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United States Government Accountability Office
Washington, DC 20548

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February 23, 2009

The Honorable Christopher J. Dodd
Chairman
The Honorable Richard C. Shelby
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Barney Frank
Chairman
The Honorable Spencer Bachus
Ranking Minority Member
Committee on Financial Services
House of Representatives

Subject: *Securities and Exchange Commission: Amendments to Rules for Nationally Recognized Statistical Rating Organizations*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (the Commission), entitled “Amendments to Rules for Nationally Recognized Statistical Rating Organizations” (RIN: 3235-AK14). We received the rule on February 4, 2009. It was published in the *Federal Register* as a final rule on February 9, 2009. 74 Fed Reg. 6456.

The final rule imposes additional requirements on nationally recognized statistical rating organizations (NRSROs) in order to address concerns about the integrity of their credit rating procedures and methodologies. In particular, the requirements are intended to increase the transparency of the NRSROs’ rating methodologies, strengthen the NRSROs’ disclosure of ratings performance, prohibit the NRSROs from engaging in certain practices that create conflicts of interest, and enhance the NRSROs’ recordkeeping and reporting obligations to assist the Commission in performing its regulatory and oversight functions.

The final rule requires an NRSRO to provide enhanced disclosure of performance measurements statistics and the procedures and methodologies used by the NRSRO in determining credit ratings for structured finance products and other debt securities on Form NRSRO, which is used by NRSROs and applicants for registration as NRSROs. The final rule requires an NRSRO to make, keep, and preserve

additional records under Rule 17g-2, and to make publicly available on its internet web site in XBRL format a random sample of 10 percent of the ratings histories of credit ratings paid for by the obligor being rated or by the issuer, underwriter, or sponsor of the security being rated in each class of credit ratings for which it is registered and has issued 500 or more issuer-paid credit ratings, with each new ratings action to be reflected in such histories no later than 6 months after they are taken. The final rule amends Rule 17g-3 to 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. Finally, the final rule adds three new prohibited conflicts of interest under Rule 17g-5.

Enclosed is our assessment of the Commission's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Elizabeth M. Murphy
Secretary
Securities and Exchange Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
"AMENDMENTS TO RULES FOR NATIONALLY RECOGNIZED
STATISTICAL RATING ORGANIZATIONS"
(RIN: 3235-AK14)

(i) Cost-benefit analysis

The Commission performed a cost-benefit analysis in conjunction with the final rule. Based on the analysis the Commission believes that the first year quantifiable costs related to the final rule will be \$73,085,100. The Commission determined that the cost of compliance to a given NRSRO will depend on its size and the complexity of its business activities. In addition, the costs incurred by the NRSRO will be in approximate proportion to the number of credit ratings they issued.

The Commission believes that the final rule has the benefit of furthering the purpose of the Credit Rating Agency Reform Act of 2006, Pub. L. 109-291, to improve the quality of credit ratings by fostering accountability, transparency, and competition in the credit rating industry, particularly with respect to credit ratings for structured finance products. The Commission did not quantify these benefits.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Commission prepared a final regulatory flexibility analysis with the final rule. The Commission believes that approximately 30 credit rating agencies may ultimately register as NRSROs, and approximately 20 of those may be small entities, as defined under the Regulatory Flexibility Act. The Commission did not establish different compliance or reporting requirements or timetables for small NRSROs, because the Commission determined that obtaining comparable information from NRSROs regardless of size is important. However, the Commission stated that it would be willing to consider requests from smaller NRSROs to be exempted from the prohibition on individuals within an NRSRO responsible for determining or approving credit ratings or developing the methodology for determining credit ratings from participating in fee discussions

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Unfunded Mandates Reform Act of 1995 is inapplicable to the Commission, because it is not an agency for purposes of the Act. 2 U.S.C. § 658(1).

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Commission published a proposed rule on June 25, 2008. 73 Fed. Reg. 36,212. The Commission received 61 comment letters in response to the amendments as proposed. The Commission responded to the comments in the final rule. 74 Fed. Reg. 6456.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The Commission published a notice requesting comment on the collection of information requirements in the proposed rule and submitted the proposed amendments to the Office of Management and Budget (OMB) for review. The information collection requirements in the final rule have been assigned OMB Control Numbers 3235-0625, 3235-0626, and 3235-0628.

The Commission estimates that the final rule will result in 820 burden hours on an annual basis and approximately 4,560 hours on a one-time basis.

Statutory authorization for the rule

The final rule is authorized by the Securities Exchange Act of 1934, including sections 3(b), 15E, 17, 23(a), and 36. 15 U.S.C. §§ 78c(b), 78o-7, 78q, 78w, and 78mm.

Executive Order No. 12,866

The Commission is not subject to Executive Order 12,866 because it is an independent regulatory agency, as defined by 44 U.S.C. § 3502(5).

Executive Order No. 13,132 (Federalism)

The Commission is not subject to Executive Order 13,132 because it is an independent regulatory agency, as defined by 44 U.S.C. § 3502(5).