

§ 240.17g-7

17 CFR Ch. II (4-1-21 Edition)

(2) *Third-party due diligence certification.* Any executed Form ABS Due Diligence-15E (§ 249b.500 of this chapter) containing information about the security or money market instrument subject to the rating action that is received by the nationally recognized statistical rating organization or obtained by the nationally recognized statistical rating organization through an Internet Web site maintained by the issuer, sponsor, or underwriter of the security or money market instrument pursuant to § 240.17g-5(a)(3).

(3) *Exemption.* The provisions of paragraphs (a)(1) and (2) of this section do not apply to a rating action if:

(i) The rated obligor or issuer of the rated security or money market instrument is not a U.S. person (as defined in § 230.902(k) of this chapter); and

(ii) The nationally recognized statistical rating organization has a reasonable basis to conclude that:

(A) With respect to any security or money market instrument issued by a rated obligor, all offers and sales by any issuer, sponsor, or underwriter linked to the security or money market instrument will occur outside the United States (as that phrase is used in §§ 230.901 through 230.905 (Regulation S) of this chapter); or

(B) With respect to a rated security or money market instrument, all offers and sales by any issuer, sponsor, or underwriter linked to the security or money market instrument will occur outside the United States (as that phrase is used in §§ 230.901 through 230.905 (Regulation S) of this chapter).

(b) *Disclosure of credit rating histories—(1) Credit ratings subject to the disclosure requirement.* A nationally recognized statistical rating organization must publicly disclose for free on an easily accessible portion of its corporate Internet Web site:

(i) For a class of credit rating in which the nationally recognized statistical rating organization is registered with the Commission as of the effective date of paragraph (b) of this section, the credit rating assigned to each obligor, security, and money market instrument in the class that was outstanding as of, or initially determined on or after, the date three years prior to the effective date of this rule, and

any subsequent upgrade or downgrade of the credit rating (including a downgrade to, or assignment of, default), and a withdrawal of the credit rating; and

(ii) For a class of credit rating in which the nationally recognized statistical rating organization is registered with the Commission after the effective date of paragraph (b) of this section, the credit rating assigned to each obligor, security, and money market instrument in the class that was outstanding as of, or initially determined on or after, the date three years prior to the date the nationally recognized statistical rating organization is registered in the class, and any subsequent upgrade or downgrade of the credit rating (including a downgrade to, or assignment of, default), and a withdrawal of the credit rating.

(2) *Information.* A nationally recognized statistical rating organization must include, at a minimum, the following information with each credit rating disclosed pursuant to paragraph (b)(1) of this section:

(i) The identity of the nationally recognized statistical rating organization disclosing the rating action;

(ii) The date of the rating action;

(iii) If the rating action is taken with respect to a credit rating of an obligor as an entity, the following identifying information about the obligor, as applicable:

(A) The Legal Entity Identifier issued by a utility endorsed or otherwise governed by the Global LEI Regulatory Oversight Committee or the Global LEI Foundation (LEI) of the obligor, if available, or, if an LEI is not available, the Central Index Key (CIK) number of the obligor, if available; and

(B) The name of the obligor.

(iv) If the rating action is taken with respect to a credit rating of a security or money market instrument, as applicable:

(A) The LEI of the issuer of the security or money market instrument, if available, or, if an LEI is not available, the CIK number of the issuer of the security or money market instrument, if available;

(B) The name of the issuer of the security or money market instrument; and

Securities and Exchange Commission**§ 240.17g-7**

(C) The CUSIP of the security or money market instrument;

(v) A classification of the rating action as either:

(A) An addition to the rating history disclosure because the credit rating was outstanding as of the date three years prior to the effective date of the requirements in paragraph (b) of this section or because the credit rating was outstanding as of the date three years prior to the nationally recognized statistical rating organization becoming registered in the class of credit ratings;

(B) An initial credit rating;

(C) An upgrade of an existing credit rating;

(D) A downgrade of an existing credit rating, which would include classifying the obligor, security, or money market instrument as in default, if applicable; or

(E) A withdrawal of an existing credit rating and, if the classification is withdrawal, the nationally recognized statistical rating organization also must classify the reason for the withdrawal as either:

(1) The obligor defaulted, or the security or money market instrument went into default;

(2) The obligation subject to the credit rating was extinguished by payment in full of all outstanding principal and interest due on the obligation according to the terms of the obligation; or

(3) The credit rating was withdrawn for reasons other than those set forth in paragraph (b)(2)(v)(E)(1) or (2) of this section; and

(vi) The classification of the class or subclass that applies to the credit rating as either:

(A) Financial institutions, brokers, or dealers;

(B) Insurance companies;

(C) Corporate issuers; or

(D) Issuers of structured finance products in one of the following subclasses:

(1) Residential mortgage backed securities (''RMBS'') (for purposes of this subclass, RMBS means a securitization primarily of residential mortgages);

(2) Commercial mortgage backed securities (''CMBS'') (for purposes of this subclass, CMBS means a securitization primarily of commercial mortgages);

(3) Collateralized loan obligations (''CLOs'') (for purposes of this subclass, a CLO means a securitization primarily of commercial loans);

(4) Collateralized debt obligations (''CDOs'') (for purposes of this subclass, a CDO means a securitization primarily of other debt instruments such as RMBS, CMBS, CLOs, CDOs, other asset backed securities, and corporate bonds);

(5) Asset-backed commercial paper conduits (''ABCP'') (for purposes of this subclass, ABCP means short term notes issued by a structure that securitizes a variety of financial assets, such as trade receivables or credit card receivables, which secure the notes);

(6) Other asset-backed securities (''other ABS'') (for purposes of this subclass, other ABS means a securitization primarily of auto loans, auto leases, floor plans, credit card receivables, student loans, consumer loans, or equipment leases); or

(7) Other structured finance products (''other SFPs'') (for purposes of this subclass, other SFPs means any structured finance product not identified in paragraphs (b)(2)(iv)(D)(1) through (6) of this section; or

(E) Issuers of government securities, municipal securities, or securities issued by a foreign government in one of the following subclasses:

(1) Sovereign issuers;

(2) U.S. public finance; or

(3) International public finance; and

(vii) The credit rating symbol, number, or score in the applicable rating scale of the nationally recognized statistical rating organization assigned to the obligor, security, or money market instrument as a result of the rating action or, if the credit rating remained unchanged as a result of the action, the credit rating symbol, number, or score in the applicable rating scale of the nationally recognized statistical rating organization assigned to the obligor, security, or money market instrument as of the date of the rating action (in either case, include a credit rating in a default category, if applicable).

(3) *Format and frequency of updating.* The information identified in paragraph (b)(2) of this section must be disclosed in an interactive data file that

§ 240.17g-8

17 CFR Ch. II (4-1-21 Edition)

uses an XBRL (eXtensible Business Reporting Language) format and the List of XBRL Tags for nationally recognized statistical rating organizations as published on the Internet Web site of the Commission, and must be updated no less frequently than monthly.

(4) *Timing.* The nationally recognized statistical rating organization must disclose the information required in paragraph (b)(2) of this section:

(i) Within twelve months from the date the rating action is taken, if the credit rating subject to the action was paid for by the obligor being rated or by the issuer, underwriter, depositor, or sponsor of the security being rated; or

(ii) Within twenty-four months from the date the rating action is taken, if the credit rating subject to the action is not a credit rating described in paragraph (b)(4)(i) of this section.

(5) *Removal of a credit rating history.* The nationally recognized statistical rating organization may cease disclosing a rating history of an obligor, security, or money market instrument if at least 15 years have elapsed since a rating action classified as a withdrawal of a credit rating pursuant to paragraph (b)(2)(v)(E) of this section was disclosed in the rating history of the obligor, security, or money market instrument.

[79 FR 55264, Sept. 15, 2014, as amended at 84 FR 40258, Sept. 13, 2019]

§ 240.17g-8 Policies, procedures, and internal controls.

(a) *Policies and procedures with respect to the procedures and methodologies used to determine credit ratings.* A nationally recognized statistical rating organization must establish, maintain, enforce, and document policies and procedures reasonably designed to ensure:

(1) That the procedures and methodologies, including qualitative and quantitative data and models, the nationally recognized statistical rating organization uses to determine credit ratings are approved by its board of directors or a body performing a function similar to that of a board of directors.

(2) That the procedures and methodologies, including qualitative and quantitative data and models, the nationally recognized statistical rating

organization uses to determine credit ratings are developed and modified in accordance with the policies and procedures of the nationally recognized statistical rating organization.

(3) That material changes to the procedures and methodologies, including changes to qualitative and quantitative data and models, the nationally recognized statistical rating organization uses to determine credit ratings are:

(i) Applied consistently to all current and future credit ratings to which the changed procedures or methodologies apply; and

(ii) To the extent that the changes are to surveillance or monitoring procedures and methodologies, applied to current credit ratings to which the changed procedures or methodologies apply within a reasonable period of time, taking into consideration the number of credit ratings impacted, the complexity of the procedures and methodologies used to determine the credit ratings, and the type of obligor, security, or money market instrument being rated.

(4) That the nationally recognized statistical rating organization promptly publishes on an easily accessible portion of its corporate Internet Web site:

(i) Material changes to the procedures and methodologies, including to qualitative models or quantitative inputs, the nationally recognized statistical rating organization uses to determine credit ratings, the reason for the changes, and the likelihood the changes will result in changes to any current credit ratings; and

(ii) Notice of the existence of a significant error identified in a procedure or methodology, including a qualitative or quantitative model, the nationally recognized statistical rating organization uses to determine credit ratings that may result in a change to current credit ratings.

(5) That the nationally recognized statistical rating organization discloses the version of a credit rating procedure or methodology, including the qualitative methodology or quantitative inputs, used with respect to a particular credit rating.

Securities and Exchange Commission**§ 240.17g-8**

(b) *Policies and procedures with respect to credit rating symbols, numbers, or scores.* A nationally recognized statistical rating organization must establish, maintain, enforce, and document policies and procedures that are reasonably designed to:

(1) Assess the probability that an issuer of a security or money market instrument will default, fail to make timely payments, or otherwise not make payments to investors in accordance with the terms of the security or money market instrument.

(2) Clearly define each symbol, number, or score in the rating scale used by the nationally recognized statistical rating organization to denote a credit rating category and notches within a category for each class of credit ratings for which the nationally recognized statistical rating organization is registered (including subclasses within each class) and to include such definitions in Exhibit 1 to Form NRSRO (§ 249b.300 of this chapter).

(3) Apply any symbol, number, or score defined pursuant to paragraph (b)(2) of this section in a manner that is consistent for all types of obligors, securities, and money market instruments for which the symbol, number, or score is used.

(c) *Policies and procedures with respect to look-back reviews.* The policies and procedures a nationally recognized statistical rating organization is required to establish, maintain, and enforce pursuant to section 15E(h)(4)(A) of the Act (15 U.S.C. 78o-7(h)(4)(A)) must address instances in which a review conducted pursuant to those policies and procedures determines that a conflict of interest influenced a credit rating assigned to an obligor, security, or money market instrument by including, at a minimum, procedures that are reasonably designed to ensure that the nationally recognized statistical rating organization will:

(1) Promptly determine whether the current credit rating assigned to the obligor, security, or money market instrument must be revised so that it no longer is influenced by a conflict of interest and is solely a product of the documented procedures and methodologies the nationally recognized statis-

tical rating organization uses to determine credit ratings; and

(2)(i) Promptly publish, based on the determination of whether a current credit rating referred to in paragraph (c)(1) of this section must be revised (as applicable):

(A) A revised credit rating, if appropriate, and include with the publication of the revised credit rating the information required by § 240.17g-7(a)(1)(ii)(J)(3)(i); or

(B) An affirmation of the credit rating, if appropriate, and include with the publication of the affirmation the information required by § 240.17g-7(a)(1)(ii)(J)(3)(ii).

(ii) If the credit rating is not revised or affirmed pursuant to paragraph (c)(2)(i) of this section within fifteen calendar days of the date of the discovery that the credit rating was influenced by a conflict of interest, publish a rating action placing the credit rating on watch or review and include with the publication an explanation that the reason for the action is the discovery that the credit rating was influenced by a conflict of interest.

(d) *Internal control structures.* A nationally recognized statistical rating organization must take into consideration the factors identified in paragraphs (d)(1) through (4) of this section when establishing, maintaining, enforcing, and documenting an effective internal control structure governing the implementation of and adherence to policies, procedures, and methodologies for determining credit ratings pursuant to section 15E(c)(3)(A) of the Act.

(1) With respect to establishing the internal control structure, the nationally recognized statistical rating organization must take into consideration:

(i) Controls reasonably designed to ensure that a newly developed methodology or proposed update to an in-use methodology for determining credit ratings is subject to an appropriate review process (for example, by persons who are independent from the persons that developed the methodology or methodology update) and to management approval prior to the new or updated methodology being employed by the nationally recognized statistical rating organization to determine credit ratings;