

20 May 2021

**By Electronic Submission**

**TARGETED CONSULTATION ON THE SUPERVISORY CONVERGENCE AND THE SINGLE RULEBOOK**

Moody's Investors Service (MIS) wishes to thank the European Commission for the opportunity to respond to its targeted consultation on supervisory convergence and the single rulebook. MIS has been registered with the European Securities and Markets Authority (ESMA) through its EU-based CRA subsidiaries<sup>1</sup> since October 2011. We have three broad observations on the consultation paper.

**1. The CRA Regulation provides ESMA with a comprehensive set of supervisory tools and has allowed ESMA to become a high impact supervisor.**

The CRA Regulation<sup>2</sup> provides ESMA with a comprehensive suite of supervisory powers and has allowed it to supervise CRAs with great effectiveness.

In our ten years of being supervised by ESMA, we have experienced ESMA as an impactful regulator and supervisor that has amassed broad industry knowledge through extensive engagement, both bilaterally and thematically, and which continuously seeks to raise the bar for the CRA industry. ESMA sets high and steadily evolving policy expectations and supervises their application in a systematic and diligent manner.

On the policy side, ESMA has further developed and specified the regulatory rule-book for CRAs in many areas, most recently e.g. in respect of internal controls and in respect of disclosure requirements applicable to credit ratings, including in the area of environmental, social and governance considerations. As a supervised entity, we continue to adjust and evolve our internal processes and standards in line with ESMA's guidance and expectations.

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<sup>1</sup> Moody's France S.A.S, Moody's Deutschland GmbH, Moody's Italia S.r.l., Moody's Investors Service España S.A., Moody's Investors Service (Nordics) AB

<sup>2</sup> Regulation (EC) No 1060/2009 as amended by Regulation (EU) No 513/ 2011, Regulation (EU) No 462/ 2013 and Regulation (EU) 2017/2402. Cf. in particular Articles 23b, c, d, e; Article 24; and Articles 36a and b

On the supervisory side, we are in continuous contact with ESMA and engage with ESMA's detailed and wide-ranging requests for information in respect of our compliance with the applicable regulatory requirements.

ESMA has thus played a strong role in shaping the processes and standards for the CRA industry in the EU and through its endorsement powers, also globally.

**2. ESMA's supervisory impact can benefit from a clear demarcation between policy, supervision and enforcement activities.**

As ESMA continues to develop its internal procedures and practices to reflect lessons learned and to maximise its effectiveness and market impact, we would encourage it to consider the demarcation between policy, supervision and enforcement activities.

While ESMA's supervisory experience inevitably influences its policy thinking, we suggest that it should be clear at any one time whether ESMA engages with firms in a supervisory, policy or enforcement capacity. Policy expectations should be developed in a self-standing, well-defined and consistent process that allows for sufficient opportunities for industry feedback and for sufficient implementation time.

This is to ensure that the policy development process benefits from an industry and market-wide perspective that considers the wider role of CRAs and the dynamics of the CRA industry, in abstraction from the functioning of individual firms. It is also a matter of due process that accepts that firms have made implementation choices in good faith, even if ESMA subsequently decides to enforce a different interpretation.

**3. In a future review of the ESA Regulations, it could be considered to stagger the terms of the Chair and Executive Director.**

We have no fundamental concerns with the governance arrangements that apply to the European Supervisory Authorities (ESAs). However, for future revisions of the ESA Regulations, it could be considered to space out the mandates of the Chair and Executive Director so that the two most senior executives are appointed for staggered periods of time. This would facilitate greater continuity of operations and reduce the risk of unintended disruption at times of change.

We thank you for your consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jens Schmidt-Bürgel', with a long horizontal stroke extending to the right.

Jens Schmidt-Bürgel  
Managing Director – Head of EU