Editorial Introduction: Regulating Credit Rating Agencies in the EU

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European financial markets have undergone dramatic changes, recently. Financial markets have to fulfil three fundamental functions. Apart from the allocation of capital by means of mainly bonds and securities, financial markets enable the transfer of risks by means of futures and options, in particular. Thirdly, by the creation of prices in financial markets relevant information is generated. However, market imperfections occur in practice. Many of them might be considered in general as the existence of transaction costs. In this context intermediaries come into play. They provide services that are intended to reduce transaction costs. Credit rating agencies are regarded as information intermediaries. They assess the creditworthiness of entities or financial instruments. Credit ratings might – in an ideal situation – reduce informational asymmetries and support investors in making investment decisions. Credit rating agencies function as gatekeepers, also. By rating entities or financial instruments credit rating agencies 'shape' their access to financial markets. Apart from these two functions credit ratings are referred to in standards, laws and regulations for regulatory purposes, the so-called 'hard-wiring' of credit ratings, and are used widely also by market participants. Credit rating agencies and credit ratings are considered to have gained systemic relevance in financial markets. Despite the systemic relevance of credit ratings and the occurrence of credit rating crises before 2007/2008 regulators and legislators at national and supranational level for too long shied away from regulating the credit rating sector. It was only the recent financial crisi(e)s with its first peak in autumn 2008 and the role that the credit rating sector played in the causation of this crisis that turned the procrastination of the European legislator into resolute action. The European Union enacted fundamental reforms to the European financial market supervisory structure in response to the recent financial crisi(e)s addressing in particular the credit rating sector. A regulatory and supervisory regime for credit rating agencies had been introduced in the European Union in 2009. Within less than four years after its introduction – in 2011 and 2013 – two reforms of the regulatory regime for credit rating agencies were enacted, also. This special issue of the European Business Law Review is dedicated to current legal and economic facets of the regulation and supervision of credit rating agencies in the European Union. The papers compiled in this issue cover the two realms of regulation in this context each from a legal and economic perspective: the rating-directed regulation focussing mainly on regulating credit rating activities and the rating-based regulation addressing the use of

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credit ratings. The specific topics of the papers range from a critical assessment of the European regulatory and supervisory regime for credit rating agencies after the second reform in general, intriguing governance issues and the civil liability of credit rating agencies under the new European rules and from a Swedish perspective to an analysis of the use of credit ratings in bank capital regulation and the economic view on the regulation of credit rating agencies and the regulation by means of credit ratings. It appears reasonable to conclude that the sector-specific regulation of credit rating agencies and credit ratings will stay on the agenda of the European legislator. Valuable conclusions with a view to the Union's approach to financial market regulation in general might also be drawn from the contributions to this special issue. This compilation of papers has resulted from a seminar held at the Department of Private Law at University of Oslo, Norway, in December 2012. The seminar was organised by the editors of this special issue who would like to express their thanks to the authors of the papers included in this issue for having contributed to the legal and economic analysis of the regulatory and supervisory approach to the credit rating sector. The editors of this special issue would like to express their thanks to The Finance Market Fund (Finansmarkedsfondet), The German-Norwegian E.ON Ruhrgas scholarship programme and the Research Council of Norway, for having funded the seminar.