

Consultation on Draft Guidelines on “as stringent as” notion in the CRA Regulation

This paper may be of interest to users of credit ratings, credit rating agencies and entities interested in applying to be a registered CRA.

This consultation follows on from the updated Guidelines on endorsement (November 2017), and comes in response to requests from the industry.

The aim of the proposed supplementary guidance is twofold:

1. To provide clarity regarding the general principle ESMA relies on when assessing whether an alternative requirement can be considered as stringent as a requirement set out in the CRA Regulation (CRAR); and
2. ESMA’s concrete assessment of a number of alternative internal requirements which are currently in place in a third-country Credit Rating Agency (CRA).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

ESMA consults on supplementary guidance under the endorsement regime

The European Securities and Markets Authority (ESMA) has today published a [Consultation Paper \(CP\)](#) with proposed supplementary guidance on the application of the endorsement regime. This consultation follows on from the updated Guidelines on endorsement (November 2017), and comes in response to requests from the industry.

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Requirements which are at least as stringent as those set out in CRAR

In the updated Guidelines on endorsement which ESMA published in [November 2017](#), ESMA clarified that compliance with the third-country legal framework will no longer be considered proof that a third-country CRA "fulfils requirements which are at least as stringent as" those set out in the CRAR. Instead, an endorsing CRA has two options to demonstrate to ESMA that the "as stringent as" condition is met:

- Stating that the third-country CRA complies with the relevant provisions of CRAR; or,
- Stating that the third-country CRA has established and fulfils alternative internal requirements, which are at least as stringent as the relevant endorsement provisions of CRAR.

Next steps

The consultation will be open for a two-month period, with a deadline for submissions on 25 May 2018. The CP proposes to add the supplementary guidance as an additional subsection of ESMA's updated Guidelines on Endorsement which will apply to credit ratings issued after 1 January 2019 or reviewed after that date.

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