

**MEMO# 20877**

February 16, 2007

## **SEC Proposal to Implement the Credit Rating Agency Reform Act**

[20877]

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TO: SEC RULES MEMBERS No. 21-07  
FIXED-INCOME ADVISORY COMMITTEE No. 2-07  
MONEY MARKET FUNDS ADVISORY COMMITTEE No. 1-07  
INST. MONEY MARKET FUNDS ADVISORY COMMITTEE No. 2-07  
CLOSED-END INVESTMENT COMPANY MEMBERS No. 13-07  
ETF ADVISORY COMMITTEE No. 6-07  
UNIT INVESTMENT TRUST MEMBERS No. 3-07     RE: SEC PROPOSAL TO IMPLEMENT THE  
CREDIT RATING AGENCY REFORM ACT

The Securities and Exchange Commission has proposed rules to implement provisions of the Credit Rating Agency Reform Act of 2006 (the "Act"). [\[1\]](#) The Act defines the term "nationally recognized statistical rating organization" or "NRSRO" and provides authority for the SEC to implement registration, recordkeeping, financial reporting, and oversight rules with respect to registered credit rating agencies. The Act also directs the SEC to issue its implementing rules no later than June 26, 2007. (The provisions of the Act become effective on the earlier of June 26, 2007 or the date the SEC issues final rules under the Act).

Under the proposed rules, a credit rating agency seeking to register as an NRSRO would be required to apply to the SEC using Form NRSRO. Upon applying for registration, a credit rating agency must submit both non-confidential information that the credit rating agency would need to make public upon registration and update thereafter, and certain confidential information that would not need to be made public (but would have to be kept current through proposed financial reporting requirements). After registration, the credit rating agency (now considered an NRSRO under the Act) would need to update the

information on its Form NRSRO to the extent an item or exhibit becomes materially inaccurate (with certain exceptions). In addition, on a calendar year basis, the credit rating agency would need to furnish the SEC with an annual certification on Form NRSRO that the information and documents in the form continues to be accurate and listing any material changes that occurred during the year.

After registration, the NRSRO would be subject to several substantive rules. The NRSRO would be required to make and retain certain records relating to the business of issuing credit ratings. According to the Release, these records would assist the SEC, through its examination process, in monitoring whether the NRSRO complies with the requirements of the Act and in monitoring whether the NRSRO follows its established policies and procedures. On an annual fiscal year basis, an NRSRO would be required to furnish the SEC with audited financial statements. The Release states that this requirement would assist the SEC in monitoring whether the credit rating agency continues to maintain adequate financial resources to consistently produce credit ratings with integrity. The financial reports also would include a schedule of the NRSRO's largest customers, which is designed to assist the SEC in monitoring for potential conflicts of interest. All NRSROs also would be subject to requirements designed to protect their impartiality with respect to issuing credit ratings, including requirements to establish, maintain, and enforce specific written policies designed to prevent the misuse of material non-public information.

The Act requires that, not later than June 26, 2007, the SEC review, and amend or revise, its existing rules and regulations which use the term NRSRO. Given the use of NRSRO ratings in Rule 2a-7 under the Investment Company Act, we anticipate that several changes may need to be made to the credit rating requirements of Rule 2a-7 to ensure that there are no unintended consequences for funds caused by the Act's provisions or the SEC's proposed rules. The proposed rules are silent on the Rule 2a-7 issue and the Release does not mention any changes to Rule 2a-7 that might be proposed in the future.

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Senior Counsel - Securities Regulation

#### **endnotes**

[\[1\]](#) SEC Release No. 34-55231 (February 2, 2007), 72 FR 6378 (February 9, 2007) ("Release"). The proposal can be found on the SEC's website at <http://www.sec.gov/rules/proposed/2007/34-55231.pdf>. Comments on the proposal are due to the SEC no later than March 12, 2007.