Frankfurt am Main,
28 December 2018

BVI position on Draft implementing technical standards amending Implementing Regulation (EU) 2016/1800 on the allocation of credit assessment institutions to an objective scale of credit quality steps in accordance with Directive 2009/138/EC

BVI[1] supports the initiative to amend the regulation to reflect the developments on credit rating scales and the allocation of credit rating types. Our members are investment management companies and investment firms providing management services to regulated and supervised collective investment undertakings such as UCITS or AIF under the European UCITS Directive 2009/65/EC or the AIFM Directive 2011/61/EU. They use ratings and ancillary services provided by Credit Rating Agencies (CRAs) and their entities within the group. As users of these products, they are interested in well-functioning supervisory systems.

The Solvency II regulation requires our members to help the insurance industry to map the credit ratings issued by the CRAs to the CQS in the context of the "look through approach" for the investment funds which are necessary information for the Solvency II insurance companies invested in UCITS/AIFs.

We would like to make the following comments:

Do you agree with the proposed revised draft Implementing Technical Standards?

We generally agree with the revised draft. However, our members continuously complain about excessive fees charged and not transparent licensing models offered by CRA group entities for the provision of ratings data including also licensing practices for the CQS. Most recently, one member reported a 300 percent S&P ratings data cost increase offer compared with today through a combination of price and data usage policy changes. Our members continue to closely observe the non-transparent price increases in the credit rating industry and the practice to enter into license agreements which are typically made with an entity related to the registered CRA.

Therefore, we encourage the ESAs to analyse further the CRA derived data licensing practises on the use of credit ratings in the determination of the CQS codes. We welcome ESMA's recent report[2] on ratings data and the fact that ESMA is actively working to improve the transparency of activities of CRA-related data providers.[3] This activity should also incorporate inappropriate CQS licensing behaviour.

[1] BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Fund companies act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's more than 100 members manage assets of some 3 trillion euros for private investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 22% in the EU Germany represents the largest fund market as well as the second fastest growing market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.

[2] ESMA Thematic Report on fees charged by Credit Rating Agencies (CRAs) and Trade Repositories (TRs), 11 January 2018, p.17 para. 61 et seq. Available online at: https://www.esma.europa.eu/press-news/esma-news/esma-raises-concerns-fees-charged-cras-and-trade-repositories.

[3] Consultation Paper: Guidelines on the submission of periodic information to ESMA by Credit Rating Agencies – 2nd Edition, 19 July 2018 | ESMA 33-9-252, Q24. Available online at: https://www.esma.europa.eu/sites/default/files/library/esma33-9-252_revised_guidelines_on_periodic_reporting.pdf.

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