

**Subject: Proposed legislation to amend Regulation (EC) No. 1060/2009
on Credit Rating Agencies**

DOCUMENT APPROVED BY THE COMMITTEE ON EUROPEAN UNION POLICIES
OF ITALY'S CHAMBER OF DEPUTIES

The European Union Policies Committee of Italy's Chamber of Deputies,

having examined the Proposal for a Regulation of the European Parliament and of the Council for the amendment of Regulation (EC) No. 1060/2009 on credit rating agencies (COM(2010)289) in order to evaluate its compatibility with the principle of subsidiarity;

taking account of the impact assessment that accompanies the Proposal (SEC(2010) 678) as well as the summary version thereof (SEC(2010)679);

considering that:

- a) the legal basis of the Proposal, based on Article 114 of the Treaty on the Functioning of the EU relating to the approximation of the provisions laid down by law, regulation or administrative measures in Member States which have as their object the establishment and functioning of the internal market, seems absolutely satisfactory in light of the content and purpose of the Proposal itself, which seeks to improve the functioning of the financial services market;
- b) the reasons stated in the Proposal in terms of compliance with the principle of subsidiarity as set forth in the explanatory memorandum and the impact assessment are generally accurate;
- c) the events connected with the economic and financial crisis have provided evidentiary proof that, in light of the nature, effect and typically transnational scope of the activities of credit rating agencies and the integration of European and international financial markets, the setting up of an effective and adequate regulatory and supervisory framework for credit rating agencies cannot be achieved within the confines of national law, and therefore requires common regulatory control at the level of the European Union;
- d) the provisions contained in the Proposal introduce new provisions or amend the existing provisions of EC Regulation No. 106/2009 in order to enhance the efficiency both of regulation and of supervision in this area, also in the light of recent experience;
- e) the amendments to Title I of the current Regulation and, in particular, the amendments to Article 4 Paragraph 1 to have alternative investment funds treated in the same way as other EU financial institutions with regard to the use of credit ratings seem to be entirely justified by the need to align the Regulation with the provisions contained in the new Proposal for a Directive on Alternative Investment Fund Managers (COM(2009)207);
- f) the amendments to Title II of EC Regulation No. 1060/2009 to impose transparency and disclosure obligations on the issuers of structured financial products address the accepted need to enhance competition and transparency in the European market for credit rating agencies and

bring EU law into line with the legislation recently introduced in the USA by SEC Rule 17g-5 published on 4 December 2009 and coming into force in June 2010;

- g) the amendments to Title III, which give the nascent European Securities and Markets Authority the power to supervise credit rating agencies, seem to be necessary for imposing effective and efficient oversight on credit rating agencies, which usually operate in multiple jurisdictions;
- h) the system put in place by EC Regulation No. 1060/2009, which seeks to ensure convergence and cooperation between competent national authorities by establishing colleges comprising the same authorities may, in fact, lead to conflicts of competences and delays in the adoption of decisions, and impose high costs also on the credit rating agencies;
- i) in particular, the amendments to Chapter 1 of Title III relating to the procedure for the registration of credit rating agencies that assigns powers to the European Securities and Markets Authority not only simplifies the procedure by eliminating the need for consultation between the national authorities forming part of the college and with the Committee of European Securities Regulators, but also shortens the time needed to register and lowers the burdens and costs for applicant agencies;
- j) the amendments to Chapter 2 of Title III granting the European Securities and Markets Authority the power to propose draft technical standards to be endorsed by the Commission, to demand necessary information from the credit rating agencies or other entities engaged in rating activities, to initiate investigations or carry out inspections of credit rating agencies are absolutely necessary to guarantee effective oversight work at a European level, also in light of the critical failings that emerged in the course of the financial crisis;
- k) the amendments to Chapter 3 of Title III, which allow national authorities to keep their oversight responsibilities regarding the use of credit ratings by the supervised entities that employ those credit ratings for regulatory purposes, appear to fully comply with the principle of subsidiarity, in as much national authorities are the best placed to examine how the supervised entities use credit ratings in their day-to-day activity and to take appropriate action, where necessary;
- l) also entirely consistent with the principle of subsidiarity is the provision whereby the European Securities and Markets Authority may also delegate specific supervisory tasks to competent national authorities when supervisory measures have to be undertaken at the remote premises of a rating agency or would require knowledge and experience with respect to local conditions, including foreign language skills;
- m) the amendments to Chapter 1 of Title IV allowing the European Securities and Markets Authority to request to Commission to impose penalty payments for breaches of the rules as prescribed in the new Annex III are indispensable for ensuring the effective enforcement of the Regulation;
- n) the Proposal clearly brings additional value both to the currently in force Regulation No. 1060/2009 and to any further changes to national legislation;

being conscious that the present document must be transmitted to the European Commission as part of the informal political dialogue, as well as to the European Parliament and to the Council;

CONSIDERS THE PROPOSAL AS COMPLIANT

with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union.