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Credit Rating Agencies

Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

Press Conference on Credit Rating Agencies

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The proposal I am bringing before you today is the result of work which began in August 2007 at the very beginning of the financial crisis. In the light of what had become evident in the credit markets, I announced I would begin immediate consultations with stakeholders on how we could strengthen the framework within which the credit rating agencies operate. I was determined that we must do it in a way that offered some prospect of restoring market confidence in future credit ratings and that would ensure that standards of professionalism and the integrity of rating operations would be maintained throughout the economic cycles at the highest possible level. As you know, until now, the main credit rating agencies have been signed up to a voluntary IOSCO code of conduct. Even in its revised format this code seemed to me to be something of a "toothless tiger". My concern was to ensure that we had measures that would give sufficient confidence that the conflicts of interest inherent in their "issuer pay" business models would be adequately managed or that the risks of such conflicts could be sufficiently mitigated.

In addition to consulting with the credit rating agencies about strengthened governance and procedures I asked the Committee of European Securities Regulators (CESR) and the European Securities Market Expert Group for advice.

CESR's advice leaned in favour of a self-regulatory approach while ESME outlined a comprehensive package of proposals and indicated that in the absence of a willingness by the CRAs to strengthen their internal governance and procedures regulation would have to be considered. Having considered the matter carefully – and taking account of the difficulty in getting all of the major CRAs to "step up to the plate" with adequate self regulatory proposals – I decided it was necessary to move forward with the preparation of this legislative proposal.

The proposal is in my view well balanced – it ensures the analytical independence of credit rating agencies while at the same time ensuring that they are subject to effective oversight to ensure that professional standards are applied, agreed procedures and policies are enforced to ensure that the integrity of the rating process is upheld and that conflicts of interest are adequately managed and mitigated.

To those who might say that this proposal is lacking in ambition let me say this:

This proposal goes further than the rules existing in any other jurisdiction in the world. On this issue we are adopting a leading role. While we are setting standards for the EU we want these to become global standards and we will discuss them with our main international partners with that objective in mind.

CRAs will have to be authorised and operate in full conformity with EU rules. They will be supervised by EU supervisors.

CRAs will no longer be able to use the defence that credit ratings are just opinions. They will be sanctioned and made liable for breaches of our rules and other wrongdoing, including gross professional misconduct. They could face the withdrawal of their license under EU law.

Unsolicited ratings will be curtailed: A CRA will not be able to issue such ratings if it does not have sufficient good quality information to do so.

In addition, we have included strong corporate governance rules which exist nowhere else in the world to deal with the conflicts inherent in the "issuer pays model". The main elements are that CRAs will have to have an internal function to review the quality of their ratings and to oversee this they will have to have at least three independent directors on their boards whose remuneration cannot depend on the business performance of the rating agency. Independent directors will be appointed for a single term of office which cannot be longer than five years. They can only be dismissed in case of misconduct or professional underperformance. The majority of the members of the board, including all independent members, will have to have sufficient expertise in financial services and least one of the independent directors will have to be an expert in securitization and structured finance. In addition to the overall responsibility of the board, the independent members of the board shall have the specific task of monitoring the development of the credit rating policy, the effectiveness of the internal quality control system to ensure there are no conflicts of interest, and the compliance and governance processes including the efficiency of the review function. Opinions of the independent directors issued on these matters will have to be presented to the board and made available to the competent authority, whenever it so requests.

As I have said before, credit rating agencies are not alone in carrying some responsibility for the scale of the current financial market problems – they are one of very many elements in the mix. As you know this is just one of many measures on which we have been working to strengthen the financial market framework for the time ahead. Last month I announced revisions to the capital requirements directive, improvements to the deposit guarantee scheme, and more recently some changes to the accounting rules. There is a lot more to be done on the review of Basel 2, on incentive structures within banks and on obtaining a global approach to many of these issues.

Consistency is important across our capital markets: Our approach on credit rating agencies is ground-breaking and we will take the lead in seeking to convince our partners in the world's other major capital markets to move in a similar direction to us in this and other areas.

The Commission will review its rules including the reliance on ratings and the appropriateness of the issuer pays model in three years' time.