The Association of Corporate Treasurers

Comments in response to
Consultation on references to ratings of Nationally Recognised Statistical Rating Organisations
***File Number S7-19-08*[1]**
From the Securities and Exchange Commission, July 2008

5th September 2008

The Association of Corporate Treasurers (ACT)

The ACT is a professional body for those working in corporate treasury, risk and corporate finance. Further information is provided at the back of these comments and on our website www.treasurers.org.

Contact details are also at the back of these comments.

General

The ACT welcomes the opportunity to comment on this matter, although we have restricted our comments solely to the proposals around Rule 2a-7 money market funds.

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Rule 2a-7 Money market Funds

We note your concern that investors interpret the use of credit ratings in laws and regulations as an endorsement of the quality of the ratings issued by NRSROs, which may have encouraged investors to place undue reliance on the ratings issued by these entities. In addition, as demonstrated by recent events, there has been increasing concern about ratings and the ratings process.

[1] Proposals to be found in http://www.sec.gov/rules/proposed/2008/ic-28327.pdf, File Number S7-19-08 17 CFR Parts 270 and 275 [Release Nos. IC-28327; IA-2751 File No. S7-19-08] RIN 3235-AK19 REFERENCES TO RATINGS OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS

In order to qualify for the provisions of Rule 2a-7 there are limits on a money market fund's portfolio investments requiring them "to have received credit ratings from the "Requisite NRSROs" in one of the two highest short-term rating categories or comparable unrated securities (*i.e.*, "Eligible Securities")", and that the fund's board should restrict its investments to those presenting minimal credit risks, determined by "factors pertaining to credit quality in addition to any ratings assigned to such securities by an NRSRO."

Under your proposal the directors would still have to make a determination that the investments presented minimal credit risk and they could still make use of ratings in reaching their decisions, but the rating test of itself would be removed. Instead you are proposing the categories of First Tier Security if the fund's board had determined that the issuer has the "highest capacity to meet its short-term financial obligations" and Second Tier Security if it is an Eligible Security but is not a First Tier Security.

To date the benefit of MMFs qualifying as 2a-7 funds is that an investor has a high degree of comfort that his investment will be of a high credit standing because the fund's board believes individual investments in the portfolio present minimal credit risks and achieve certain credit rating agency grades. This quality accreditation is of value to investors many of whom are largely unable to make their own detailed credit assessment other than to check the investment policy of the fund.

Our members involved in corporate treasury will often be investors in 2a-7 funds and they, and the wider audience of investors, do take some comfort from the requirements of Rule 2a-7. Our perception is that 2a-7 products are well understood and are working well.

There is an inevitable danger that any 'apparent' weakening of the rules around them (due to the greater reliance on fund directors' not becoming lax in their analysis, or chasing yield enhancement) could cause a disturbance to the market and a loss of confidence. At a time when investing in the banks is perceived as much more risky, any changes to 2a-7 funds could have a destabilising effect in the market. Certainly investors would need to understand what 2a-7 funds would be in the future.

However investors in 2a-7 funds will tend to be driven by the 'SLY' priorities, being Security, Liquidity and Yield in that order of priority. They are interested in the credit quality (and liquidity) of the overall fund portfolio which depends on the combination of investments rather than just the quality of the individual components.

An alternative form of regulation might thus be to specify that to qualify for Rule 2a-7 the fund itself should have a credit rating at the highest levels, which is one of the specifications in the rules to qualify as an IMMFA recognised fund here in Europe. Such a change would reduce the extent of the dependency on ratings in that instead of all the investments in a fund needing a rating there would only be the reference to the overall fund rating, and so would go some way to meeting the SEC objective. The credit rating agencies take weekly or more frequent reports from funds on what they are investing in and looking at the credit standing of the instruments, maturities and liquidity.

For investors seeking higher yield or a more active form of investment management enhanced yield money market funds already exist. If the SEC moves ahead with the current proposals the vital distinctions between the two types of investment may become more blurred and confusion and miss-selling become more likely. We have seen confusion between 2a-7 (and IMMFA) type funds and enhanced yield funds in several European countries, especially by government sector investors, and know that such confusion is not merely a theoretical possibility.

The ACT generally supports minimal regulation preferring the market to be the predominant determinant in most circumstances, however in this case we have an established practice which appears to be working well. The benefit to the Commission of removing the risk of being seen to endorse rating qualities does not, in our opinion, outweigh the risk that investors could find themselves invested in 2a-7 funds that are not as safe as the current funds. We therefore do not support your current proposal.

Your consultation further considers liquidity in a MMF. As recent market conditions have demonstrated liquidity is crucially important and accordingly we support your proposals for increased emphasis on liquidity in Rule 2a-7. Of course the liquidity the one looks for here is a future liquidity. Recent events have shown that markets previously relatively deep and liquid have become illiquid very quickly.   Close attention to liquidity definitions is important.

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The Association of Corporate Treasurers

The ACT is the international body for finance professionals working in treasury, risk and corporate finance. Through the ACT we come together as practitioners, technical experts and educators in a range of disciplines that underpin the financial security and prosperity of an organisation.

The ACT defines and promotes best practice in treasury and makes representations to government, regulators and standard setters.

We are also the world's leading examining body for treasury, providing benchmark qualifications and continuing development through training, conferences, publications, including *The Treasurer* magazine and the annual *Treasurer's Handbook*, and online.

Our 3,600 members work widely in companies of all sizes through industry, commerce professional service firms.

Further information is available on our website (below).

Our policy with regards to policy and technical matters is available at http://www.treasurers.org/technical/manifesto .

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