

users of securities ratings, as well as using statistical data to demonstrate market reliance on an applicant's ratings)? As a more objective way of evidencing market reliance and credibility, should NRSRO recognition be conditioned on a credit rating agency documenting that it has been retained to rate securities issued by a broad group of well-capitalized firms?

Question 13: Should the Commission condition NRSRO recognition on a rating agency developing and implementing procedures reasonably designed to ensure credible, reliable, and current ratings? At a minimum, should each NRSRO have rating procedures designed to ensure that a similar analysis is conducted for similarly situated issuers and that current information is used in the rating agency's analysis? What minimum standards should the Commission use to determine whether the agency's ratings are current? Should each NRSRO use uniform rating symbols, as a means of reducing the risk of marketplace confusion? When reviewing a rating agency's procedures for obtaining information on which to base a rating action, should the Commission establish minimum due diligence requirements for rating agencies? How could these minimum requirements be developed? By the Commission? By the industry, with Commission oversight?

Question 14: Should the extent of contacts with the management of issuers (including access to senior level management of issuers) be a criterion used to determine NRSRO status? Should the Commission limit the credit ratings that can be used for regulatory purposes to credit ratings that include access to senior management of an issuer? If so, why?

Question 15: To the extent a credit rating agency uses computerized statistical models, what factors should be used to review the models? Could a credit rating agency that solely uses a computerized statistical model and no other qualitative inputs qualify as an NRSRO?

Question 16: Should the size and quality of the credit rating agency's staff be considered when determining NRSRO status? Should the Commission condition NRSRO recognition on a rating agency adopting minimum standards for the training and qualifications of its credit analysts? If so, what entity should be responsible for oversight of qualifications and training? How could the Commission verify whether a member of a rating agency's staff is or was previously subject to disciplinary action by a financial (or other) regulatory authority?

Question 17: Should the Commission condition NRSRO recognition on an entity's meeting standards for a minimum number of rating analysts or a maximum average number of issues covered per analyst? For example, should the Commission question whether a single analyst can credibly and reliably issue and keep current credit ratings on securities issued by hundreds of different issuers? Or would this level of scrutiny involve the Commission too deeply in the business practices of rating agencies?

Question 18: Is a credit rating agency's organizational structure an appropriate factor to consider when evaluating a request for NRSRO status? Should the agency that seeks recognition consent to limiting its business to issuing credit ratings or could it conduct other activities, such as rating advisory services?

Question 19: Should the Commission consider a credit rating agency's financial resources as a factor in determining NRSRO status? If so, how? Should NRSRO recognition be conditioned on a rating agency meeting minimum capital or revenue requirements?

Other Factors To Be Considered

Question 20: Should a rating agency that confines its activity to a limited sector of the debt market be considered for NRSRO recognition? Should a rating agency that confines its activity to a limited (or largely non-U.S.) geographic area also be considered?

Question 21: Should the Commission consider a provisional NRSRO status for rating agencies that comply with NRSRO recognition criteria but lack national recognition?

Question 22: Should the Commission develop supplemental criteria to evaluate ratings quality that would be applicable to both rating agencies performing traditional fundamental credit analysis and those primarily reliant on statistical models?

Question 23: Should the Commission consider other criteria in making the NRSRO determination, such as the existence of effective procedures reasonably designed to prevent conflicts of interest and alleged anticompetitive, abusive, and unfair practices, and improve information flow surrounding the ratings process?¹¹

Question 24: Should the Commission expect NRSROs to follow generally accepted industry standards of diligence? If so, should the Commission encourage the establishment of a

committee of market participants to develop those standards? Or should they be devised through other means?

Recognition Process

Question 25: Should recognition of NRSROs occur through Commission action (rather than through staff no-action letters)? Should the Commission establish an appeal process if the staff remains responsible for the recognition of NRSROs?

Question 26: Should the Commission publicize applications for NRSRO recognition, and seek public comment on the credibility and reliability of the applicant's ratings?

Question 27: Should the Commission establish a time period to serve as a goal for action on applications for NRSRO recognition? If so, would an appropriate time period be 90 days after all required information has been received, or a shorter or longer period?

C. Examination and Oversight of NRSROs

Each of the current NRSROs is registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"). The Commission's 1997 NRSRO rule proposal would have required this registration. Commenters disagree on whether NRSROs should or could be subject to this amount of regulatory oversight, or even greater regulatory oversight. Some indicate that greater regulation is essential given the importance of their credit ratings to investors, and the influence such ratings can have on the securities markets. Others question the authority and the feasibility of the Commission to impose greater oversight. Some also question whether additional regulatory oversight—particularly the burdens associated with the possibility of a regulatory assessment of the quality of ratings analysis—is justified in light of the performance of credit rating agencies over the past decades.

Assuming the Commission can and should increase its ongoing oversight of NRSROs, the Commission could develop the following approach:

- The Commission could condition NRSRO recognition on a rating agency's agreeing to file annual certifications with the Commission that it continues to comply with all of the NRSRO criteria.

- The Commission also could solicit public comment annually on the performance of each NRSRO, including whether the NRSRO's ratings continue to be viewed as credible and reliable.

- The Commission could condition NRSRO recognition on a rating agency's

¹¹ See sections D, E, and F *infra* for additional discussion of these issues.