

Notice

The Securities and Exchange Commission (SEC) hereby publishes the Draft amendment to the Credit Rating Companies Rules, 1996 in the newspaper as per the requirement of section 33 of the Securities and Exchange Ordinance, 1969 for eliciting public opinion, etc.

Opinion, advice or objection, if any thereon will have to be sent to the following address within two weeks from the date of publication of the draft amendment.

Chairman
Securities and Exchange Commission
Jiban Bima Tower (15, 16 & 20th Floor)
10, Dilkusha C/A
Dhaka-1000

Proposed Amendments

In the Credit Rating Companies Rules, 1996, after CHAPTER II, the following new Chapter III and Chapter IV shall be inserted, namely:-

“CHAPTER-III

Operation Procedures of Credit Rating Companies

9. A credit rating company (CRC) shall adopt, publish and shall adhere to the Code of Conduct containing the following measures, namely:-
- (1) Quality of the Rating Process:
 - (a) The CRC shall establish rating methodologies based on standards and procedures to meet the rating requirements for each industry or each type of financial instrument and shall disclose the methodologies on its public website which shall immediately be updated after any subsequent modification thereof. Each credit rating report shall have reference to the particular methodology that has been followed. All analysts shall use the methodology established by the CRC. The Rating Committee of CRC shall review the rating criteria, methodology and models at least once in every year and shall amend the rating methodology if necessary. The review shall be made keeping in view the outcomes of internal and external research and best practices, historical experience and also on the basis of necessity of ratings for new products.
 - (b) The CRC shall prepare written procedures for obtaining ratings according to its rating methodology and shall disclose the procedures on its public website.
 - (c) The CRC shall have a Rating Committee comprised of at least five senior analysts having appropriate knowledge and experience. The Rating Committee shall have adequate access to information and the authority to make independent decisions.
 - (d) Credit ratings shall be assigned by the Rating Committee and not by any individual analyst. The Rating Committee shall examine and review the analysts' proposed rating thoroughly and shall announce final rating.
 - (e) The CRC shall maintain internal records including workings of the analysts and proceedings of the Rating Committee meetings concerning its rating decisions for a period of at least five years after expiry of validity of the concerned rating.
 - (f) The CRC shall ensure that it has and devotes sufficient number of rating analysts having sufficient and appropriate knowledge, skill, experience and access to sufficient quality information. If any rating involves a type of financial product with limited historical data, the CRC shall disclose clearly the limitations in the rating report.
 - (g) The CRC shall structure its rating teams composed of at least two analysts in order to make objective assessment with different viewpoints. A rating analyst shall be assigned to a certain area or industry for a minimum period of time as determined by the CRC, in order to promote consistency in the rating

evaluation. However, an analyst may be assigned to more than one area or industry simultaneously.

- (h) In order to avoid issuing ratings on the basis of analysis or reports that contain misrepresentations or are otherwise misleading, an Internal Review Committee (IRC) comprising of appropriate professionals shall double-check the documents and information on which the analysts make ratings. In this regard it may also be mentioned that the CRC and its analysts should take steps to avoid issuing any credit analyses or reports that contain misrepresentations or are otherwise misleading as to the general creditworthiness of an issuer or obligation.

(2) Monitoring and updating:

- (a) The CRC shall prepare standard agreement(s) for each type of rating. The standard agreement shall contain among others, terms and conditions of the rating, rights and obligations of the parties, validity of the agreement, termination and settlement, surveillance rating, mode of payment etc.
- (b) The agreement shall clearly mention the events for which any of the parties can terminate it along with a minimum period within which it cannot be terminated. If an agreement for entity rating is executed with a CRC, it shall perform surveillance rating at least for the next three years after the initial rating. For an issue or instrument rating, the CRC shall perform surveillance rating for the lifetime of the instrument after the initial rating. Once an agreement is executed, it cannot be terminated before performing the initial rating and three continuous surveillance rating. If any party, however, wants to terminate the agreement prior to completion of the contract period, such party shall apply to the Commission, stating the reason therefore, and if the Commission considers the reason provided in this behalf is acceptable, it may, after giving the other party an opportunity of being heard, dispose of the matter with instruction, if any.
- (c) Once a rating is assigned and announced, the CRC shall monitor on an ongoing basis any changes in the issuer's creditworthiness. The monitoring shall consist of a half-yearly survey in case of ratings of institutions. In case of instruments, the monitoring shall be performed quarterly basis. The CRC may conduct review of ratings at its discretion, if it feels such a review is warranted. When a CRC makes a rating available to the public, the CRC shall announce, on its public website, the initial rating, monitoring reports and periodical surveillance ratings.
- (d) Where a rating is provided only to its subscribers, the CRC shall inform to its subscribers the above information. In both cases, publications of the CRC shall indicate the date of the discontinued rating was the last updated and the fact that the rating is no longer being updated.

(3) Integrity of the Rating Process:

- (a) The CRC shall at all times exercise due diligence, ensure proper care and exercise independent professional judgment in order to achieve and maintain objectivity and independence in the rating process. The CRC and its employees shall comply with all the applicable laws, regulations and guidelines as time to time make applicable for them by the Commission.

- (b) In implementing its rating process, CRC and its employees shall act fairly and honestly with the investors, issuers, other market participants and the public. The CRC shall employ, as rating analysts, only those individuals with appropriate knowledge, related experience and high standards of integrity. The CRC shall establish an ethical standard and code of conduct for its employees and shall disclose it on its public website.
 - (c) The CRC shall conduct seminars and training programs to enhance the capabilities of its rating analysts.
 - (d) The CRC and its employees shall not, either implicitly or explicitly, give any assurance or guarantee of a particular rating prior to the final rating assessment. This does not preclude a CRC from assigning target ratings used in structured finance and similar transactions. However, a CRC shall prohibit itself and its analysts from making the design of structured finance products that the CRC rates.
 - (e) The CRC shall appoint a Compliance Officer responsible for among others, reviewing the CRC's operations for compliance with applicable laws, guidelines and internal and external standards and code of conducts etc. The Compliance Officer shall submit a half-yearly compliance report to the CEO with a copy to the Commission.
 - (f) Upon becoming aware that another employee or entity under common control with the CRC is or has engaged in any conduct that is illegal, unethical or contrary to the laws, guidelines and internal and external standards and code of conducts etc., a CRC employee shall report such information immediately to the Compliance Officer. CRC management shall prohibit retaliation by other CRC staff or by the CRC itself or by any of its directors against any employee who, in good faith, makes such reports.
- (4) CRC Independence and Avoidance Of Conflicts Of Interest:
- (a) The Rating Committee shall be independent in its rating decision-making and shall disregard any internal or external pressure or interference. The Rating Committee shall not consider any positive or negative potential effects of its rating decisions on issuers, investors, the CRC itself or other stakeholders. The directors/shareholders of the CRC shall not interfere in or influence over the activities and decisions of the Rating Committee.
 - (b) The CRC and its analysts shall use care and professional judgment to maintain independence and objectivity. The credit rating division of the CRC shall be independent from all other divisions in terms of information control and organization management.
 - (c) The CRC, members of the Rating Committee and the rating analysts shall not engage themselves in any business, which may create conflict of interest.
 - (d) The determination of a credit rating shall not be influenced by such factors, which are not relevant to the credit assessment, such as the existence of or potential of a business relationship between the CRC (or its affiliates) and the issuer (or its affiliates) or any other party, or the non-existence of such a relationship.

- (5) CRC Procedures and Policies:
- (a) The CRC shall adopt written internal procedures and code of conduct to identify, eliminate and disclose any actual or potential conflicts of interest that may influence the opinions and analysis.
 - (b) The CRC shall disclose, in the rating agreement, the type of its compensation arrangements with the rated entities/clients. It shall not receive from a rated entity any compensation unrelated to its ratings services. However, for private ratings, where rating is done for private use, the CRC is not required to disclose its type of compensation arrangements.
 - (c) A CRC shall publicly disclose if it receives 10 percent or more of its annual revenue from a single entity or a group.
 - (d) A CRC shall disclose publicly all such cases where an organization has provided the CRC with final data and information to obtain a preliminary rating of an entity or issue, but: (1) does not contract with the CRC for a final rating and does contract with another CRC for a final rating of the same product/entity; or (2) contracts with the CRC for a final rating and does not publish the CRC's final rating, but does publish the ratings of another CRC for the same product/entity.
- (6) CRC Analyst and Employee Independence:
- (a) Compensation of the CRC analysts shall not be based upon the amount of revenue that CRC derives from those clients the analyst rates.
 - (b) Employees of the CRC shall not share any revenue of the CRC other than service benefits. Performance evaluation of the analysts shall base upon the quality of analysis, degree of clarity and understandability of the analysts' reports, fairness and integrity of their jobs.
 - (c) The CRC shall conduct formal and periodic review of compensation policies and practices for CRC employees to ensure that these policies and practices do not compromise the rating process.
 - (d) The rating analysts shall not be involved in marketing, negotiation of rating fees with or receipts of service payments, gifts or any beneficial services from the clients.
 - (e) A CRC or any of its analyst/employee shall not buy or sell or engage in any transaction in any listed security or derivative other than holdings in diversified collective investment schemes.
 - (f) If the CRC or any of its analyst/employee already have any holding of listed security or forthcoming listed security at the time of issuance of this code of conduct, they shall submit a written report thereof simultaneously to the Securities and Exchange Commission and the Stock Exchanges within one month of enactment of this code of conduct. In case of selling or otherwise disposal of all or part of such securities by any of the holder of such securities, the holder shall submit to SEC and Stock Exchanges its/his/her intention in writing at least seven working days prior to placing order with the concerned stockbroker mentioning the followings:

- (i) Name of the security/company
 - (ii) Quantity of securities to be sold/disposed off
 - (iii) Name of designated stock-broker and the stock exchange
 - (iv) Details of disposal, if disposal would be made through means other than the trading system
- (g) The above requirement of submission of prior report shall also be applicable to the directors of CRCs in case of its/his/her intention to buy, sale, disposal or otherwise acquire any listed security.
- (h) In case the CRC has entered into a rating agreement with a company, securities of which are held by the CRC in its portfolio of investment, the CRC shall disclose to the Securities and Exchange Commission and the stock exchanges the fact that it has holding of such securities along with the respective holding position within three working days of signing of such agreement.
- (i) The directors of CRC shall disclose the respective holding position of securities as well as trading in listed securities by each of them on a half-yearly basis on its public website, simultaneously with a copy to the Securities and Exchange Commission.
- (7) CRC Responsibilities to the Investing Public And Issuers
- (8) Transparency and Timeliness of Ratings Disclosure:
- (a) The CRC shall publish the rating in its public website when it issues or updates a final rating or discontinue with a rating, except for private rating where there is contractual agreement with the issuer not to do so.
 - (b) If the CRC rates or updates a rating or discontinue with a rating of a publicly listed company or any instrument of such a company, it shall disseminate the information through a news release to the Commission and the stock exchanges within 1(one) hour of such decision. The CRC shall indicate with each of its ratings when the rating was last updated.
 - (i) The CRC shall disclose sufficient information about its rating procedures, methodologies, standards and assumptions.
 - (ii) Where a CRC rates a structured finance product, it shall provide investors and/or subscribers (depending on the CRC's business model) with sufficient financial information so that an investor allowed investing in the product can understand the basis for the CRC's rating.
 - (iii) While rating an Asset Backed product, the CRC shall disclose the quantity and quality of the originator's total assets and the assigned assets for the issue and shall also clearly disclose the risks of reduction of quality assets from the portfolio of the originator.
 - (iv) The CRC shall disclose whether it uses a separate set of symbols when rating structured finance products, and their reasons for doing so or not doing so. In any case, a CRC shall clearly define a given rating symbol and apply it in a consistent manner for all types of securities to which that symbol is assigned.

- (c) The CRC shall assist investors in developing a greater understanding of what a credit rating is, and the limits to which credit ratings can be put to use vis-à-vis a particular type of financial product that the CRC rates. A CRC shall clearly indicate the attributes and limitations of each credit opinion, and the limits to which the CRC verifies information provided to it by the issuer or originator of a rated security.
 - (d) When issuing or revising a rating, the CRC shall explain in its press releases and reports the key elements underlying the rating opinion.
 - (e) Where feasible and appropriate, prior to issuing or revising a rating, the CRC shall inform the issuer of the critical information and principal considerations upon which a rating will be based and provides the issuer an opportunity to clarify any likely factual misperceptions or other matters that the CRC would wish to be made aware of in order to produce an accurate rating. The CRC will duly evaluate the response. Where in particular circumstances the CRC has not informed the issuer prior to issuing or revising a rating, the CRC shall inform the issuer as soon as practical thereafter and, generally, shall explain the reason for the delay.
 - (f) In order to promote transparency and to enable the market to best judge the performance of the ratings, the CRC, where possible, should publish sufficient information about the historical default rates of CRC rating categories and whether the default rates of these categories have changed over time along with the methodology used for calculating default rates, so that interested parties can understand the historical performance of each category and if and how rating categories have changed, and be able to draw quality comparison among ratings given by different CRCs. If the nature of the rating or other circumstances makes a historical default rate inappropriate, statistically invalid, or otherwise likely to mislead the users of the rating, the CRA should explain this. This information should include verifiable, quantifiable historical information about the performance of its rating opinions, organized and structure, and where possible, standardized in such a way to assist investors in drawing performance comparisons between different CRCs.
 - (g) For each rating, the CRC shall disclose whether the issuer participated in the rating process. For each rating not initiated at the request of the issuer, the CRC shall disclose whether the issuer participated in the rating process. The CRC shall also disclose its policies and procedures regarding unsolicited ratings.
 - (h) The CRC shall fully and publicly disclose any material modification to its methodologies and significant practices, procedures, and processes. Where feasible and appropriate, disclosure of such material modifications shall be made prior to their going into effect. The CRC shall carefully consider the various uses of credit ratings before modifying its methodologies, practices, procedures and processes.
- (9) Treatment of Confidential Information:
- (a) A CRC shall adopt procedures and mechanisms to protect the confidential nature of information shared with them by issuers under the terms of a confidentiality agreement or otherwise under a mutual understanding that the information is shared confidentially. Unless otherwise permitted by the confidentiality agreement and consistent with applicable laws or regulations,

the CRC and its employees shall not disclose confidential information in press releases, through research conferences, to future employers, or in conversations with investors, other issuers, other persons, or otherwise.

- (b) A CRC shall use confidential information only for purposes related to its rating activities or otherwise in accordance with any confidentiality agreements with the issuer.
- (c) CRC employees shall take all reasonable measures to protect all property and records belonging to or in possession of the CRC from fraud, theft or misuse.
- (d) CRC employees shall not disclose any non-public information about rating opinions or possible future rating actions of the CRC. CRC employees shall not use or share confidential information for any purpose except the conduct of rating.

(10) Disclosure of the Code of Conduct and Communication with Market Participants:

- (a) The CRC shall establish a function within its organization charged with communicating with market participants and the public about any questions, concerns or complaints that the CRC may receive. The objective of this function shall be to help ensure that the CRC's officers and management are informed of those issues that the CRC's officers and management would want to be made aware of when setting the organization's policies.
- (b) The CRC shall include the following declarations in its every rating report furnished to the Securities and Exchange Commission and stock exchanges, which shall form an integral part of the report:

"We,(name of the CRC) while assigning this rating to the entity/issue/instrument rating of(name of the rated entity/issue/instrument) hereby solemnly declare that:

- (i) We(name of the CRC) as well as the analysts of the rating have examined, prepared, finalized and issued this report without compromising with the matters of our conflict of interest, if there be any; and
- (ii) We have complied with all the requirements, policy and procedures of the Code of Conduct as prescribed by the Securities and Exchange Commission videdatedin respect of this rating.

Signature with date

Name of the CEO
Name of the CRC

CHAPTER IV

Inspection and Investigation of CRC

10. Commission's right to inspect or investigate:
 - (1) The Commission may appoint one or more persons as inspecting or investigating officers, to undertake inspection or investigation of the books of account, records and documents of the credit rating companies, for any of the purposes specified in sub-rule (2).
 - (2) The purposes referred to in sub-rule (1) shall be the following, namely:-
 - (a) to ascertain whether the books of account, records and documents are being maintained properly;
 - (b) to ascertain whether the provisions of the Ordinance and these Rules are being complied with;
 - (c) to investigate into complaints received from investors, clients or any other person on any matter having a bearing on activities of the credit rating company;
 - (d) in the interest of the securities market or in the interest of investors.
 - (3) The inspection or investigation ordered by the Commission under sub-rule (1) shall not ordinarily go into an examination of the appropriateness or the assigned ratings on the merits.
 - (4) Inspection or investigation to judge in appropriateness of the ratings may be ordered by the Commission only in case of complaints, which are serious in nature, or deems it appropriate by the Commission.
 - (5) Inspection or investigation referred to in sub-rule (4) shall be carried out either by the officer of the Commission or independent expert with relevant experience or combination of both.
11. Notice before inspection or investigation:
 - (1) Before ordering an inspection or investigation under rule 10, the Commission shall give not less than three days written notice to the credit rating company for the purpose.
 - (2) Notwithstanding anything contained in sub-rule (1), where the Commission is satisfied that in the interest of the investors, no such notice should be given, it may, by an order in writing, direct that the inspection or investigation of the affairs or the credit rating company be taken up without such notice.
 - (3) During the course of an inspection or investigation, the credit rating company against whom the inspection or investigation is being carried out shall be bound to discharge all its obligations as contained in the Rules.
12. Obligations of credit rating company on inspection or investigation by the Commission:
 - (1) It shall be the duty of every credit rating company whose affairs are being inspected or investigated, and of every director, officer or employee thereof, to produce to the custody or control and furnish him with such statements and information relating to

its rating activities, as the inspecting or investigating officer may require within such reasonable period as may be specified by the said officer.

- (2) The credit rating company shall-
- (a) allow the inspecting or investigating officer to have reasonable access to the premises occupied by such credit rating company or by any other person its behalf;
 - (b) extend to the inspecting or investigating officer reasonable facility for examining any books, records, documents and computer data in the possession of the credit rating company; and
 - (c) provide copies of documents or other materials which, in the opinion of the inspecting or investigating officer, are relevant for the purposes of the inspection or investigation, as the case may be.

13. The inspecting officer, in the course of inspection or investigation, shall be entitled to examine, or record the statements of any officer, director or employee of the credit rating company for the purposes connected with the inspection or investigation.

14. Every director, officer or employee of the credit rating company shall be bound to render to the inspecting officer all assistance in connection with the inspection or investigation, which the inspecting officer may reasonably require.

15. Submission on inspection or investigation report.

The inspecting or investigating officer shall, as soon as possible, on completion of the inspection or investigation, submit a report to the Commission:

Provided that if directed to do so by the Commission, he may submit an interim report.

16. Action on inspection or investigation report

The Commission, after consideration of inspection or investigation report, may take such action as may deem fit and appropriate including action under the Securities and Exchange Ordinance, 1969.