliance

- Hardwiring of external credit ratings in financial regulation
 - Regulatory Limits and Capital Requirements
 - Standardised, IRB, Supervisory Formula
- Use of external ratings for internal risk management
- Use of external ratings in mandates/investment policies
 - Focus on Portfolio Managers

Sovereign Debt Ratings

- Transparency / monitoring
- Process
- Disclosure

Competition

- Enhancing competition in the credit rating industry
 - EMEA central banks / ECB
 - new national entrants
 - public/private structures
 - European network of small/medium sized agencies
- U.S. developments/experience

Civil Liability

- Proposal for a specific liability regime
- U.S. experience

Conflicts of interest

- Alternatives to “issuer-pays” model
 - subscriber/investor pays
 - “payment-upon-results” model
 - “trading venues pay” model
 - “government as hiring agent” model
 - public utility model

Future for external ratings?

- Thoughts