

Fact Sheet
Open Meeting of the U.S. Securities and Exchange Commission
Washington, D.C.
December 3, 2008

Final Rules and Proposed Rules relating to Nationally Recognized Statistical Rating Organizations and Credit Ratings

The Commission today will consider whether to adopt final rule amendments and whether to propose new rule amendments that will impose additional requirements on nationally recognized statistical rating organizations in order to address concerns raised about the policies and procedures for, transparency of, and potential conflicts of interest relating to ratings of residential mortgage-backed securities backed by subprime mortgage loans and collateralized debt obligations linked to subprime loans.

The regulatory program established by the Credit Rating Agency Reform Act allows the Commission to promulgate rules regarding public disclosure; recordkeeping and financial reporting; and substantive requirements designed to ensure that NRSROs conduct their activities with integrity and impartiality. The rules being considered today are meant to supplement previous rules implemented by the Commission under the Credit Rating Agency Reform Act in June 2007.

Final Amendments to the Instructions to Exhibits 1 and 2 to Form NRSRO

This proposal would amend the instructions to Form NRSRO to require enhanced disclosures by NRSROs and applicants for registration as NRSROs. The amendments to the instructions to Exhibit 1 would require an NRSRO or NRSRO applicant to provide transition statistics for each asset class of credit ratings for which it is registered or is seeking registration, broken out over 1, 3, and 10 year periods. The amended instructions would clarify that all ratings transitions (i.e., upgrades as well as downgrades) must be included in these statistics as well as that default statistics must show defaults relative to the initial rating and incorporate defaults that occur after a credit rating is withdrawn. The amendments to the instructions to Exhibit 2 would require NRSROs to provide enhanced disclosure in three areas: (1) whether and, if so, how much verification performed on assets underlying or referenced by the structured finance transaction is relied on in determining credit ratings; (2) whether and, if so, how assessments of the quality of originators of structured finance transactions play a part in the determination of the credit ratings; and (3) more detailed information on the surveillance process, including whether different models or criteria are used for ratings surveillance than for determining initial ratings.

Records of Rating Actions (Final Amendments to Rule 17g-2(a)(8) and Instructions to Exhibit 1 of Form NRSRO)

This proposal would amend paragraph (d) of Rule 17g-2 to require an NRSRO to make publicly available a random sample of 10% of their issuer-paid credit ratings and their

histories documented for each class of issuer-paid credit rating for which the NRSRO is registered and has issued 500 or more ratings. This information would be required to be made public on the NRSRO's corporate Internet Web site in XBRL format no later than six months after the rating is made. The proposal would also amend the instructions to Exhibit 1 of Form NRSRO to require an NRSRO to disclose where in its Web site these ratings histories would be made available.

Final Amendments to Rule 17g-2

This proposal would add three new record keeping requirements to Rule 17g-2 and make one non-substantive change to an existing requirement. The first new recordkeeping requirement would be implemented by adding a new paragraph (a)(8) to Rule 17g-2. This provision would require an NRSRO to make and retain records of all rating actions related to a current rating from the initial rating to the current rating. The second new recordkeeping requirement would be implemented by adding a new paragraph (a)(2)(iii) to Rule 17g-2, which would require that if a quantitative model is a substantial component of the credit rating process for a structured finance product, an NRSRO must keep a record of the rationale for any material difference between the credit rating implied by the model and the final credit rating issued. The third new recordkeeping requirement would be implemented by adding a new paragraph (b)(8) to Rule 17g-2, which would require that an NRSRO retain records of any complaints regarding the performance of a credit analyst in determining, maintaining, monitoring, changing, or withdrawing a credit rating. The minor change would amend Rule 17g-2(b)(7) to add the word "monitoring" to the text that currently requires an NRSRO to retain all internal and external communications that relate to "initiating, determining, maintaining, changing, or withdrawing a credit rating."

Final Amendments to Rule 17g-3

This amendment would add a new paragraph (a)(6) to Rule 17g-3, which would require an NRSRO to provide the Commission with an annual report of the number of credit rating actions that occurred during the fiscal year for each class of security for which the NRSRO is registered.

Final Amendments to Rule 17g-5(c)

These amendments would add three new prohibited conflicts to Rule 17g-5(c). The first amendment would add a new paragraph (c)(5) to Rule 17g-5, which would prohibit an NRSRO from issuing a credit rating with respect to an obligor or security where the NRSRO or an affiliate of the NRSRO made recommendations to the obligor or the issuer, underwriter, or sponsor of the security about the corporate or legal structure, assets, liabilities, or activities of the obligor or issuer of the security. The second amendment would add a new paragraph (c)(6) to Rule 17g-5, which would prohibit a person within an NRSRO who has responsibility for participating in determining credit ratings or for developing or approving procedures or methodologies used for determining credit ratings from participating in any fee discussions, negotiations, or arrangements. The third

amendment would add a new paragraph (c)(7) to Rule 17g-5, which would prohibit an NRSRO from allowing a credit analyst who participated in determining or monitoring the credit rating to receive gifts, including entertainment, from the obligor being rated or from the issuer, underwriter, or sponsor of the securities being rated, other than items provided in the context of normal business activities, such as meetings, that have an aggregate value of no more than \$25.

Proposed Amendments to Rule 17g-2

The proposed amendments to Rule 17g-2 would amend the version of Rule 17g-2(d) that is being considered for adoption today. The proposed amendments would require NRSROs to disclose ratings history information for 100% of their current issuer-paid credit ratings in an XBRL format. Further, they only would apply to issuer-paid credit ratings determined after June 25, 2007 (the effective date of the Rating Agency Act). In addition, to protect the revenues NRSROs derive from selling downloads and data feeds to their current outstanding issuer-paid credit ratings, a credit rating action would not need to be disclosed until 12 months after the action is taken.

Re-Proposed Amendments to Rule 17g-5

The re-proposed amendments to Rule 17g-5 would prohibit an NRSRO from issuing a rating for a structured finance product paid for by the product's issuer, sponsor, or underwriter unless the information about the product provided to the NRSRO to determine the rating and, thereafter, monitor the rating is made available to other NRSROs. Specifically, the re-proposed amendments would require NRSROs that are hired by arrangers to perform credit ratings for structured finance products to disclose to other NRSROs (and only other NRSROs) the deals for which they were in the process of determining such credit ratings. The arrangers would need to provide the NRSROs they hire to rate structured finance products with a representation that they will provide information given to the hired NRSRO to other NRSROs. In addition, NRSROs seeking to access information maintained by the NRSROs and the arrangers would need to furnish the Commission an annual certification that they are accessing the information solely to determine credit ratings and will determine a minimum number of credit ratings using the information. Furthermore, the Commission is proposing to amend Regulation FD to accommodate this information disclosure program that would be established under the re-proposed amendments to Rule 17g-5. Specifically, the Commission is proposing to amend Rule 100 of Regulation FD to permit the disclosure of material non-public information to NRSROs regardless of whether they make their ratings publicly available.