

## PRESS RELEASE

### **DBRS, Fitch, Moody's, and S&P receive EU registration – ESMA provides update on endorsement of third countries' ratings**

ESMA announces today the registrations of DBRS, Fitch Ratings, Moody's Investor Service, and Standard & Poor's (S&P) as Credit Rating Agencies (CRAs). In order to do business in the European Union (EU), the EU Regulation on Credit Rating Agencies<sup>1</sup> requires CRAs to be registered in compliance with the requirements of the Regulation. Today's registrations are valid for all European entities of DBRS, Fitch, Moody's, and S&P respectively (see table 1 with the list of the EU entities registered).

The registrations of DBRS, Fitch, Moody's, and S&P follow a careful and co-ordinated examination of the applications by the colleges of the national competent authorities of the EU Member States. The registration assessments covered, amongst others, issues such as CRAs' independence, governance and transparency. The same issues will be subject to ESMA's ongoing supervision, which will start as of today. Overall, the new legal requirements and ESMA's supervision will contribute to the quality of ratings.

#### **Steven Maijoor, ESMA Chair, said:**

*"In bringing these globally active credit rating agencies under the umbrella of European supervision today, Europe is taking a major step towards a sounder credit rating market with increased transparency and reliability. By supervising these entities, ESMA will contribute to the quality of ratings which is crucial for the well-functioning of financial markets and investor protection. Their registration allows ESMA to commence on-site inspections and to assess how CRAs meet the requirements in areas such as governance, conflicts of interest and transparency."*

#### **Transitional period for credit ratings issued outside the EU**

Given the global scope of the CRAs' activities, the use of credit ratings issued in a third country needs to comply with the endorsement regime set out in the CRA Regulation<sup>2</sup>, detailed by the ESMA Guidelines on endorsement (ESMA/2011/139) published on 18 May 2011. Careful assessment of the relevant regulatory framework of third countries from which CRAs have indicated their intention to endorse credit ratings is ongoing, with a view to verify compliance with Art. 4 of the CRA Regulation. At this moment, ESMA notifies market participants that only the regulatory framework applicable to CRAs in Japan has been recognised to be in line with the requirements of the CRA Regulation (see table 2 attached), while several other third countries are in advanced state of aligning their regulatory framework to the requirements of the CRA Regulation. Given the ongoing recognition process of other third countries, a transitional period of three months (until 31 January 2012) is granted, which ESMA should very probably be able to extend for

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<sup>1</sup> (EC) No 1060/2009, amended by Regulation (EU) No 513/2011.

<sup>2</sup> Article 4 (3) of the CRA Regulation provides that in order for a CRA to endorse a credit rating issued in a third country, the regulatory framework of the third country should set requirements "as stringent as" those provided by Art 6-12 of the CRA Regulation. Moreover, article 4(3) also requires that there is an appropriate cooperation arrangement between ESMA and the relevant competent authority of the credit rating agency established in the third country.



three additional months (until 30 April 2012). This transitional period will allow market participants to continue using in the EU credit ratings issued in third countries, while the convergence assessment with the CRA Regulation requirements continues.<sup>3</sup>

Finally, any new decisions on endorsable third countries will be disclosed by ESMA upon adoption.

Following today's registrations, ESMA has updated the list of registered CRAs on its website. The list is available at the following link: <http://www.esma.europa.eu/popup2.php?id=7692> and will also be published in the Official Journal of the European Union within 30 days.

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<sup>3</sup> The possibility to continue using credit ratings issued by DBRS, Fitch, Moody's, and S&P respectively outside the EU until 31 January 2012 is embedded in Article 40 and Article 24(4) of the CRA Regulation. Moreover, ESMA, if needed, has the possibility to further extend this period until 30 April 2012. Within a reasonable time before 31 January 2012 the ESMA Board of Supervisors will verify the conditions for such an extension until 30 April 2012 by assessing the possibility whereby those non-endorsable credit ratings may still be used for regulatory purposes in the European Union.

**Table 1. Legal entities of DBRS, Fitch, Moody's, and S&P registered in the EU as of 31 October 2011.<sup>4</sup>**

| <b>CRA</b>               | <b>Legal entities and countries</b>  |
|--------------------------|--|
| DBRS                     | DBRS rating Limited (UK)   |
| Fitch Ratings            | Fitch France S.A.S (France)<br>Fitch Deutschland GmbH; (Germany)<br>Fitch Italia S.P.A.; ( Italy)<br>Fitch Polska S.A (Poland)<br>Fitch Ratings España SAU.; (Spain)<br>Fitch Ratings Limited; (United Kingdom)<br>Fitch Ratings CIS Limited; (United Kingdom) |
| Moody's Investor Service | Moody's Investors Service Cyprus Ltd (Cyprus)<br>Moody's France SAS (France)<br>Moody's Deutschland GmbH (GERMANY)<br>Moody's Italia S.r.l. (Italy)<br>Moody's Investors Service España S.A. (Spain)<br>Moody's Investors Service Ltd (UK)                     |
| Standard & Poor's        | Standard & Poor's Credit Market Services France SAS (France)<br>Standard & Poor's Credit Market Services Italy SRL (Italy)<br>Standard & Poor's Credit Market Services Europe Limited (UK)   |

<sup>4</sup> The complete list of registered CRAs as of 31 October 2011 is available at: <http://www.esma.europa.eu/popup2.php?id=7692>

**Table 2. Endorsability of credit ratings issued in the third-countries requested by the CRAs<sup>5</sup> as of 31 October 2011**

| <u>Country</u> | <u>Equivalence (EC Decision)</u>  | <u>Endorsability of credit ratings issued in the third country</u> | <u>Application of the transitional period (use of ratings issued in the third country permitted until 31 January 2012)</u> |
|----------------|-----------------------------------|--|--|
| Argentina      |                                   | No   | Yes  |
| Australia      |                                   | No   | Yes  |
| Brazil         |                                   | No   | Yes  |
| Canada         |                                   | No   | Yes  |
| Chile          |                                   | No   | Yes  |
| China          |                                   | No   | Yes  |
| Costa Rica     |                                   | No   | Yes  |
| Dubai          |                                   | No   | Yes  |
| Hong Kong      |                                   | No   | Yes  |
| India          |                                   | No   | Yes  |
| Indonesia      |                                   | No   | Yes  |
| Israel         |                                   | No   | Yes  |
| Japan          | Yes (from 28/9/2010) <sup>6</sup> | Yes <sup>7</sup>   | NA   |
| Mexico         |                                   | No   | Yes  |
| Panama         |                                   | No   | Yes  |
| Russia         |                                   | No   | Yes  |
| Singapore      |                                   | No   | Yes  |
| South Africa   |                                   | No   | Yes  |
| Sri Lanka      |                                   | No   | Yes  |
| Taiwan         |                                   | No   | Yes  |
| Thailand       |                                   | No   | Yes  |
| Tunisia        |                                   | No   | Yes  |
| Turkey         |                                   | No   | Yes  |
| US             |                                   | No   | Yes  |
| Venezuela      |                                   | No   | Yes  |

<sup>5</sup> This list only refers to the countries that were indicated by the CRAs when applying for registration, but is by no means exhaustive.

<sup>6</sup> The EC Decision is available at: <[http://ec.europa.eu/internal\\_market/securities/docs/agencies/japan\\_en.pdf](http://ec.europa.eu/internal_market/securities/docs/agencies/japan_en.pdf)>.

<sup>7</sup> The Press Release on the cooperation framework between ESMA and the Japanese FSA is available at: <<http://www.esma.europa.eu/popup2.php?id=7599>>. As specified below in the *Notes for editors* section of this Press Release, the Equivalence Decision and the cooperation framework fulfil the requirements set in Art. 4(3) of the CRA Regulation for the endorsability of third-country credit ratings.

## Notes for editors

1. Article 4(3) of the CRA Regulation (Regulation (EU) 1060/2009 as amended by Regulation (EU) No 513/2011) provides that in order for a CRA to endorse a credit rating issued in a third country, the regulatory framework of the third country should set requirements “as stringent as” those provided by Art 6-12 of the CRA Regulation. Moreover, Article 4(3) also requires that there is an appropriate cooperation arrangement between ESMA and the relevant competent authority of the credit rating agency established in the third country.
2. On 18 May 2011 ESMA issued its Guidelines on endorsement (ESMA/2011/139) to clarify the contents of the “as stringent as” test for credit ratings produced outside the European Union, in what are named “third countries”. According to the Guidelines, the wording of the provisions will not need to be identical to those set out in the CRA Regulation. A global and holistic view should be applied in assessing to what extent the third country legal framework achieves similar adequate regulatory effects and meets the same objectives as the EU Regulation. Moreover, Where the European Commission has recognised that the regulatory regime of a third country is equivalent to the CRA Regulation, it is possible to refer to this decision in respect of the “as stringent as” test set out in Article 4(3).
3. Article 40 of the CRA Regulation states that CRAs which have applied for registration by 7 September 2010 may continue to issue credit ratings that can be used for regulatory purposes by the financial institutions unless registration is refused. These provisions apply also in regard of the credit ratings that EU CRAs endorse from third-country CRAs, in accordance to Article 4(2) and 4(4) of the Regulation. Consequently, pending the decision on their registration, which also regards the endorsement of credit ratings, CRAs can keep endorsing credit ratings, and financial institutions may continue using these credit ratings for regulatory purposes.
4. If, when registering CRAs, national competent authorities decided to refuse the endorsement of credit ratings issued in particular third countries, provided the conditions in Article 4(3) of the Regulation are not met, financial institutions may still continue using these credit ratings for regulatory purposes during a period of three months (Article 24(4)). This applies to existing credit ratings as of 31 October 2011 as well to credit ratings issued during the provisional three-month period.
5. According to the second subparagraph of Article 24(4) of the Regulation, ESMA Board of Supervisors may again extend the possibility to use those non-endorsable credit ratings for regulatory purposes in the European Union for three additional months, provided that exceptional circumstances occur that may imply potential market disruption or financial instability. Also in this case, the provisional endorsement regime would also apply to credit ratings issued during the second three-month period.
6. ESMA is an independent EU Authority that was established on 1 January 2011 according to EU Regulation No. 1095/2010 as published on December 15, 2010, in the Official Journal of the European Union (L 331/84). The Authority contributes to safeguarding the stability of the European Union’s financial system by ensuring the integrity, transparency, efficiency and orderly functioning of securities markets, as well as enhancing investor protection. In particular, ESMA fosters supervisory convergence both amongst securities regulators, and across financial sectors by working closely with the other European Supervisory Authorities competent in the field of banking (EBA), and insurance and occupational pensions (EIOPA).
7. ESMA’s work on securities legislation contributes to the development of a single rule book in Europe. This serves two purposes; firstly, it ensures the consistent treatment of investors across the European



Union, enabling an adequate level of protection of investors through effective regulation and supervision. Secondly, it promotes equal conditions of competition for financial service providers, as well as ensuring the effectiveness and cost efficiency of supervision for supervised entities. As part of its role in standard setting and reducing the scope of regulatory arbitrage, ESMA strengthens international supervisory co-operation. Where requested in European law, ESMA undertakes the supervision of certain entities with pan European reach.

8. ESMA also contributes to the financial stability of the European Union, in the short, medium and long-term, through its contribution to the work of the European Systemic Risk Board, which identifies potential risks to the financial system and provides advice to diminish possible threats to the financial stability of the European Union. ESMA is also responsible for coordinating actions of securities supervisors or adopting emergency measures when a crisis situation arises.

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