

Recent Global Actions on Credit Rating Agencies

G20 Communiqué

Washington D.C., 15 November 2008

- We will exercise strong oversight over credit rating agencies, consistent with the agreed and strengthened international code of conduct.

London, 2 April 2009

- We have agreed: all Credit Rating Agencies whose ratings are used for regulatory purposes should be subject to a regulatory oversight regime that includes registration. The regulatory oversight regime should be established by end 2009 and should be consistent with the IOSCO Code of Conduct Fundamentals. IOSCO should coordinate full compliance.

IOSCO

2008.5 IOSCO published a revised “Code of Conduct Fundamentals for Credit Rating Agencies”

Japan

Jun 2009

Promulgation of an Act to amend the Financial Instruments and Exchange Act

Dec 2009

Promulgation of Cabinet Order and Cabinet Office Ordinances under the Act

Apr 2010

Implementation of Japan Regulation

Oct 2010

Implementation of Japan Regulation*

*additional explanatory obligation on broker-dealers, etc.

US

Sep 2006

Passage of Credit Rating Agency Reform Act of 2006

Jun 2007

Introduction of a registration system

June 2008 –

Publication for proposed rules and final rules related to NRSROs

May 2010

Senate passed the Restoring American Financial Stability Act of 2010

EU

Nov 2008

Publication of the draft EU regulation

Nov 2009

Promulgation of EU Regulation

Dec 2009

Implementation of EU Regulation

Jun 2010

Proposal to amend EU Regulation

IOSCO CRA Code of Conduct Fundamentals

- Published in December 2004 and revised in May 2008
- “Comply or explain” approach
- 70 provisions which consist of:

1. Quality and Integrity of the Rating Process

- A. Quality of the Rating Process
- B. Monitoring and Updating
- C. Integrity of the Rating Process

2. CRA Independence and Avoidance of Conflicts of Interest

- A. General
- B. CRA Procedures and Policies
- C. CRA Analyst and Employee Independence

3. CRA Responsibilities to the Investing Public and Issuers

- A. Transparency and Timeliness of Ratings Disclosure
- B. The Treatment of Confidential Information

4. Disclosure of the Code of Conduct and Communication with Market Participants

Introduction of Regulation for CRAs

Regulation/Supervision for CRAs

(Register CRAs with established control systems)

[Overview of Regulation]

Duty of good faith

Conduct operations with fairness and integrity as independent entities

Establishment of control systems

Quality control and fairness in the rating process, and prevention of conflicts of interest, etc.

Prohibited Acts

- ▶ Prohibit ratings in the case where CRAs have a close relationship with the issuers of the financial instruments to be rated, etc.
- ▶ Prohibit ratings in the case where CRAs give advice to a rating stakeholder on matters that may materially affect the credit ratings, etc.
- ▶ Prohibit any acts resulting in insufficient protection of investors or loss of investor confidence in the credit rating business

Information Disclosure

- ▶ Timely disclosure: publish rating policies, etc.
- ▶ Periodic disclosure: public disclosure of explanation documents

*Inspection/Supervision, etc.

Submission of periodic business reports, supervisory order for production of reports and on-site inspection, order to improve business operations, etc.

Financial Instruments Business Operators' obligation to explain

(in soliciting customers to enter into contracts for financial instruments transactions)

Financial instruments business operators shall not use ratings provided by unregistered CRAs without informing of:

1. the fact that ratings are provided by unregistered CRAs
2. items specified in cabinet office ordinance

- ▶ Summary of the policy and methodology for a determination of ratings
- ▶ Assumptions, significance and limitations of ratings

[Summary of the Cabinet Office Ordinance]

[Requirements for establishment of control systems]

Quality control of the rating process

- 1) Securing sufficient staff with expertise and skills, 2) Ensuring the quality of information to be used for ratings, 3) Reviewing and updating determined credit ratings, etc.

Ensuring of independence and fairness

Requiring ratings to be determined by the rating committee and the committee members to be rotated, etc.

Prevention of conflicts of interest

- 1) Specify acts with conflicts of interest, prevent them and publish measures to prevent them,
- 2) review the past credit ratings of an entity determined by an analyst who become employed at that entity, etc.

*Additional requirements include: compliance with laws and regulations, management and maintenance of information confidentiality, responding to complaints, compliance with rating policies, etc. and establishment of a supervisory committee, etc.

- ▶ Prohibit acts by the CRA's staff in charge of the credit rating to receive, request delivery of, or accept an offer of money or goods from rating stakeholders in the rating process

[Determination]

Credit rating determination policies, etc.

[Requirements]

- ▶ Comprehensive judgment based on all the collected information and materials
- ▶ Check factual errors with issuers, etc. in advance of provision etc.

Explanatory documents

- ▶ information related to the history and statistics of the determined credit ratings
- ▶ status of the development of operational control systems

[Provision]

Credit rating provision policies, etc.

[Requirements]

- ▶ General provision of determined credit ratings without delay
- ▶ Items to be published in credit rating provision: Summary of the adopted credit rating determination policies, etc. and assumptions, significance and limitations of credit ratings, etc.

(making them available to the public every year)

Investors

Ensuring of regulatory consistency with the US and Europe

IOSCO Code of Conduct