

SUPPORTING STATEMENT

A. Justification

1. Need For Information Collection

The Credit Rating Agency Reform Act of 2006<sup>1</sup> (“Rating Agency Act”), enacted on September 29, 2006, defines the term “nationally recognized statistical rating organization,” or “NRSRO” and provides authority for the Securities and Exchange Commission (“Commission”) to implement registration, recordkeeping, financial reporting, and oversight rules with respect to registered credit rating agencies.

The Commission is proposing rule amendments that would impose additional requirements on NRSROs in order to address concerns about the integrity of their credit rating procedures and methodologies in light of the role they played in determining credit ratings for securities collateralized by or linked to subprime residential mortgages.

The proposed amendments to Rule 17g-5 contain disclosure requirements. The collection of information obligations imposed by the proposed rule amendments would be mandatory. The proposed amendments to Rule 17g-5, however, would apply only to credit rating agencies that are applying to register or are registered with the Commission as NRSROs, and registration is voluntary.

The Rating Agency Act added a new Section 15E, “Registration of Nationally Recognized Statistical Rating Organizations,”<sup>2</sup> to the Securities Exchange Act of 1934 (“Exchange Act”). Exchange Act Section 15E(h)(2) provide the Commission with authority to prohibit, or require the management and disclosure of, any potential conflict of interest relating to the issuance of credit ratings by an NRSRO.<sup>3</sup> The proposed amendments to Rule 17g-5 would require the disclosure and establishment of procedures to manage an additional conflict and would prohibit certain other conflicts outright.<sup>4</sup>

Specifically, the proposed amendments to Rule 17g-5 would prohibit an NRSRO from issuing a rating for a structured product unless information about the assets underlying the rated security is made available to certain persons. The proposed rule amendments would also prohibit an NRSRO from issuing or maintaining a credit rating where the NRSRO or an affiliate provided recommendations on the structure of the transaction being rated; a credit analyst or person involved in the ratings process participated in fee negotiations; or a credit analyst or a person responsible for approving a credit rating received gifts from the obligor being rated, or from the issuer, underwriter,

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<sup>1</sup> Pub. L. No. 109-291.

<sup>2</sup> 15 U.S.C. 78o-7.

<sup>3</sup> 15 U.S.C. 78o-7(h)(2).

<sup>4</sup> See proposed amendments to Rule 17g-5.

or sponsor of the securities being rated, other than items provided in the context of normal business activities such as meetings that have an aggregate value of no more than \$25.<sup>5</sup>

2. Purpose of, and Consequences of Not Requiring, the Information Collection

The collection of information included in the proposed amendments to Rule 17g-5 is necessary for Commission oversight of registered NRSROs. Specifically, this collection of information would aid the Commission by addressing potential practices that could impair the objectivity and the quality of a credit rating.

3. Role of Improved Information Technology and Obstacles to Reducing Burden

The proposed amendments to Rule 17g-5 would allow NRSROs to disclose certain information in an electronic format. The Commission believes that improvements in telecommunications and data processing technology may reduce any burdens associated with the proposed amendments to Rule 17g-5.

4. Efforts To Identify Duplication

No duplication is apparent.

5. Effects on Small Entities

Small entities may be affected by the proposed rule because all NRSROs, regardless of size, would be subject to the additional conflicts of interest in the proposed amendments to Rule 17g-5.

6. Consequences of Less Frequent Collection

If this information were not collected as frequently, the Commission would be unable to ascertain, on an ongoing basis, whether a credit rating agency registered as an NRSRO “fails to maintain adequate financial and managerial resources to consistently produce credit ratings with integrity.”<sup>6</sup>

7. Inconsistencies With Guidelines In 5 CFR 1320.5(d)(2)

The collection of information would not be inconsistent with 5 CFR 1320.5(d)(2).

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<sup>5</sup> See proposed amendments to Rule 17g-5.

<sup>6</sup> 15 U.S.C. 15E(d).

8. Consultations Outside the Agency

All Commission rule proposals are published in the Federal Register for public comment. The comment period for the release that discusses the proposed amendments to Rule 17g-5<sup>7</sup> is 30 days. This comment period will afford the public an opportunity to respond to the proposal.

9. Payment or Gift to Respondents

Not applicable.

10. Assurance of Confidentiality

The information collection under proposed Rule 17g-5 will not be confidential.

11. Sensitive Questions

Not applicable. Questions of a sensitive nature are not asked.

12. Estimate of Respondent Reporting Burden

Under the proposed amendments to Rule 17g-5, an NRSRO would be prohibited from issuing a credit rating for a structured finance product unless certain information about the transaction and the assets underlying the structured finance product are disclosed. The Commission believes that this information would likely be disclosed by arrangers and trustees and that there would be approximately 200 such entities. The Commission estimates that it would take approximately 300 hours to develop a system, as well as the policies and procedures, for the disclosures required by the proposed amendment. This would result in a total one-time hour burden of 60,000 hours for 200 respondents.<sup>8</sup>

Disclosures would also be required on a transaction by transaction basis. The Commission estimates that each respondent would disclose information with respect to approximately 20 new transactions<sup>9</sup> per year and that it would take 1 hour per transaction to make the information publicly available. Therefore the Commission estimates it would take a respondent approximately 20 hours<sup>10</sup> to disclose this information on an annual basis for a total aggregate annual hour burden of 4,000 hours.<sup>11</sup>

The proposed amendment to Rule 17g-5 would also require disclosure of information on an ongoing basis that is used by an NRSRO to undertake credit rating

<sup>7</sup> Release No. 34-57967 (June 16, 2008), 73 FR 36212 (June 25, 2008).

<sup>8</sup> 300 hours x 200 entities = 60,000 hours.

<sup>9</sup> This estimate is an average. The number of new transactions per year would vary by the size of the arranger. Larger respondents may arrange in excess of 20 new deals per year while a smaller entity may only arrange one or two deal per year.

<sup>10</sup> 20 transactions x 1 hour = 20 hours.

<sup>11</sup> 20 hours x 200 respondents = 4,000 hours.

surveillance on the structured finance product. The Commission estimates that this disclosure would be required with respect to approximately 125 transactions per month, and that it would take each respondent approximately 0.5 hours per transaction to disclose the information. Therefore, the Commission estimates that it would take each respondent approximately 750 hours<sup>12</sup> on an annual basis to disclose such information, for a total aggregate annual burden of 150,000 hours.<sup>13</sup>

The Commission therefore estimates that the burden associated with Rule 17g-5 as a result of the proposed amendments is 60,000 hours on a one-time basis and 154,000 hours on an annual basis (150,000 + 4,000 = 154,000).

13. Estimate of Total Annualized Cost Burden

The Commission believes that there would be no additional reporting costs associated with the proposed rule, other than the costs described in Item 12 above.

14. Estimate of Cost to Federal Government

There would be no additional costs to the Federal Government.

15. Explanation of Changes in Burden

Not applicable.

16. Information Collection Planned for Statistical Purposes

Not applicable. There is no intention to publish the information for any purpose.

17. Explanation as to Why Expiration Date Will Not Be Displayed

Not applicable.

18. Exceptions to Certification

Not applicable.

B. Collection of Information Employing Statistical Methods

The collection of information does not employ statistical methods, nor would the implementation of such methods reduce the burden or improve the accuracy of results.

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<sup>12</sup> 125 transactions x 30 minutes x 12 months = 45,000 minutes/60 minutes = 750 hours.

<sup>13</sup> 750 hours x 200 respondents = 150,000 hours.