

MICHEL BARNIER

Membre de la Commission européenne

Brussels, 26 01 2012
BD/cq D(2012) 1458810

Dear Mr Trasi,
Dear Mr Mostböck,

Thank you for your letter of 14 November 2011. President Barroso has asked me to reply to you on his behalf.

I share your concern about the mistaken rating publication for France by Standard & Poor's on 10 November. This incident is serious and it shows that in the current tense and volatile market situation, market players must exercise discipline and demonstrate a special sense of responsibility.

I do not want to comment on the error itself - which was acknowledged immediately by Standard & Poor's. It will be up to the European Securities and Markets Authority (ESMA) which is in charge of supervising credit rating agencies established in the EU, and national supervisory authorities, to establish the facts, assess them and draw conclusions. If ESMA found that Standard & Poor's had committed an infringement of Regulation (EC) 1060/2009 on credit rating agencies (CRA Regulation) it should take supervisory measures and could impose sanctions.

You may be aware that on 15 November the Commission adopted a proposal to strengthen the CRA Regulation¹. The Commission proposed, inter alia, to reduce reliance on external ratings, to strengthen transparency and procedures with regard to sovereign debt ratings and to set up a European framework for civil liability of credit rating agencies. More specifically, the Commission proposed in Article 35a of the new proposal that investors should have the right to claim damages from a credit rating agency where the latter has infringed intentionally or with gross negligence the CRA Regulation.

Mr Giampaolo Trasi
EFFAS Chairman

Mr Friedrich Mostböck, CEFA
Member Executive Management Committee

EFFAS – The European federation of Financial Analysts Societies
Headquarters
Mainzer Landstrasse 47 a
60329 Frankfurt am Main, Germany

¹ Proposal for a Regulation of the European Parliament and the Council amending Regulation (EC) No 1060/2009 on credit rating agencies, available at http://ec.europa.eu/internal_market/securities/agencies/index_en.htm

The proposed rules, once adopted by the European Parliament and the Council, will strengthen the regulatory framework for credit rating agencies in the EU and may also be relevant in cases like this.

I have also asked my services to monitor this case closely with a view to assessing whether further regulatory measures might be necessary.

Yours sincerely, *or in character*

A handwritten signature in black ink, appearing to read 'Michel Barnier', with a stylized flourish at the end.

Michel BARNIER