

# ESMA PUBLISHES CRA MARKET SHARE CALCULATION

The purpose of the market share calculation is to facilitate issuers and related third parties in their evaluation of a CRA with no more than 10% total market share in the EU.

The CRA Regulation (CRAR), under Article 8d, says that issuers or related third parties are required to consider appointing a CRA with no more than 10% total market share whenever they intend to appoint one or more CRAs to rate an issuance or entity.

## **Using the Market Share Calculation**

The publication aims to guide the user through the requirements of Article 8d. It also provides background and guidance as to how the market share calculation is performed and should be used.

The structure and approach of the document is as follows:

- **Section 6** – Allows the user to identify CRAs with no more than 10% total market share;
- **Section 7** – Allows the user to identify the types of credit ratings offered by these CRAs;
- **Section 8** – Allows the user to assess the proportion each credit rating type makes up of a CRA's overall issuance; and
- **Section 9** – Provides a link to a Standard Form and Supervisory Briefing the user can for documenting the non-appointment of a CRA with no more than 10% total market share.

This market share calculation is valid for use from its date of publication and applicable until the date of publication of the next Market Share Calculation in 2018.

ESMA welcomes feedback on the information presented in this market share calculation in future and invites market participants to send this by email to: [CRA-info@esma.europa.eu](mailto:CRA-info@esma.europa.eu)

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## CRA Market Share Calculation 2017

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## Vehicle type-approval and market surveillance: EU ambassadors endorse agreement to revamp the sector

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EU ambassadors today confirmed an agreement reached on 7 December 2017 between the Estonian Presidency of the Council and the European Parliament on the reform of **type-approval and market surveillance for motor vehicles**.

The agreement must be now submitted to the Parliament and the Council for approval.

This major reform will modernise the current system and improve **control tests on car emissions**.

The reform of the type approval system has been the subject of public interest and scrutiny for almost two years and with good reason. In the EU, we expect everyone to play by the rules. If the trust in the fairness of the system is called into question, it must be restored. With this agreement, we have strengthened our rules and control mechanisms and ensured that the vehicles in Europe will be cleaner and safer.

*Kadri Simson, Minister for Economic Affairs and Infrastructure of Estonia*

The aim of the reform is to achieve a high level of safety and **environmental performance** of vehicles and to address the main shortcomings identified in the existing type-approval system.

Important changes are introduced in three areas by strengthening:

- the **quality of testing** that allows a vehicle to be placed on the market through improved technical services
- **market surveillance** to control the conformity of vehicles already available on the market, with the possibility for member states and the Commission to carry out **spot-checks on vehicles** in order to detect failures at an early stage
- the **oversight of the type-approval process**, in particular empowering the Commission to carry out periodic assessments on national type-approval authorities and through the establishment of a Forum for the exchange of information on enforcement, made up of representatives of national approval and market surveillance authorities

The harmonised implementation of the new rules across the EU will reduce differences in interpretation and application by national type-approval authorities and technical services.

In addition, the new system will enable the **detection of non-compliance cases at an early stage**.

## **A minimum number of cars to be checked**

The new market surveillance obligations will require every country to conduct a minimum number of checks on vehicles each year. This minimum number of checks will be **1 in every 40 000 new motor vehicles** registered in that country the previous year.

For those countries with a low number of car registrations there will be a minimum of 5 tests to be conducted.

At least 20% of the checks will have to be emission-related tests, with verification of emissions under real driving conditions.

Those countries with fewer technical capacities to carry out the required tests will be able to agree with other countries to carry out the tests on their behalf.

The regulation foresees an obligation for member states to finance market surveillance activities. The fees for type-approval activities will be levied on manufacturers who have applied for type-approval.

## **More robust oversight to detect failures**

The Commission will be empowered to carry out assessments of the procedures put in place by authorities that have granted EU type approvals within the five years preceding the assessment. The Commission will draw up a summary of the outcome and make it publicly available.

In addition, the Commission will be empowered to carry out tests and inspections of vehicles to verify compliance and **react to irregularities immediately**. This will increase the independence and quality of the EU type-approval system.

The Commission will also be able to impose administrative fines for infringements on manufacturers and importers of up to €30 000 per non-compliant vehicle.

An **assessment of type-approval authorities** will be established. The Commission will be able to participate in peer evaluation teams and will draw up a summary of the **outcomes of peer evaluations and make them public**.

Type-approval authorities however will not be subject to peer evaluation when they designate all their technical services on the basis of accreditation of internationally recognised standards.

In addition, the Commission will carry out regular assessments of the procedures put in place by the authorities that have granted EU type-approvals.

Furthermore, an advisory Forum for exchange of information on enforcement measures will be established with the purpose to harmonise different interpretations and practises among the member states. This Forum will also examine the outcomes of peer evaluations and Commission assessments.

In addition, the national authorities will have to submit each year to the Forum a comprehensive overview of their planned market surveillance checks.

As far as technical services are concerned, national accreditation bodies will be involved in the assessment of the technical services and the establishment of joint assessment teams. In case the technical service is not accredited, the assessment will be carried out by joint assessment teams composed of representatives of the type-approval authorities of at least two other member states and a representative of the Commission.

The position of **technical services vis-à-vis manufacturers will be strengthened**, and will include the right and duty to carry out unannounced factory inspections and to conduct physical or laboratory tests. The proper functioning of technical services is crucial for ensuring a high level of safety and environmental protection and so maintain consumer confidence in the system.

The technical services will carry out the tests for type-approval under the responsibility of type-approval authorities.

## **Next steps**

Following formal approval by the Council and the Parliament in the coming months, the regulation will be published in the Official Journal of the EU.

It will be applicable from 1 September 2020.

## **Background**

The proposal to modernise the type-approval system of motor vehicles was presented by the Commission on 27 January 2016. It will replace the EU's

current legal framework which is set out in directive 2007/46/EC.

A fundamental overhaul of the existing system, which was designed ten years ago, was already foreseen in the EU's work programme.

However, irregularities discovered on the use of illegal defeat devices by certain car manufacturers have made public opinion, authorities and economic operators aware of the need to implement robust provisions on type-approval, as well as to improve testing methods with respect to pollutant emissions from vehicles, to prevent similar cases in the future.

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## **145/2017 : 20 December 2017 – Judgment of the Court of Justice in Case C-102/16**

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