Response to SEBI's Consultation Paper on: *Review of Regulatory Framework for Credit Rating Agencies*

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1 Background

SEBI has issued a paper consultation paper on September 8, 2017 on the "Review of the Regulatory Framework for CRAs". The objective of this consultation paper, as stated by SEBI is:

> *To seek comments/ views from the public on the proposals that are expected to improve market efficiency by reducing the information asymmetry in the market and enhancing the governance, accountability and functioning of Credit Rating Agencies (CRAs) for carrying out the rating activities in an efficient and professional manner, thereby, yielding timely and accurate ratings.*

Before we analyse the SEBI proposals, we highlight some features of the market structure of credit rating agencies. These are set out below:

- **Issuer-pays**: Globally, the industry is built upon the "issuer-pays" model. CRAs are remunerated by the entities whos securities they rate. As a result, there maybe a concern regarding the independence of CRAs, which raises a question about whos interest CRAs serve. The Committee on Review of Eligibility Norms constituted by SEBI stated that:

  > *"The globally prevalent issuer-pays rating agency model has a structural conflict of interest, since the entity that commissions and pays for the rating exercise is also being rated."*[1]

- **Common shareholding in CRA**: Further, there is a likelihood of a conflict of interest arising on account of the influence exercised by common shareholding in CRAs.

- **Competition**: There is a prevailing lack of competition in the credit rating sector. For instance in India, there are few dominant players in the market. CRISIL, the largest credit rating agency has over 60% of the market share in the ratings business. A competitive environment is necessary for transparent rating.

- **Reliance on ratings**: The degree of reliance of investors on the ratings issued by a CRA is determined by two factors. First, the complexity of the financial instruments being rated and second, regulatory requirements to obtain credit. For instance, the Reserve Bank of India (RBI) guidelines on capital adequacy for banks requires banks to determine credit risk in their loan portfolios by the use of credit ratings assigned by "approved external credit assessment institutions".[2] Another instance is the requirement of credit rating for scheme related credit for micro, small and medium enterprises.[3]

[1]See: Report at `http://www.sebi.gov.in/sebi_data/attachdocs/1288168756022.pdf`
[2]*Prudential Guidelines on Capital Adequacy and Market Discipline*
[3]*Mandatory Credit Rating*

- **Role of CRAs in reducing information asymmetry**: Credit rating plays an important role in ensuring information symmetry. For instance, in India listed companies are required to periodically disclose information under the SEBI (Listing and other Disclosure Requirements) Regulations, 2015 (LODR). However, the LODR does not apply to unlisted companies and information about these companies is not easily accessible by investors. A CRA aids in reducing the effect of this information asymmetry by rating an instrument, based on information provided by the issuer.

While the policy objectives for regulating CRAs can be many, the core objective of regulations for CRA should be investor protection. This can be achieved by addressing the following:

1. Promoting transparency in the rating process and in the functioning of the CRA;
2. Ensuring independence of ratings; and
3. Safeguarding the quality of the ratings.

In this context, we present our responses to the proposals set out by SEBI in the consultation paper in the following Sections 2.1 - 2.11. Each section contains our response to the issue posed, and is organised as follows: (a) What is the issue that SEBI is raising? (b) A summary of our response, which includes a summary of our findings followed by our recommendations for SEBI, (c) The detailed analysis that helped us in arriving at our understanding and recommendations, and (d) Any additional inputs and recommendations pertinent to the issue. In Section 3, we include additional recommendations for regulation of CRAs in India. A tabulated version of the response in the format requested in the consultation paper is given in Section 4. The remainder of the document contains supporting analysis and the list of citations that we refer to while drafting our response.

2 Section-wise responses to the consultation paper

2.1 Issue 3.1: Enhanced net worth requirement for CRA

Issue: *Increase in the net-worth requirements for CRAs from INR 5 crore to INR 50 crore.*

Summary response: A high minimum net worth requirement for CRAs will enhance entry barriers, thereby adversely affecting competition in the credit rating sector.

Analysis: The extant Securities and Exchange Board of India (Credit Rating Agences) Regulations, 1999 (CRAREGULATIONS) impose a minimum net worth requirement of INR 5 crores as an eligibility criterion for a CRA.[4] SEBI has proposed that this amount be increased to INR 50 crores. High net worth requirements are entry barriers to an

[4] Regulation 5, Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999

industry. While maintaining some minimum standard of net worth is beneficial to ensure accountability, excessively high net worth requirements are harmful to any industry. They ensure that only a few big players remain in the industry. This adversely affects the competition in the sector.

An example of this is the U.S.A. where currently there are ten CRAs registered with the Securities Exchange Commission (SEC).[5] However the market share is dominated by three entities i.e. S&P Global Ratings, Fitch Ratings Inc. and Moody's Investors Service Inc.. The Financial Crisis Inquiry Commission, cited over reliance on just a few rating agencies as a prime contributor to the financial crisis in 2008 in the United States.[6] Accordingly, the *Credit Rating Agency Reform Act, 2006* specifically states that:

> *...the 2 largest credit rating agencies serve the vast majority of the market, and additional competition is in the public interest.*

Further in India, CRA regulations provide for a self-regulatory system in the sector. Findings from research suggests that the model of self-regulation does not work effectively in the absence of competition.[7] A similar view was taken by the Committee of European Securities Regulators (CESR) in its report on Technical Advice to the European Commission on PossibleMeasures Concerning Credit Rating Agencies, in March 2005, which stated that issuers are dependent on ratings, owing to the oligopoly in the industry and also regard themselves as being in a weaker position as compared to the rating agencies.

2.2 Issue 3.2: Enhanced eligibility criteria for promoters of CRA

Issue: *If a CRA is promoted by a company or a body corporate (other than a public financial institution, scheduled commercial bank, foreign bank or foreign credit rating agency), then such promoter should also have a sound track record of carrying on business in financial services for a period of not less than five years.*

Summary response: First, the criteria of a "sound track record" should be clearly defined, as has been done under the SEBI (Mutual Funds) Regulations, 1996. Second, there should not any exception made for public financial institutions, scheduled commercial banks, foreign banks or foreign credit rating agencies. Third, there should not be any prior requirement of the promoter carrying on business in *financial services*.

Analysis: At present, a CRA can be promoted by the following five entities:[8]

1. A public financial institution;

[5] See: List of current Nationally Recognized Statistical Rating Organizationss (NRSROs) at `https://www.sec.gov/ocr/ocr-current-nrsros.html`

[6] *Conclusions of the Financial Crisis Inquiry Commission*

[7] *Aktuelle Rechtsfragen zur Regulierung des Ratingwesens* and *Control and Responsibility of Credit Rating Agencies*

[8] Regulation 4, Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999

2. A scheduled commercial bank;
3. A foreign bank operating in India;
4. A foreign credit rating agency; and
5. A company or body corporate having continuous net worth of a minimum of 100 crores as per its annual accounts for the previous five years prior to filling of the application to become a CRA.

There are 3 issues with these with the proposal:

1. The consultation paper does not define or explain what "a sound track record" means. This ambiguity will result in subjectivity in the approval process. Therefore, it is recommended that this term be clarified as has been done in the SEBI (Mutual Funds) Regulations, 1996 as follows:[9]
    - Carrying on business in financial services for a period of not less than five years;
    - The net worth is positive in all the immediately preceding five years;
    - The net worth in the immediately preceding year is more than the capital contribution of the sponsor in the asset management company;
    - The sponsor has profits after providing for depreciation, interest and tax in three out of the immediately preceding five years, including the fifth year.

    Further, the CRAREGULATIONS already require a minimum net worth and a minimum of 5 operating years (by the requirement of submission of financials for the past 5 years).[10]Any additional requirements to show a sound track record should be specified.
2. There is no rationale for providing an exception to public financial institutions, scheduled commercial banks, foreign banks or foreign credit rating agencies from the sound track record criteria. Therefore, it is our recommendation that this exception should be done away with.
3. There is an additional proposed requirement for companies and other body corporates that the promoter must be carrying on business in "financial services" for a period of not less than five years. It is unclear why a requirement of financial services business is being imposed. This will create a situation where financial services businesses and foreign credit rating agencies will be the only promoters of CRAs in India. These are also the agencies that are intensive users of credit rating as product. Therefore to promote diversity in credit rating, we recommend that the requirement for "financial services".

[9]Regulation 7, SEBI (Mutual Funds) Regulations, 1996
[10]Regulation 4(e)

Additional inputs:

1. The consultation paper provides the following rationale for including this amendment:

   - Financial robustness of the sponsor;
   - Long term commitment and interest of the sponsor in financial markets;
   - The line of business is not misaligned with the activity of credit rating.

   While the exiting eligibility criteria already uses filters to ensure the first two factors, there is nothing in the extant regulations or in the proposed amendments that ensure that there is no conflict of interest between the CRA and the business activities of the promoter. We recommend that a specific inclusion be made in this regard by setting out a list of activities that are incompatible with credit rating.

2. We further recommend that it be clarified that in case of multiple promoters of a single CRA, all promoters must meet the eligibility criteria set out in the regulations.

2.3 Issue 3.3: Requirements of disclosures of financial results on the exchange for issuers of listed debt to be brought in line with the corresponding requirements for issuers of listed equity.

Issue: *Amending the SEBI (Listing and other Disclosure Requirements) Regulations, 2015 to align disclosure of financial results for issuers of listed debt with those for issuers of listed equity*

Summary response: Our recommendation is in line with SEBI that the disclosure requirements for issuers of listed debt should be the same as that of listed equity.

Analysis: Currently, the reporting requirements for issuers of listed debt and equity vary. Regulation 33 of the LODR requires issuers of "specified securities" (defined as equity shares and convertible securities) to prepare quarterly financial results. Regulation 52 which is applicable to listed entities that have listed non-convertible debt securities or non-convertible redeemable preference shares, requires these entities to prepare financial results on a half yearly basis. Once an issuer accesses the public financial market for issuing any type of security, debt or equity the nature and quantum of disclosures must be aligned.

2.4 Issue 3.4: Mandatory disclosures of annual consolidated financial results to the exchanges in case of issuers having only listed debt

Issue: *Amending the SEBI (Listing and other Disclosure Requirements) Regulations, 2015 to extend the requirement to submit annual consolidated financial results for issuers of listed debt*

Summary response: This amendment is necessary to align the LODR with the extant accounting standards.

Analysis: While SEBI (Listing and other Disclosure Requirements) Regulations, 2015 mandate submission of annual consolidated financial results for listed equity, the same is not mandated for issuers of listed debt. In line with our recommendations in section 2.3 above, the nature and quantum of disclosure requirements must be aligned for any issuer that accesses the public financial market for issuing any type of security, debt or equity.

Further, the Companies (Indian Accounting Standards) Rules, 2015 and Indian Accounting Standards 110, mandatorily require the preparation of consolidated financial statements for listed companies that control one or more entities. These standards and rules do not distinguish between issuers of debt and issuers of equity. Subsidiaries are considered economic entities of the holding company. The purpose of consolidated accounting is to reveal the overall economic stability of an entity. SEBI's proposed amendment will align the reporting requirements for CRAs with other laws as well.

2.5 Issue 3.5: Restriction on Cross-holding in SEBI registered CRA

Issue:

1. *No CRA shall, directly or indirectly, hold more than 10% of shareholding and/ or voting rights in another CRA and shall not have representation on the Board of the other CRA. (proposal 1)*
2. *Acquisition of shares and/ or voting rights in a CRA resulting in change in control may be permitted with the prior approval of SEBI. (proposal 2)*
3. *A shareholder holding 10% or more shares and/ or voting rights in a registered CRA shall not hold 10% or more shares and/ or voting rights, directly or indirectly, in any other CRA. However, it shall not apply to holdings by "broad-based domestic financial institutions".(proposal 3)*

Summary response: In respect of proposal 1, there is no basis defined for the cross-holding threshold of 10%. If the intent is to create diversified ownership, there needs to be a clear design of what constitutes diversified ownership. Merely stating a threshold of 10% is not sufficient.

In regard to the 10% threshold, the only benefit it provides to shareholders in a CRA under the Companies Act, 2013 (cited as a rationale in the consultation paper), is the right to file against oppression and mismanagement by the majority shareholders. This is not a sufficient basis to prescribe a 10% threshold.

Further, the extant CRAREGULATIONS have safeguards to ensure that a non-diversified shareholding pattern does not adversely impact the rating process. We therefore propose that this threshold be reconsidered.

In respect of proposal 2, the factors that will be considered when granting such approval should be clearly set out to avoid ambiguity and uncertainty.

In respect of proposal 3, there is no rationale for granting an exception to such common holding to any shareholder and this exemption should be removed.

Analysis: Currently, there is no restriction on a credit rating agency acquiring shares or voting rights in another rating agency or a person buying shares or voting rights in more than one rating agency. Internationally there have been concerns that the inherently iterative nature of the process of credit rating may give rise to potential conflicts of interest.[11]

1. The stated rationale for the imposition of a restriction of 10%, is that it corresponds to certain statutory rights and protections under the *Companies Act, 2013*. Under the *Companies Act, 2013*, the only rights that are dependent on a 10% share, are the right to action in cases of oppression and mismanagement by majority shareholders.[12] However, under the the*Companies Act, 2013*, a company that has 20% of the total share capital in another company, is considered to "exercise significant influence" in that company. We therefore recommend that the CRA 10% threshold be reconsidered. Further, the extant CRAREGULATIONS already contain a definition for an "associate company" and do not permit the rating a security issued by such companies.[13]

2. International models require intimation of a change in control of a credit rating agency and not the requirement of prior approval.[14] SEBI may consider adopting this model. Alternatively if SEBI, chooses to retain the requirement for prior approval, there should be a specific set of parameters set out which will be considered while

[11]See *Final Report on the Code of Conduct Fundamentals for Credit Rating Agencies*, p.5

[12]S. 244, *Companies Act, 2013*

[13]Regulations 26 and 27,*Securities and Exchange Board of India (Credit Rating Agences) Regulations, 1999*

[14] E.g.Art. 14.3 European Securities and Markets Authority (ESMA) regulation RTS 449/2012

granting such approval.

3. There is no rationale for the exemption to "broad-based domestic financial institutions" on common shareholding. This exception should be done away with. Financial institutions are intensive users of ratings and providing common shareholding exemptions to them is a source of conflict of interest.

Additional inputs:

1. The extant CRAREGULATIONS, prescribe a code of conduct for all CRAs. The codes of conduct embodied in SEBI regulations have been held to be part of the regulations and are enforceable by SEBI.[15]

   The following regulations in the Code of Conduct act as safeguards against a conflict of interest:

   (a) A credit rating agency is required to disclose to the clients, possible sources of conflict of duties and interests, which could impair its ability to make fair, objective and unbiased ratings. Further it shall ensure that no conflict of interest exists between any member of its rating committee participating in the rating analysis, and that of its client.[16]

   We recommend that this disclosure must be extended to the users of the rating (investors/creditors in the security) and must be published against each rating issued.

   (b) A credit rating agency is required develop its own internal code of conduct for governing its internal operations. Such a code "may" extend to the maintenance of professional excellence and standards, integrity, confidentiality, objectivity, avoidance of conflict of interests, disclosure of shareholdings and interests, etc.

   We recommend that SEBI remove the use of the word "may" and replace it with "shall" to ensure adherence with the code of conduct.

2.6 Issue 3.6: Appeal by Issuers against ratings provided by CRA

Issue: *Appeal by Issuers against the ratings provided to its instruments by the CRA, shall be reviewed by a Rating Committee of the CRA that shall be different from the rating committee that had initially assigned the rating to the instrument(s) and shall consist of a majority of independent members.*

[15] *Manmohan Shetty v. SEBI* (Appeal No. 132 of 2010) and *In Re: G.Jayaraman, in the matter of Satyam Computer Services Limited* (Adjudicating Order No.PG/AO-115/2011)

[16] Para 10, Third Schedule (Code of conduct for credit rating agencies) and Regulation 13, CRAREGULATIONS

Summary response: First, a review committee should be accountable beyond the internal accountability mechanisms of a CRA. Therefore, we recommend that review committee must be a sub-committee of the board of the CRA with a majority of its members as independent directors.

Second, data about the appeal and the outcome of the appeal must be published on the website, within a pre-defined period, say 10 days, of the closure of the appeal process.

Analysis: Issuers must be given a fair opportunity to appeal against the decision of the rating committee of a CRA. Two problems that arise out of this:

- **Bias**: By creating a review committee of employees of the same company that granted the rating, there is a strong possibility of bias in the judgment of such employees.
- **Accountability**: By creating a committee of the board of the CRA, the provisions in regard to director's liability in the Companies Act, 2013 as well as in SEBI regulations, ensure that such members have external accountability in the appeal process.

Additional inputs:

We further recommend that every case of appeal be disclosed on the website of the CRA along with information about whether or not the rating was changed after such review.

2.7 Issue 3.7: Withdrawal of ratings permitted after a specified minimum period

Issue: *CRAs may withdraw the ratings issued subject to the CRA having rated the instrument for 5 years or 50% of tenure the instrument, whichever is higher, and issue a press release stating reasons for withdrawal.*

Summary response: First, withdrawal of ratings should not be allowed, except in specific instances, defined by SEBI and publicly disclosed by the CRA.

Second, there should be a requirement for obtaining prior approval of at least 75% of the creditors' of the instrument that has been rated.

Third, the facts and the outcome of such withdrawal should be published on the website of the CRA along with the most recent rating granted.

Analysis: The extant CRAREGULATIONS, state that a credit rating agency shall not withdraw a rating so long as the obligations under the security rated by it are outstanding, except where the company whose security is rated is wound up or merged or amalgamated with another company.[17] However, vide a circular issued in March 2017, SEBI permitted the withdrawal of ratings in respect of:

[17] Regulation 16(3),CRAREGULATIONS

- Bank loans or facilities; and
- Open ended mutual fund schemes having not specified maturity.[18]

The consultation paper does not provide any data about the actual number of cases of withdrawal of ratings or the number of request received for the introduction of such a provision. Therefore, we recommend that:

1. SEBI must make available to the public, data on withdrawal of ratings.
2. There must be a specific framework for withdrawal of ratings. This framework should prescribe the circumstances under which a rating maybe withdrawn. In this regard, SEBI might take into consideration the international standards, adopted for withdrawal of credit ratings (detailed as part of "Additional inputs" below).
3. Since credit ratings are relied upon by investors, in case of rate debt instruments, the issuer must obtain the prior approval from its creditors.
4. The extant regulations specify that a credit rating agency must disseminate information about any changes in earlier ratings through press releases and websites. We recommend the inclusion of this requirement even in case of withdrawing ratings where the specific cause of withdrawal must be highlighted.

Additional inputs:

There are two situations where a rating can be withdrawn. First, there the issuer terminates the service contract with the existing CRA. Second, where the CRA withdraws ratings. Internationally, CRA are allowed to withdraw ratings for reasons specified in their internal policy and published on their website. The following are the broad features of such policies:

- If appropriate and feasible, the credit rating is adjusted before the withdrawal to reflect the current rating opinion.[19]
- The policy for withdrawal including the specific grounds in respect of which only the ratings maybe withdrawn.
- Such withdrawal and reason for the same are published on the website of the CRA. Based on the reason for withdrawal, the CRA might also make an official press release.

[18] *Enhanced Standards for Credit Rating Agencies (CRAs)-Clarifications*
[19] *Policy for withdrawal of credit ratings*

2.8 Issue 3.8: Any activity other than the rating of financial instruments and economic/financial research, shall be hived off by the CRA to a separate entity

Issue:*CRAs to segregate the activities, other than the rating of financial instruments and economic/financial research, and hive off the same to a separate entity.s*

Summary of response: The consultation paper does not include a specific or exhaustive list of services are to be hived off. We recommend that a specific list of such business activities be logically determined.

Analysis:

1. **Advisory services**: The separation of advisory service businesses of a CRA from the rating business, has been implemented in some countries. For instance, the Australian Securities and Investments Commission (ASIC) requires a credit rating agency must separate, operationally, its credit rating business and analysts from any other businesses of the credit rating agency. In addition to this, there is a requirement to hive off any businesses that may present a conflict of interest.[20]

2. **Rating of financial instruments**:In addition to rating financial instruments, CRAs also rate companies in relation to bank loans and facilities arrangements. The Reserve Bank of India's guidelines on capital adequacy for banks, in 2007, require banks to provide capital on the credit exposure as per credit ratings assigned by approved external credit assessment institutions such as CRA. In our view the rating of a facility instrument is not different from rating debt securities and does not present any conflict of interest. Hence, it may continue to be retained in a single CRA.

3. **Specified list of businesses**: Since the consultation paper does not set out a set of businesses that will pose a risk to the independence of the rating process, we recommend that such a list first be determined.

4. **Exception to economic/finaical research**: Providing company or sector specific research services, may be in conflict with the business of rating instruments of such companies or of companies in such sectors. SEBI has given a blanket exemption to economic and financial research activities. This exemption should be reconsidered when creating the specified list of businesses (point 2, above).

[20] *Final Report on the Code of Conduct Fundamentals for Credit Rating Agencies.* See also:`http://asic.gov.au/regulatory-resources/financial-services/credit-rating-agencies/credit-rating-agencies-guidance-on-certain-afs-licence-conditions/`

2.9 Issue 3.9: Disclosure of non-accepted ratings only for a period of 6 months of non-acceptance

Issue: *Details of non-accepted ratings, disclosed on the website of the CRAs, may be made available only for a period of 6 months of such disclosure.*

Summary response: There should be no time limit prescribed for the display of ratings. Ratings once given should be continuously displayed. craResponse.pdfThe last rating date must accompany every rating display.

Analysis: Presently, each CRA is required to disclose on its website details of all ratings assigned by them, irrespective of whether the rating is accepted by the issuer or not, even in case of non-public issues. Details disclosed include the name of the issuer, name/ type of instrument, size of the issue, rating and outlook assigned.[21] We recommend that the display of the rating on the CRA's website is not removed after a period of time. We further recommend that such disclosure shall include the date on which the rating was made and a disclaimer that such rating was made based on the information available at the time, and therefore may not be accurate in the present context.

2.10 Issue 3.10: Enhanced disclosure norms for CRA

Issue: *An Annual Rating Summary Sheet presenting a snapshot of rating action carried out during the year, shall be uploaded by the CRAs on their websites on an annual basis, separately for securities and financial instruments other than securities.*

Summary response and analysis: We agree with SEBI's proposal to disclose an annual rating summary sheet as this will enable an overview of the activities of the CRA, which are otherwise disclosed in lengthy reports.

The Committee on Review of Eligibility Norms (CORE), recognised that a strong disclosure regime was necessary for CRAs. It further recognised that adequate disclosure and dissemination is necessary for investors to know whether a CRA has acted in time in taking its rating actions.[22]

We recommend however that the summary report may also be made on a half-yearly basis.

2.11 Issue 3.11: Rationalization of existing disclosures for CRA

Issue:

[21] *Enhanced Standards for Credit Rating Agencies (CRAs)*
[22] Review of Eligibility Criteria 2010.

1. *The disclosure requirements laid down in the Circular CIR/ MIRSD/ CRA/ 6/ 2010 dated May 3, 2010 need to be rationalized by segregating it for securities, and financial instruments other than securities.*(proposal 1)
2. *CRAs shall also specify the Instrument Type (e.g. NCD, Preference Shares, CP, CD, etc.), Sector of Issuer, Status of listing, trigger of the rating action, date of event/ intimation in cases of default.*(proposal 2)
3. *CRAs shall also disclose the debt-weighted default rate which shall be defined as the amount of rated debt that defaulted in the static pool as a percentage of the total amount of rated debt in the static pool.* (proposal 3)

Response summary: We agree with all the three proposals. These will improve the standards of disclosure made by a CRA. They will enable investors to better evaluate the performance of the rating agency in addition to providing information about securities on which default has occurred.

3 Additional recommendations

In addition to the response to specific question in the consultation paper, we also recommend the following:

1. **Disclosure of revenue from a single source**: A CRA should publicly disclose if it receives above a prescribed percentage of its annual revenue from a single issuer, client or subscriber, of securities (including any affiliates of that issuer, client or subscriber).[23]
2. **Accountability**: CRAs should made liable for gross negligence in conducting ratings.
3. **Designation of a compliance officer**: The U.S. *Credit Rating Agency Reform Act, 2006*, requires that NRSRO to designate a compliance officer responsible for (i) administering the policies and procedures required, and (ii) ensuring compliance with the securities laws and other rules and regulations.[24] SEBI may consider a similar model for domestic CRAs.

[23] *Code of Conduct for Credit Rating Agencies*
[24] Regulation j (Designation of Compliance Officer),*Credit Rating Agency Reform Act, 2006*

4 Tabulated Responses

Sr. No.	Issues	Responses
Response 1	Enhanced net worth required for CRAs:	A high minimum net worth requirement for CRAs will adversely affect competition in the credit rating sector. The net worth criteria should not be amended.
Response 2	Enhanced eligibility criteria for promoters of CRA.	• Agree. LODR should apply to issuers of any listed security. • The criteria of a "sound track record" should be clearly defined. • There should not be any prior requirement of the promoter carrying on business in financial services.
Response 3	Requirements of disclosures of financial results on the exchange for issuers of listed debt to be brought in line with the corresponding requirements for issuers of listed equity.	The time period for reporting financial results should be the same for the issuers of listed debt and equity.
Response 4	Mandatory disclosures of annual consolidated financial results to the exchanges in case of issuers having only listed debt.	Agree. LODR should apply to issuers of any listed security. This amendment is necessary to align the LODR with the extant accounting standards.
Response 5	Restriction on Cross-holding in SEBI registered CRA	• No sufficient basis for the cross-holding threshold of 10% •The factors to be considered when granting approval for change of control should be clearly set out • There should be no exception the prohibition of common shareholding
Response 6	Appeal by Issuers against ratings provided by CRA	• Review committee should consist of a board committee with majority independent directors. • Information about the appeal and the outcome of the appeal must be published on the website within a specified time.
Response 7	Withdrawal of ratings permitted after a specified minimum period	• Withdrawal of ratings should not be allowed, except for specific reasons, defined by SEBI which should be made public by CRA.

		• There should be a requirement for obtaining creditors' approval prior to withdrawal from a CRA. • Outcome of withdrawal to be published on the website of the CRA along with the most recent rating granted
Response 8	Any activity other than the rating of financial instruments and economic/financial research, shall be hived off by the CRA to a separate entity	• A specific list of business activities that constitute a conflict of interest be determined • While advisory services maybe hived off, rating of facility agreements is no different from rating of listed debt. • Research services maybe in conflict with rating services.
Response 9	Disclosure of non-accepted ratings only for a period of 6 months of non-acceptance	• Display of ratings should be continuous. •A date and disclaimer must accompany ratings.
Response 10	Enhanced disclosure norms for CRA	•The annual rating summary sheet will enable an overview of the activities of the CRA, which are otherwise disclosed in lengthy reports.
Response 11	Rationalisation of existing disclosures for CRA	Agree. This will enable investors to better evaluate performance of rating agencies.

References

Blaurock, U. (2007). *Control and Responsibility of Credit Rating Agencies.*

Commission, Financial Crisis Inquiry. *Conclusions of the Financial Crisis Inquiry Commission.* URL: https://cybercemetery.unt.edu/archive/fcic/20110310173539/http://c0182732.cdn1.cloudfiles.rackspacecloud.com/fcic_final_report_conclusions.pdf.

Companies Act, 2013 (2013).

Credit Rating Agency Reform Act, 2006 (2006). URL: https://www.sec.gov/ocr/cra-reform-act-2006.pdf.

Credit Rating Agency Reform Act of 2006 (United States) (2006).

Deipenbrock, G. (2005). *Aktuelle Rechtsfragen zur Regulierung des Ratingwesens.*

European Securities Regulators, Committee of (March 2005). *Technical Advice to the European Commission on possible measures concerning credit rating agencies.*

India, Reserve Bank of (2007). *Prudential Guidelines on Capital Adequacy and Market Discipline.* URL: https://www.rbi.org.in/scripts/BS_CircularIndexDisplay.aspx?Id=3464.

Ministry of Micro, Small and Medium Enterprises (2013). *Mandatory Credit Rating.* URL: http://pib.nic.in/newsite/PrintRelease.aspx?relid=98259.

Review of Eligibility Criteria, Committee on (2010). *Report of Sub-Group 1.* URL: http://www.sebi.gov.in/sebi_data/attachdocs/1288168756022.pdf.

Securities and Exchange Board of India (Credit Rating Agences) Regulations, 1999 (1999).

Securities Commissions, International Organisation of (2015). *Final Report on the Code of Conduct Fundamentals for Credit Rating Agencies.* URL: https://www.iosco.org/library/pubdocs/pdf/IOSCOPD482.pdf.

Securities and Exchange Board of India (2016). *Enhanced Standards for Credit Rating Agencies (CRAs).* URL: http://www.sebi.gov.in/sebi_data/attachdocs/1477999985100.pdf.

— (2017). *Enhanced Standards for Credit Rating Agencies (CRAs)-Clarifications.* URL: http://www.sebi.gov.in/sebi_data/attachdocs/1490953148492.pdf.

Service, Moody's Investor (2017). *Policy for withdrawal of credit ratings.* URL: https://www.moodys.com/uploadpage/Mco%5C%20Documents/SP13418_PolicyforWithdrawalofCR.pdf.

Singapore, Monetary Authority of (2012). *Code of Conduct for Credit Rating Agencies.*

University, Boston. *Credit Rating Agency Independance.*