

MEMO# 24590

October 8, 2010

SEC Implements Provisions of Dodd-Frank Act Related to Credit Rating Agencies

[24590]

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TO: CLOSED-END INVESTMENT COMPANY MEMBERS No. 50-10
FIXED-INCOME ADVISORY COMMITTEE No. 19-10
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 48-10
MUNICIPAL SECURITIES ADVISORY COMMITTEE No. 40-10
SEC RULES MEMBERS No. 100-10 RE: SEC IMPLEMENTS PROVISIONS OF DODD-FRANK ACT
RELATED TO CREDIT RATING AGENCIES

The Securities and Exchange Commission has taken several actions to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) related to nationally recognized statistical rating organizations (“NRSROs”). First, the SEC has amended Regulation Fair Disclosure (“Regulation FD”) to remove the exemption from the rule for disclosures made to NRSROs and credit rating agencies. [\[1\]](#) Regulation FD was designed to address the selective disclosure of information by publicly traded companies and other issuers. It generally provides that when an issuer discloses material nonpublic information to certain individuals or entities, the issuer must make public disclosure of that information. The rule included an exemption, however, for disclosures made to NRSROs and credit rating agencies for the purpose of determining or monitoring credit ratings. This exemption has been eliminated, effective for disclosures made on or after October 4, 2010.

Second, the SEC has proposed to require NRSROs to make certain disclosures in any report accompanying a credit rating (including expected or preliminary credit ratings) issued in connection with an asset-backed security. [\[2\]](#) Specifically, the new disclosures would require NRSROs to include information regarding the representations, warranties, and enforcement mechanisms available to investors in an asset-backed security and a description of how they differ from those in issuances of similar securities. [\[3\]](#) The new disclosures would apply to “asset-backed securities” as defined in the Securities Exchange Act of 1934, which would include an asset-backed security whether or not it is offered in a transaction registered with the SEC. [\[4\]](#)

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endnotes

[1] See SEC Release Nos. 33-9146; 34-63003; and IC-29448 (September 29, 2010), available at <http://www.sec.gov/rules/final/2010/33-9146.pdf>.

[2] See SEC Release Nos. 33-9148 and 34-63029 (October 4, 2010), available at <http://www.sec.gov/rules/proposed/2010/33-9148.pdf>. Comments on the proposal should be submitted to the SEC by November 15, 2010.

[3] Issuers already are required to disclose the representations and warranties related to an asset-backed security transaction in prospectuses.

[4] The Dodd-Frank Act expanded the statutory definition of “asset-backed security” to include securities that are typically sold in transactions that are exempt from registration with the SEC, including collateralized debt obligations and securities issued or guaranteed by a government sponsored entity.

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