

13 May 2011

Bernhard Jehle
Swiss Financial Market Supervisory Authority
FINMA
Einsteinstrasse 2
CH-3003 Bern

Per E-mail: ratingagencies@finma.ch

Dear Mr Jehle

DRAFT FINMA CIRCULAR 2008/26 OF RATING AGENCIES (“THE DRAFT CIRCULAR”)

Moody's Investors Service (“MIS”) would like to thank FINMA for an opportunity to comment on the Draft Circular. On reviewing the Draft Circular and the accompanying explanatory memorandum, we note that the Draft Circular seeks to expand the recognition of credit rating agencies (“CRAs”) to other regulatory frameworks under the authority of FINMA. As a general point, you are reminded that MIS continues to advocate the reduction in the use of credit ratings in regulation where such a model allows for a mechanistic reliance on any measure of credit risk. MIS would further note the following:

1. Recognition of credit rating agencies domiciled outside of Switzerland

We welcome the approach adopted by FINMA in considering a simplified recognition process in recognising CRAs domiciled abroad and subject to an appropriate supervisory regime. We note that that FINMA has determined that Australia, the EU, Japan and the U.S. (“the Specified Jurisdictions”) meet the supervisory sufficiency test. As you may be aware, MIS operates on a global basis and operates from currently 19 jurisdictions worldwide. We would therefore propose that FINMA include a provision under the recognition of rating agencies domiciled abroad whereby recognition would be granted to a CRA and its CRA affiliates adopting similar standards of conduct. This will ensure that there is no ambiguity on the part of users of credit ratings in Switzerland as to whether a rating outside of the Specified Jurisdictions is eligible for regulatory use in Switzerland.

2. Requirement of objectivity

FINMA proposes back testing of rating methods and proposes a one to three year minimum term for rating methodologies in each sector. It is unclear what is meant by “rating methods” but by way of clarification, it is our understanding that updates to existing rating methodologies and new rating methodologies employed by previously recognised CRAs would not be restricted by this requirement.

3. Independence

Moody's attaches great significance to its independence and agrees that any significant influence by rated entities over the rating agency or individual ratings would not be acceptable. We nevertheless assume that FINMA's definition, in paragraph 32, of "inadmissible association" is not meant to prevent shareholders from seeking a rating from the CRA.

4. Disclosure

In the third bullet under the heading "(d) Disclosure" (paragraph 43), it is unclear what is meant by the "significance of each rating class" and we would propose that additional clarity be provided to this term.

5. Resources

The term "agreements" in paragraph 46 appears to apply to agreements entered into by third parties, without the involvement or knowledge of the CRA. It is therefore not possible for the CRA to be in compliance with the second sentence of this paragraph. In any event, the first sentence under "Resources" in our view appropriately captures the principles that CRAs should be sufficiently resourced to assign credit ratings of a high quality and would propose the deletion of the second sentence *in toto*:

~~"Where ratings are used in agreements, the resources should have close contact with the executive bodies of the borrower being rated/issuer of the credit being rated."~~

6. Recognition

Finally, it is unclear from the Draft Circular whether CRAs already recognised by FINMA would be required to apply for re-registration. We would not expect this to be the case, however, clarification from FINMA on this point would be welcomed.

Please do not hesitate to contact me with any queries you may have on this submission.

Yours sincerely

A handwritten signature in purple ink, appearing to read 'Nigel Phipps', with a long horizontal flourish underneath.

Nigel Phipps
Head of Regulatory Affairs for Europe, Middle East and Africa ("EMEA")