

## **BVI<sup>1</sup> position paper on drafted Guidelines on the submission of periodic information to ESMA by Credit Rating Agencies – 2<sup>nd</sup> Edition**

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. Although our members are not directly affected by the submission of periodic information to ESMA, we would like to draw our attention to question 24 as follows:

**Q24:** *Do you agree with the proposed approach of the Guidelines that ESMA should receive annual information cost and revenues per (i) types of credit ratings (ii) ancillary services in addition to fees and costs for credit rating related products and services sold by other entities within the group? If not please explain.*

**We fully support ESMA's approach to collect annual information on costs and revenues per types of credit ratings and ancillary services in addition to fees and costs for credit rating related products and services sold by other entities within the group.** According to Annex I Section B (3c) of the CRA Regulation, a CRA shall ensure that fees charged to its clients for the provision of credit rating and ancillary services are not discriminatory and are based on actual costs. Therefore, it is of utmost importance that ESMA has an overview of the costs and revenues charged to identify possible risks and violations. Our members continuously complain about excessive fees charged and not transparent licensing models offered by CRA group entities for the provision of ratings data. 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.

In particular, ESMA highlights in its last report<sup>2</sup> on fees charged by CRAs and trade repositories key areas of concern across the CRA industries with regard to the fee provision and where improvements are needed in the CRAs practices. This involves the application of the non-discrimination and cost-based/cost-related principles such as transparency and disclosure, fee-setting process including cost monitoring and related controls and interaction with related entities. Our members continue to closely observe the non-transparent price increases in the credit rating industry and the practice to enter into licence agreements which are typically made with an entity related to the registered CRA.

Therefore, collecting information on cost and revenues to the extent proposed by ESMA would lead to a better understanding of the services provided by CRAs and their entities within the group and that the regulatory objectives are met. In our understanding, this explicitly involves transparency of the interaction with related entities of the CRAs to avoid that these entities do not conflict with the non-discrimination and cost-based/cost-related principles laid down in the regulation.

<sup>1</sup> 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 over 100 members manage assets of more than 3 trillion euros for private investors, insurance companies, pension and retirement schemes, banks, churches and foundations. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit [www.bvi.de/en](http://www.bvi.de/en).

<sup>2</sup> [https://www.esma.europa.eu/sites/default/files/library/esma80-196-954\\_thematic\\_report\\_on\\_fees\\_charged\\_by\\_cras\\_and\\_trs.pdf](https://www.esma.europa.eu/sites/default/files/library/esma80-196-954_thematic_report_on_fees_charged_by_cras_and_trs.pdf)