

ESMA promotes common approach to rules supporting the use of smaller CRAs

The European Securities and Markets Authority (ESMA) has issued a [Supervisory Briefing](#) to national Sectoral Competent Authorities (SCAs), regarding the application of Articles 8(c) and (d) of the CRA Regulation (Regulation), to assist them with their supervision and enforcement of these provisions and promote supervisory convergence through adoption of a common supervisory approach.

The Supervisory Briefing, while addressed to SCAs, also streamlines compliance with Article 8(d)'s requirements for issuers and related third parties, by proposing a Standard Form for documenting the decision not to appoint a smaller CRA.

The Regulation aims to encourage competition in the credit ratings industry in the EU, with Articles 8 (c) and (d) requiring issuers or related third parties to consider appointing a smaller credit rating agency (CRA) when they intend to appoint two or more CRAs for the rating of an issuance or entity. However, implementation of these articles were hindered by a lack of clarity in a number of areas, including which issuers were captured by these requirements and how they should document the decision on use of CRAs.

In order to address these issues the Supervisory Briefing contains two parts, a Common Supervisory Approach and a Standard Form:

- the common supervisory approach aims is to assist the SCAs responsible for the supervision and enforcement of the Articles. It clearly establishes who should be prioritised for supervision and enforcement under these provisions.
- For issuers and related third parties, this common supervisory approach also provides clarity to their status under this articles;
- the Standard Form's purpose is to assist issuers and related third parties by providing clarity as to how they may meet their regulatory obligations under these provisions. It removes the need to develop in-house templates for documenting compliance under Article 8d of the CRA Regulation; and
- For SCAs, the standard form will provide standardised, consistent and comparable data as to why issuers and related third parties in their jurisdictions are not appointing smaller CRAs.