This paper examines the role of credit rating agencies (CRAs) in the current global financial crisis and whether they should be subject to a new form of regulation. CRAs made possible the creation, valuation and dealing in a range of exotic securities and obligations. This paper provides a comparison of Australian, US and EU laws and discusses the shortcomings of current regulations. As entire markets and nations rely on CRA ratings, the issue of conflict of interests is pivotal in understanding whether ratings are tainted. In light of the criticism and increasing litigation against CRAs, the ratings methodology employed by CRAs and the enforceability and extent of their reliance on disclaimers it will be argued has distorted both the regulation and the markets. In addition, the scope, consequences and limitations of proposed regulatory reforms of CRAs are described, and issues which may assist regulators in shaping future policies are identified. The paper examines whether CRA’s current exemptions from fiduciary and other statutory duties set out in Australia and other national regulatory regimes need to be balanced with perhaps imposing prudential regulatory standards, and prohibiting CRAs from engaging in activities other than the rating of entities, sovereigns and financial instruments.

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