

**SECURITIES AND EXCHANGE BOARD OF INDIA
(CREDIT RATING AGENCIES) REGULATIONS, 1999**

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THE GAZETTE OF INDIA
EXTRAORDINARY
PART-II – SECTION 3 – SUB-SECTION (ii)
PUBLISHED BY AUTHORITY
SECURITIES AND EXCHANGE BOARD OF INDIA
NOTIFICATION
Mumbai, the 7th July, 1999
SECURITIES AND EXCHANGE BOARD OF INDIA
(CREDIT RATING AGENCIES) REGULATIONS, 1999

S.O. 547(E).– In exercise of the powers conferred by section 30 read with section 11 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Securities and Exchange Board of India hereby makes the following regulations, namely:-

CHAPTER I
PRELIMINARY

Short title and commencement

1. (1) These regulations may be called the Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Definitions

2. (1) In these regulations, unless the context otherwise requires, -
 - (a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
 - (b) "associate", in relation to a credit rating agency, includes a person–
 - (i) who, directly or indirectly, by himself, or in combination with relatives, owns or controls shares carrying not less than ten percent of the voting rights of the credit rating agency, or

- (ii) in respect of whom the credit rating agency, directly or indirectly, by itself, or in combination with other persons, owns or controls shares carrying not less than ten percent of the voting rights, or
 - (iii) majority of the directors of which, own or control shares carrying not less than ten percent of the voting rights of the credit rating agency, or
 - (iv) whose director, officer or employee is also a director, officer or employee of the credit rating agency;
- (c) "Board" means the Board as defined in clause (a) of sub-section (1) of section 2 of the Act;
- (d) "body corporate" means a body corporate as defined in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956);
- (e) "certificate" means a certificate of registration granted or renewed by the Board under these regulations;
- [(e) "change of status or constitution" in relation to a credit rating agency -
- (i) means any change in its status or constitution of whatsoever nature; and
 - (ii) without prejudice to generality of sub-clause (i), includes—
 - (A) amalgamation, demerger, consolidation or any other kind of corporate restructuring falling within the scope of section 391 of the Companies Act, 1956 (1 of 1956) or the corresponding provision of any other law for the time being in force;
 - (B) change in its managing director or whole-time director; and
 - (C) any change in control over the body corporate;
- (eii) "change in control", in relation to a credit rating agency being a body corporate, means:—
- (i) if its shares are listed on any recognised stock exchange, change in control as defined under the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997;
 - (ii) in any other case, change in the controlling interest in the body corporate.

Explanation.—For the purpose of sub-clause (ii), the expression “controlling interest” means an interest, whether direct or indirect, to the extent of at least fifty-one per cent of voting rights in the body corporate;]¹

- (f) "client" means any person whose securities are rated by a credit rating agency;
- (g) "company" means a company incorporated under the Companies Act, 1956 (1 of 1956);
- (h) "credit rating agency" means a body corporate which is engaged in, or proposes to be engaged in, the business of rating of securities offered by way of public or rights issue;
- (i) "economic offence" means an offence to which the Economic Offences (Inapplicability of Limitation) Act, 1974 (12 of 1974), is applicable for the time being;
- (j) ²[* * *]
- (k) "form" means any of the forms specified in the First Schedule:
- (l) "fraud" has the same meaning as is assigned to it by section 17 of the Indian Contract Act, 1872 (9 of 1872);
- (m)"group companies" means group companies as defined in the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969);
- (n) "inspecting officer" means any one or more persons appointed by the Board under regulation 29;
- (o) "issuer" means a person whose securities are proposed to be rated by a credit rating agency;
- (p) "net-worth" means the aggregate value of the paid up equity capital and free reserves (excluding reserves created out of revaluation), reduced by

¹ Inserted by the SEBI (Credit Rating Agencies) (Amendment) Regulations, 2010, w.e.f. 19-3-2010.

² Omitted by the SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002, w.e.f. 27-9-2002. Prior to its omission, clause (j) read as under:
““enquiry officer” means any officer of the Board, or any other person, who is authorised by the Board under regulation 38”.

- the aggregate value of accumulated losses and deferred expenditure not written off, including miscellaneous expenses not written off;
- (q) "rating" means an opinion regarding securities, expressed in the form of standard symbols or in any other standardised manner, assigned by a credit rating agency and used by the issuer of such securities, to comply with a requirement specified by these regulations;
 - (r) "rating committee" means a committee constituted by a credit rating agency to assign rating to a security;
 - (s) "regulation" means a regulation forming part of these regulations;
 - (t) "relative" means a relative as defined in section 6 of the Companies Act, 1956 (1 of 1956);
 - (u) "schedule" means any of the schedules appended to these regulations;
and
 - (v) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.
- (2) Words and expressions used and not defined in these regulations, but defined in the Act, shall have the meanings respectively assigned to them in the Act.

CHAPTER II

REGISTRATION OF CREDIT RATING AGENCIES

Application for grant of certificate

3. (1) Any person proposing to commence any activity as a credit rating agency on or after the date of commencement of these regulations shall make an application to the Board for the grant of a certificate of registration for the purpose.
- (2) Any person, who was immediately before the said date carrying on any activity as a credit rating agency, shall make an application to the Board for the grant of a certificate within a period of three months from such date:

Provided that the Board may, where it is of the opinion that it is necessary to do so, for reasons to be recorded in writing, extend the said period upto a maximum of six months from such date.

(3) An application for the grant of a certificate under sub-regulation (1) or sub-regulation (2) shall be made to the Board in Form A of the First Schedule and shall be accompanied by a non-refundable application fee, as specified in Part A of the second Schedule, to be paid in the manner specified in Part B thereof.

(4) Any person referred to in sub-regulation (2) who fails to make an application for the grant of a certificate within the period specified in that sub-regulation shall cease to carry on rating activity.

Promoter of credit rating agency

4. The Board shall not consider an application under regulation 3 unless the applicant is promoted by a person belonging to any of the following categories, namely:

- (a) a public financial institution, as defined in section 4 A of the Companies Act, 1956 (1 of 1956);
- (b) a scheduled commercial bank included for the time being in the second schedule to the Reserve Bank of India Act, 1934 (2 of 1934);
- (c) a foreign bank operating in India with the approval of the Reserve Bank of India;
- (d) a foreign credit rating agency recognised by or under any law for the time being in force in the country of its incorporation, having at least five years experience in rating securities;
- (e) any company or a body corporate, having continuous net worth of minimum rupees one hundred crores as per its audited annual accounts for the previous five years prior to filing of the application with the Board for the grant of certificate under these regulations.

Eligibility criteria

5. The Board shall not consider an application for the grant of a certificate under regulation 3, unless the applicant satisfies the following conditions, namely:

- (a) the applicant is set up and registered as a company under the Companies Act, 1956;
- (b) the applicant has, in its Memorandum of Association, specified rating activity as one of its main objects;
- (c) the applicant has a minimum net worth of rupees five crores.

Provided that a credit rating agency existing at the commencement of these regulations, with a net worth of less than rupees five crores, shall be deemed to have satisfied this condition, if it increases its net worth to the said minimum within a period of three years of such commencement.

- (d) the applicant has adequate infrastructure, to enable it to provide rating services in accordance with the provisions of the Act and these regulations;
- (e) the applicant and the promoters of the applicant, referred to in regulation 4 have professional competence, financial soundness and general reputation of fairness and integrity in business transactions, to the satisfaction of the Board;
- (f) neither the applicant, nor its promoter, nor any director of the applicant or its promoter, is involved in any legal proceeding connected with the securities market, which may have an adverse impact on the interests of the investors;
- (g) neither the applicant, nor its promoters, nor any director, of its promoter has at any time in the past been convicted of any offence involving moral turpitude or any economic offence;
- (h) the applicant has, in its employment, persons having adequate professional and other relevant experience to the satisfaction of the Board;
- (i) neither the applicant, nor any person directly or indirectly connected with the applicant has in the past been –
 - (i) refused by the Board a certificate under these regulations or

(ii) subjected to any proceedings for a contravention of the Act or of any rules or regulations made under the Act.

Explanation.— For the purpose of this clause, the expression "directly or indirectly connected person" means any person who is an associate, subsidiary, inter-connected or group company of the applicant or a company under the same management as the applicant.

- (j) the applicant, in all other respects, is a fit and proper person for the grant of a certificate;
- (k) grant of certificate to the applicant is in the interest of investors and the securities market.

¹[Criteria for Fit and Proper Person) Regulations, 2004.

5A. For the purpose of determining whether an applicant or the credit rating agency is a fit and proper person the Board may take into account the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

Application to conform to the requirements

6. Any application for a certificate, which is not complete in all respects or does not conform to the requirement of regulation 5 or instructions specified in Form A shall be rejected by the Board:

Provided that, before rejecting any such application, the applicant shall be given an opportunity to remove, within thirty days of the date of receipt of relevant communication, from the Board such objections as may be indicated by the Board.

Provided further, that the Board may, on sufficient reason being shown, extend the time for removal of objections by such further time, not exceeding

¹ Substituted by the SEBI (Intermediaries) Regulations, 2008, w.e.f. 26-05-2008. Prior to its substitution, regulation 5A as inserted by the SEBI (Criteria for Fit and Proper Person) Regulations, 2004, w.e.f. 10-3-2004, read as under:

"5A. Applicability of Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004.—The provisions of the Securities and Exchange Board of India (Criteria for Fit and Proper Person) Regulations, 2004 shall, as far as may be, apply to all applicants or the credit rating agencies under these regulations."

thirty days, as the Board may consider fit to enable the applicant to remove such objections.

Furnishing of information, clarification and personal representation

7. (1) The Board may require the applicant to furnish such further information or clarification as the Board may consider necessary, for the purpose of processing of the application.

(2) The Board, if it so desires, may ask the applicant or its authorised representative to appear before the Board, for personal representation in connection with the grant of a certificate.

Grant of Certificate

8. (1) The Board, on being satisfied that the applicant is eligible for the grant of a certificate of registration, shall grant a certificate in Form 'B'.

(2) The grant of certificate of registration shall be subject to the payment of the registration fee specified in Part A of the Second Schedule, in the manner prescribed in Part B thereof.

Conditions of certificate and validity period

9. (1) The certificate granted under regulation 8 shall be, subject to the following conditions, namely:

(a) the credit rating agency shall comply with the provisions of the Act, the regulations made there under and the guidelines, directives, circulars and instructions issued by the Board from time to time on the subject of credit rating.

(b) (1) where any information or particulars furnished to the Board by a credit rating agency:

(i) is found to be false or misleading in any material particular ; or

(ii) has undergone change subsequently to its furnishing at the time of the application for a certificate;

the credit rating agency shall forthwith inform the Board in writing.

(2) the period of validity of certificate of registration shall be three years.
[(c)where the credit rating agency proposes to change its status or constitution, it shall obtain prior approval of the Board for continuing to act as such after the change.]¹

Renewal of certificate

10. (1) A credit rating agency, if it desires renewal of the certificate granted to it, shall make to the Board an application for the renewal of the certificate of registration.

²[(1A) An application for renewal of certificate of registration made under sub-regulation (1) shall be accompanied by a non-refundable application fee as specified in the Second Schedule.]

(2) Such application shall be made not less than three months before expiry of the period of validity of the certificate, specified in sub-regulation (2) of regulation 9.

(3) The application for renewal made under sub-regulation (1)–

(a) shall be accompanied by a renewal fee as specified in the second schedule and

(b) as far as may be, shall be dealt with in the same manner as if it were an application for the grant of a fresh certificate under regulation 3.

Procedure where certificate is not granted

11. (1) If, after considering an application made under regulation 3 or regulation 10 as the case may be, the Board is of the opinion that a certificate should not be granted or renewed, as the case may be, it may, after giving the applicant a reasonable opportunity of being heard, reject the application.

¹ Inserted by the SEBI (Credit Rating Agencies) (Amendment) Regulations, 2010, w.e.f. 19-3-2010.

² Inserted by the SEBI (Credit Rating Agencies) (Amendment) Regulations, 2006, w.e.f. 7-9-2006.

(2) The decision of the Board, not to grant or not to renew the certificate under sub-regulation (1) shall be communicated by the Board to the applicant within a period of thirty days of such decision, stating the grounds for the decision.

(3) Any applicant aggrieved by the decision of the Board rejecting his application under sub-regulation (1) may, within a period of thirty days from the date of receipt by him of the communication referred to in sub-regulation (2) apply to the Board in writing for reconsideration of such decision.

(4) Where an application for re-consideration is made under sub-regulation (3) the Board shall consider the application and communicate to the applicant its decision in writing, as soon as may be.

Effect of refusal to grant certificate

12. (1) An applicant referred to in sub-regulation (1) of regulation 11 whose application for the grant of a certificate has been rejected under regulation 11, shall not undertake any rating activity.

(2) An applicant referred to in sub-regulation (2) of regulation 3, whose application for the grant of a certificate has been rejected by the Board under regulation 11, shall, on and from the date of the receipt of the communication under sub-regulation (2) of regulation 11, cease to carry on any rating activity.

(3) If the Board is satisfied that it is in the interest of the investors, it may permit the credit rating agency referred to under sub-regulation (1) or (2) to complete the rating assignments already entered into by it, during the pendency of the application or period of validity of the certificate.

(4) The Board may, in order to protect the interests of investors, issue directions with regard to the transfer of records, documents or reports relating to the activities of a credit rating agency, whose application for the grant or renewal of a certificate has been rejected.

(5) The Board may, in order to protect the interests of investors, appoint any person to take charge of the records, documents or reports relating to the rating activities of a credit rating agency referred to in sub-regulation (4) and for this purpose also determine the terms and conditions of such appointment.

CHAPTER III
GENERAL OBLIGATIONS OF CREDIT RATING AGENCIES

Code of Conduct

13. Every credit rating agency shall abide by the Code of Conduct contained in the Third Schedule.

Agreement with the client

14. Every credit rating agency shall enter into a written agreement with each client whose securities it proposes to rate, and every such agreement shall include the following provisions, namely:-

- (a) the rights and liabilities of each party in respect of the rating of securities shall be defined;
- (b) the fee to be charged by the credit rating agency shall be specified;
- (c) the client shall agree to a periodic review of the rating by the credit rating agency during the tenure of the rated instrument;
- (d) the client shall agree to co-operate with the credit rating agency in order to enable the latter to arrive at, and maintain, a true and accurate rating of the clients securities and shall in particular provide to the latter, true, adequate and timely information for the purpose;
- (e) the credit rating agency shall disclose to the client the rating assigned to the securities of the latter through regular methods of dissemination, irrespective of whether the rating is or is not accepted by the client;
- (f) The client shall agree to disclose, in the offer document;-
 - (i) the rating assigned to the client's listed securities by any credit rating agency during the last three years; and
 - (ii) any rating given in respect of the client's securities by any other credit rating agency, which has not been accepted by the client;
- (g) the client shall agree to obtain a rating from at least two different rating agencies for any issue of debt securities whose size is equal to or exceeds, rupees one hundred crores.

Monitoring of ratings

15. (1) Every credit rating agency shall, during the lifetime of securities rated by it continuously monitor the rating of such securities.

(2) Every credit rating agency shall disseminate information regarding newly assigned ratings, and changes in earlier rating promptly through press releases and websites, and, in the case of securities issued by listed companies, such information shall also be provided simultaneously to the concerned regional stock exchange and to all the stock exchanges where the said securities are listed.

Procedure for review of rating

16. (1) Every credit rating agency shall carry out periodic reviews of all published ratings during the lifetime of the securities.

(2) If the client does not co-operate with the credit rating agency so as to enable the credit rating agency to comply with its obligations under regulation 15 of this regulation, the credit rating agency shall carry out the review on the basis of the best available information:

Provided that if owing to such lack of co-operation, a rating has been based on the best available information, the credit rating agency shall disclose to the investors the fact that the rating is so based.

(3) A credit rating agency shall not withdraw a rating so long as the obligations under the security rated by it are outstanding, except where the company whose security is rated is wound up or merged or amalgamated with another company.

Internal procedures to be framed

17. Every credit rating agency shall frame appropriate procedures and systems for monitoring the trading of securities by its employees in the securities of its clients, in order to prevent contravention of –

- (a) the Securities and Exchange Board of India (Insider Trading) Regulations, 1992;

- (b) the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 1995; and
- (c) other laws relevant to trading of securities.

Disclosure of Rating Definitions and Rationale

18. (1) Every credit rating agency –

- (a) shall make public the definitions of the concerned rating, along with the symbol and,
- (b) shall also state that the ratings do not constitute recommendations to buy, hold or sell any securities.

(2) Every credit rating agency shall make available to the general public information relating to the rationale of the ratings, which shall cover an analysis of the various factors justifying a favourable assessment, as well as factors constituting a risk.

Submission of information to the Board

19. (1) Where any information is called for by the Board from a credit rating agency for the purposes of these regulations, including any report relating to its activities, the credit rating agency shall furnish such information to the Board –

- (a) within a period specified by the Board or
- (b) if no such period is specified, then within a reasonable time.

(2) Every credit rating agency shall, at the close of each accounting period, furnish to the Board copies of its balance sheet and profit and loss account.

Compliance with circulars etc., issued by the Board

20. Every credit rating agency shall comply with such guidelines, directives, circulars and instructions as may be issued by the Board from time to time, on the subject of credit rating.

¹[20A. Appointment of Compliance Officer

(1) Every credit rating agency shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions etc. issued by the Board or the Central Government.

(2) The compliance officer shall immediately and independently report to the Board any non-compliance observed by him.]

Maintenance of Books of Accounts, records, etc.

21. Every credit rating agency shall keep and maintain, for a minimum period of five years, the following books of accounts, records and documents, namely:

- (a) copy of its balance sheet, as on the end of each accounting period;
- (b) a copy of its profit and loss account for each accounting period;
- (c) a copy of the auditor's report on its accounts for each accounting period.
- (d) a copy of the agreement entered into, with each client;
- (e) information supplied by each of the clients;
- (f) correspondence with each client;
- (g) ratings assigned to various securities including upgradation and down gradation (if any) of the ratings so assigned.
- (h) rating notes considered by the rating committee;
- (i) record of decisions of the rating committee;
- (i) letter assigning rating;
- (k) particulars of fees charged for rating and such other records as the Board may specify from time to time.

(2) Every credit rating agency shall intimate to the Board the place where the books of account, records and documents required to be maintained under these regulations are being maintained.

¹ Inserted by the SEBI (Investment Advice by Intermediaries) (Amendment) Regulations, 2001, w.e.f. 29-5-2001.

Steps on auditor's report

22. Every credit rating agency shall, within two month's from the date of the auditor's report, take steps to rectify the deficiencies if any, made out in the auditor's report, in so far as they relate to the activity of rating of securities.

Confidentiality

23. Every credit rating agency shall treat, as confidential, information supplied to it by the client and no credit rating agency shall disclose the same to any other person, except where such disclosure is required or permitted by under or any law for the time being in force.

Rating process

24. (1) Every credit rating agency shall –

(a) specify the rating process;

(b) file a copy of the same with the Board for record; and file with the Board any modifications or additions made therein from time to time.

(2) Every credit rating agency shall, in all cases, follow a proper rating process.

(3) Every credit rating agency shall have professional rating committees, comprising members who are adequately qualified and knowledgeable to assign a rating.

(4) All rating decisions, including the decisions regarding changes in rating, shall be taken by the rating committee.

(5) Every credit rating agency shall be staffed by analysts qualified to carry out a rating assignment.

(6) Every credit rating agency shall inform the Board about new rating instruments or symbols introduced by it.

(7) Every credit rating agency, shall, while rating a security, exercise due diligence in order to ensure that the rating given by the credit rating agency is fair and appropriate.

(8) A credit rating agency shall not rate securities issued by it.

(9) Rating definition, as well as the structure for a particular rating product, shall not be changed by a credit rating agency, without prior information to the Board.

(10) A credit rating agency shall disclose to the concerned stock exchange through press release and websites for general investors, the rating assigned to the securities of a client, after periodic review, including changes in rating, if any.

CHAPTER IV

RESTRICTION ON RATING OF SECURITIES ISSUED BY PROMOTERS OR BY CERTAIN OTHER PERSONS

Definitions

25. In this Chapter, unless the context otherwise requires;-

- (a) "associate" , in relation to a promoter, includes a body corporate in which the promoter holds ten percent or more, of the share capital;
- (b) "promoter" means a person who holds ten percent or more, of the shares of the credit rating agency.

Securities issued by promoter

26. (1) No credit rating agency shall rate a security issued by its promoter.

(2) In case promoter is a lending institution, its Chairman, director or employee shall not be a Chairman, director or employee of credit rating agency or its rating committee.

Provided that sub-regulation (2) shall come into force within three months from commencement of these regulations.

Securities issued by certain entities, connected with a promoter, or rating agency not to be rated

27. (1) No credit rating agency shall, rate a security issued by an entity, which is;-

- (a) a borrower of its promoter; or
- (b) a subsidiary of its promoter; or
- (c) an associate of its promoter, if

- (i) there are common Chairman, Directors between credit rating agency and these entities.
- (ii) there are common employees.
- (iii) there are common Chairman, Directors, Employees on the rating committee.

(2) No credit rating agency shall rate a security issued by its associate or subsidiary, if the credit rating agency or its rating committee has a Chairman, director or employee who is also a Chairman, director or employee of any such entity.

¹[Provided that the Credit Rating Agency may, subject to the provisions of sub-regulation (1), rate a security issued by its associate having a common independent director with it or rating committee if,-

- (i) such an independent director does not participate in the discussion on rating decisions, and
- (ii) the Credit Rating Agency makes a disclosure in the rating announcement of such associate (about the existence of common independent director) on its Board or of its rating committee, and that the common independent director did not participate in the rating process or in the meeting of its Board of Directors or in the meeting of the rating committee, when the securities rating of such associate was discussed.

Explanation.—(1) For the purposes of this sub-regulation, the expression 'independent director' means a director who, apart from receiving remuneration as a director, does not have any other material pecuniary relationship or transactions with the company, its promoters, its management or its subsidiaries, which in the judgment of the board of the company, may affect the independence of the judgment of such director.

¹ Inserted by the SEBI (Credit Rating Agencies) (Amendment) Regulations, 2003, w.e.f. 19-2-2003.

Securities already rated

28. Nothing in this Chapter shall apply to securities whose rating has been already done by a credit rating agency before the commencement of these regulations, and such securities may, subject to the provisions of the other Chapters of these regulations, continue to be rated, without the need to comply with the restrictions imposed by the regulations contained in this chapter.

CHAPTER V PROCEDURE FOR INSPECTION AND INVESTIGATION

Board's right to inspect

29. (1) The Board may appoint one or more persons as inspecting officers, to undertake inspection or investigation of the books of account, records and documents of the credit rating agencies, for any of the purposes specified in sub-regulation (2).

(2) The purposes referred to in sub-regulation (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 Act and these regulations 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 agency;
- (d) in the interest of the securities market or in the interest of investors.

(3) The inspections ordered by the Board under sub-regulation (1) shall not ordinarily go into an examination of the appropriateness of the assigned ratings on the merits.

(4) Inspections to judge the appropriateness of the ratings may be ordered by the Board, only in case of complaints which are serious in nature.

(5) Inspections referred to in sub-regulation (4) shall be carried out either by the officers of the Board or independent experts, with relevant experience or combination of both.

Notice before inspection or investigation

30. (1) Before ordering an inspection or investigation under regulation 29, the Board shall give not less than ten days written notice to the credit rating agency for that purpose.

(2) Notwithstanding anything contained in sub-regulation (1) where the Board 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 of the credit rating agency be taken up without such notice.

(3) During the course of an inspection or investigation, the credit rating agency against whom the inspection or investigation is being carried out shall be bound to discharge all its obligations as provided in regulation 31.

Obligations of credit rating agency on inspection or investigation by the Board

31. (1) It shall be the duty of every credit rating agency whose affairs are being inspected or investigated, and of every director, officer or employee thereof, to produce to the inspecting or investigating officer such books, accounts and other documents in its or his custody or control and furnish him with such statements and information relating to its rating activities, as the inspecting officer may require within such reasonable period as may be specified by the said officer.

(2) The credit rating agency shall –

- (a) allow the inspecting officer to have reasonable access to the premises occupied by such credit rating agency or by any other person on its behalf;
- (b) extend to the inspecting officer reasonable facility for examining any books, records, documents and computer data in the possession of the credit rating agency; and

(c) provide copies of documents or other materials which, in the opinion of the inspecting officer, are relevant for the purposes of the inspection or investigation, as the case may be.

(3) 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 agency for the purposes connected with the inspection or investigation.

(4) Every director, officer or employee of the credit rating agency 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.

Submission of Report to the Board

32. The inspecting officer shall, as soon as possible, on completion of the inspection or investigation, submit a report to the Board.

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

¹[Action on inspection or investigation report

33. The Board or the Chairman shall after consideration of inspection or investigation report take such action as the Board or Chairman may deem fit and appropriate including action under ²[Chapter V of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.]

¹ Substituted by the SEBI (Procedure for Holding Enquiry by Enquiry officer and Imposing Penalty) Regulation, 2002 w.e.f. 27-9-2002. Prior to its substitution, regulation 33 read as under:

“33. *Communication of Findings etc. to the Credit Rating Agency.*—(1) The Board shall, after consideration of the inspection report or the interim report referred to in regulation 32, communicate the findings of the inspecting officer to the credit rating agency and give it a reasonable opportunity of being heard in the matter.

(2) On receipt of the explanation, if any, from the credit rating agency, the Board may call upon the credit rating agency to take such measures as the Board may deem fit in the interest of the securities market and for due compliance with the provisions of the Act and these regulations.”

² Substituted for “the Securities and Exchange Board of India (Procedure for Holding Enquiry by Enquiry officer and Imposing Penalty) Regulations, 2002” by the SEBI (Intermediaries) Regulations, 2008, w.e.f. 26-5-2008.

CHAPTER VI
PROCEDURE FOR ACTION IN CASE OF DEFAULT

¹[**Liability for action in case of default**

34. A credit rating agency which contravenes any of the provisions of the Act, Rules, or Regulations framed thereunder shall be liable for one or more actions specified therein including the action under Chapter V of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.]

35. to 42. ²[***]

¹ Substituted, *ibid*. Prior to its substitution, regulation 34 as amended by the SEBI (Procedure for Holding Enquiry by Enquiry officer and Imposing Penalty) Regulation, 2002, w.e.f. 27-9-2002, read as under:

“34. *Liability for action in case of default.*—(1) A credit rating agency which—
(a) fails to comply with any condition subject to which a certificate has been granted; or
(b) contravenes any of the provisions of the Act or these regulations or any other regulations made under the Act;

shall be dealt with in the manner provided under the Securities and Exchange Board of India (Procedure for holding Enquiry by Enquiry officer and Imposing penalty) Regulations, 2002.”

² Regulation 35 to 42 omitted by the SEBI (Procedure for Holding Enquiry by Enquiry officer and Imposing Penalty) Regulation, 2002, w.e.f. 27-9-2002. Prior to omission, regulations 35 to 42 read as follows:

“35. *Suspension of registration.*—A penalty of suspension of the certificate of registration of a credit rating agency may be imposed by the Board, if the case falls under sub-regulation (1) of regulation 34.

36. *Cancellation of Registration.*—(1) A penalty of cancellation of certificate of registration of a credit rating agency may be imposed by the Board, if:

- (a) the credit rating agency is guilty of fraud, or has been convicted of an offence involving moral turpitude or an economic offence; or
- (b) in case of repeated defaults of the nature mentioned in sub-regulation (1) of regulation 34.
- (c) the credit rating agency is declared insolvent or wound up;

(2) The Board shall furnish to the credit rating agency reasons in writing for cancellation of registration.

37. *Manner of Making Order of Suspension and Cancellation.*—No order of suspension or of cancellation of the certificate of registration, shall be passed by the Board, except after holding an enquiry in accordance with the procedure specified in regulation 38.

Provided that the holding of such an enquiry shall not be necessary in cases where:

- (a) the credit rating agency is declared insolvent or is wound up; or
- (b) the credit rating agency fails to pay to the Board registration fees or renewal fee as per these regulations.

Provided further that an opportunity of hearing shall be given before any action against the credit rating agency is taken.

38. *Manner of Holding enquiry before Suspension or Cancellation.*—(1) For the purpose of holding an enquiry under regulation 37, the Board may appoint one or more enquiry officers.

(2) The enquiry officer shall issue to the credit rating agency a notice at the registered office or the principal place of business of the credit rating agency, setting out the grounds on which

action is proposed to be taken against it and calling upon it to show cause against such action within a period of fourteen days from the date of receipt of such notice.

(3) The credit rating agency, may, within fourteen days from the date of receipt of such notice, furnish to the enquiry officer a written reply, together with copies of documentary or other evidence relied on by it or sought by the Board from the credit rating agency.

(4) The enquiry officer shall give a reasonable opportunity of hearing to the credit rating agency, to enable it to make its submission in support of its reply made under sub-regulation (3).

(5) Before the enquiry officer, the credit rating agency may either appear in person or through any person duly authorised on this behalf.

Provided that no lawyer or advocate shall be permitted to represent the credit rating agency at the enquiry;

Provided further that where a lawyer or an advocate has been appointed by the board as a presenting officer under sub-regulation (6), it shall be lawful for the credit rating agency to present his case through a lawyer or advocate.

(6) If it is considered necessary, the enquiry officer may request the Board to appoint a presenting officer to present its case.

(7) The enquiry officer shall, after taking into account all relevant facts and submissions made by the credit rating agency, submit a report to the Board and recommend the penalty, if any to be imposed upon the credit rating agency as also the grounds on the basis of which the proposed penalty is justified.

39. *Show-cause notice and order.*—(1) On receipt of the report from the enquiry officer, the Board shall consider the same and issue a show-cause notice to the credit rating agency, as to why the penalty as proposed by the enquiry officer should not be imposed.

(2) The credit rating agency shall, within fourteen days of the date of receipt of the show-cause notice, send a reply to the Board.

(3) The Board, after considering the reply of the credit rating agency to the show-cause notice, shall as soon as possible pass such order as it deems fit.

(4) Every order passed by the Board under sub-regulation (3) shall be self-contained and shall give reasons for the conclusions stated therein, including justification of the penalty if any imposed by that order.

(5) The Board shall send to the credit rating agency a copy of the order passed under sub-regulation (3).

40. *Effect of suspension and cancellation of registration of credit rating agency.*—(1) On and from the date of suspension of the certificate of registration, the credit rating agency shall cease to carry on any rating activity during the period of suspension and shall be subject to such directions of the Board with regard to any records, documents securities or reports that may be connected with in its rating activities, as the Board may specify.

(2) On and from the date of cancellation of the certificate of registration, the credit rating agency shall: -

(a) cease to carry in any rating activity and

(b) shall be subject to such directions of the Board with regard to the transfer of records, documents, securities or reports connected with its rating activities which may be in its custody or control as the Board may specify.

(3) Notwithstanding the suspension or cancellation of certificate of a credit rating agency, if the Board is satisfied that it is in the interest of the investors to grant such permission, the Board may grant to the credit rating agency permission to carry on such activities relating its assignments undertaken prior to such suspension or cancellation, as the Board may specify.

41. *Publication of Order of Suspension or Cancellation.*—The order of suspension or cancellation of certificate of registration, passed under sub-regulation (3) of regulation (39) shall be published by the Board in at least two daily newspapers.

42. *Appeal to the Securities Appellate Tribunal.*—Any person aggrieved by an order of the Board made, on and after the commencement of the Securities Laws (Second Amendment) Act, 1999, (i.e., after 16th December 1999), under these regulations may prefer an appeal to a Securities Appellate Tribunal having jurisdiction in the matter. [Prior to this, regulation 42 as

FIRST SCHEDULE
FORM A
SECURITIES AND EXCHANGE BOARD OF INDIA
(CREDIT RATING AGENCIES) REGULATIONS, 1999
[REGULATION 3(3)]
APPLICATION FOR GRANT OF CERTIFICATE /
RENEWAL OF CERTIFICATE

NAME OF APPLICANT:

CONTACT NAME:

TELEPHONE NO:

FAX NO:

INSTRUCTIONS FOR FILLING UP FORM -

1. Applicants must submit to the Board a completed application form together with appropriate supporting documents. Supporting documents should be attested as true by a notary public.
2. This application form should be filled in accordance with the regulations.
3. Application for registration will be considered, only if it is complete in all respects.
4. All answers must be typed.
5. Information which needs to be supplied in more detail may be given on separate sheets which should be attached to the application form.
6. All signatures on the application must be original.
7. Every page of the form as well as every additional sheet must be initialed by the authorised signatory of the applicant.

amended by the SEBI (Appeal to Securities Appellate Tribunal) (Amendment) Regulations, 2000, w.e.f. 28-03-2000, it read as follows:

42. *Appeal to the Central Government.*—Any person aggrieved by an order of the Board under these Regulations;

(a) Suspending a certificate of registration;

(b) Cancelling certificate of registration,

may prefer an appeal to the Central Government against such order, in accordance with the Securities and Exchange Board of India (Appeal to Central Government) Rules, 1993].”

1.0 PARTICULARS OF THE APPLICANT

- 1.1 Name, address of the registered office, address for correspondence, telephone number(s), fax number(s) and name of the contact person of the company. Address of branch offices, if any.
- 1.2 Date of incorporation of the Applicant company (enclose certificate of incorporation and memorandum and articles of association). Specify the following:
- (a) Objects (Main & Ancillary) of the Applicant company
 - (b) Authorised, issued, subscribed and paid up capital
- 1.3 Category to which the Applicant company belongs to:]
- (a) Limited company - Private/Public.
 - (b) Unlimited company.
- If listed, names of Stock Exchanges and latest share price to be given.
- 1.4 Category to which the Applicant company belongs to (refer regulation 3)
- (a) Company already in the business of undertaking rating activities
 - (b) Company proposing to undertake rating activities for the first time.

2.0 ELIGIBILITY CRITERIA

- 2.1 Category to which the promoter(s) of the Applicant company belong to (refer regulation 4).
- 2.2 Name the promoters and indicate their shareholding in the company.
- 2.3 Enclose a Chartered Accountant's certificate certifying the continuous net worth of Rs.100 crores for five years, in case of the promoter referred to in regulation 4(e).
- 2.4 Net worth of the company as per the last audited accounts not earlier than three months from the date of application [refer regulation 5 (c)]. Enclose a Chartered Accountant's certificate certifying the same.

3.0 PARTICULARS OF DIRECTORS/KEY PERSONNEL

3.1 Particulars of Directors of the company, which shall include name, qualification, experience, shareholding in the company and directorship in other companies.

3.2 Particulars of Key Personnel of the company, which shall include name, designation in the company, qualification, previous positions held, experience, date of appointment in the company and functional areas.

4.0 INFRASTRUCTURE

4.1 Details of infrastructure including computing facilities, facilities for research and database available with the company and whether the existing infrastructure is adequate to carry on the rating activities proposed to be undertaken by the company. Any further plan for additional/ improved infrastructure to be indicated.

5.0 MAJOR SHAREHOLDERS

5.1 List of major shareholders (holding 5% and above of applicant directly or along with associates)

Shareholding as on: _____

Name of shareholder	No. of Shares held	% age of total paid up capital of the company

6.0 ASSOCIATE CONCERNS

6.1 Particulars of associate companies/concerns which shall include name, address, type of activity handled, nature of interest of the Applicant company in the associate, nature of interest of promoter(s) of the applicant in the associate.

6.2 Whether the Board has granted/ refused registration as credit rating agency to any associate of the applicant. Give the details like date of application, date of refusal/registration, reasons for refusal etc.

7.0 BUSINESS INFORMATION OF THE COMPANY

7.1 History, major events and present activities. Details of Experience in Credit Rating activities and other related activities

7.2 If the company is proposing to engage in credit rating activities for the first time, business plan of the company with projected volume of activities and income for which registration is sought to be specifically given.

7.3 Securities Rating activities handled during the last three years as per the table below:

Name of Client	Type of security	Size of issue	Year of Issue	Security/Instrument rated	listed/unlisted

7.4 Details of other rating activities undertaken during last three years.

7.5 Any other information considered relevant to the nature of services rendered by the applicant.

8.0 FINANCIAL INFORMATION ABOUT THE APPLICANT

8.1 Net worth

(Rs. In Lacs)

Items	Year prior to the preceding year of the current year	Preceding year	Current year
(a) Paid-up capital			
(b) Free reserves (excluding revaluation reserves)			
Total (a) + (b)			

(c) Accumulated losses			
(d) Deferred revenue expenditure not written off.			
Net worth (a)+(b)-(c)-(d)			

8.2 Please enclose audited annual accounts for the last three years. Where unaudited reports are submitted, give reasons. If minimum networth requirement has been met after last audited annual accounts, audited statement of accounts of a later date also be submitted.

8.3 Name and Address of the Principal bankers of the Applicant company.

8.4 Name and address of the Auditors.

9.0 OTHER INFORMATION

9.1 Details of all pending litigations against the applicant company, directors and employees:

Nature of dispute	Name of the party	Status
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9.2 Indictment or involvement in any fraud or economic offences by the applicant or any of its Directors, or key managerial Personnel, in the last three years.

10.0 DECLARATION

10.1 Give the following declarations signed by two directors:

I/We hereby apply for registration.

I/We warrant that I/We have truthfully and fully answered the questions above and provided all the information which might reasonably be considered relevant for the purposes of my registration.

I/We declare that the information supplied in the application form is complete and correct.

For and on behalf of

(Name of Applicant)

Director

Director

Name in Block Letters

Name in Block Letters

Date

Date

FORM B
SECURITIES AND EXCHANGE BOARD OF INDIA
(CREDIT RATING AGENCIES) REGULATIONS, 1999
[REGULATION 8 (1)]

CERTIFICATE OF REGISTRATION

- I. In exercise of the powers conferred by sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992, read with the rules and regulations made thereunder, the Board hereby grants a certificate of registration to _____ as a credit rating agency in accordance with and subject to the conditions in the regulations to carry out the activity of the credit rating agency:-
- II. Registration Code for the credit rating agency is CRA/ / /

III. This certificate shall be valid from _____ to _____ and may be renewed as specified in regulation 10 of Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999.

Place:

Date

By Order

Sd/-

For and on behalf of

Securities and Exchange Board of India

SECOND SCHEDULE
SECURITIES AND EXCHANGE BOARD OF INDIA
(CREDIT RATING AGENCIES) REGULATIONS, 1999
[REGULATIONS 3(3), 8(2), 10(3)]

FEES

¹[PART A

AMOUNT TO BE PAID AS FEES

	(Rs.)
Application fee	50,000/-
Registration fee for grant of certificate	² [20,00,000/-]
Renewal fees	10,00,000/-]

PART B

I. The fees specified above shall be paid by way of a bank draft in favour of "Securities and Exchange Board of India" payable at Mumbai.

¹[**THIRD SCHEDULE**

¹ Substituted by SEBI (Credit Rating Agencies) (Amendment) Regulations, 2006, w.e.f. 7-9-2006. Prior to its substitution, Part A read as under:

Application fee (Rs)	25, 000/-
Registration fee for grant of certificate (Rs)	5, 00, 000/-
Renewal fee (Rs)	3, 00, 000/-

² Corrected for "5,00,000/-" vide No. SO 1454(E), dated 28-6-2007.

SECURITIES AND EXCHANGE BOARD OF INDIA
CODE OF CONDUCT FOR CREDIT RATING AGENCIES
[REGULATION 13]
CODE OF CONDUCT

1. A credit rating agency shall make all efforts to protect the interests of investors.
2. A credit rating agency, in the conduct of its business, shall observe high standards of integrity, dignity and fairness in the conduct of its business.
3. A credit rating agency shall fulfill its obligations in a prompt, ethical and professional manner.
4. A credit rating agency 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.
5. A credit rating agency shall have a reasonable and adequate basis for performing rating evaluations, with the support of appropriate and in depth rating researches. It shall also maintain records to support its decisions.
6. A credit rating agency shall have in place a rating process that reflects consistent and international rating standards.
7. A credit rating agency shall not indulge in any unfair competition nor shall it wean away the clients of any other rating agency on assurance of higher rating.
8. A credit rating agency shall keep track of all important changes relating to the client companies and shall develop efficient and responsive systems to yield timely and accurate ratings. Further a credit rating agency shall also monitor closely all relevant factors that might affect the creditworthiness of the issuers.
9. A credit rating agency shall disclose its rating methodology to clients, users and the public.

¹ Substituted by the SEBI (Credit Rating Agencies) (Second Amendment) Regulation, 2003 w.e.f. 1-10-2003. Earlier it was amended by the SEBI (Investment Advise by Intermediaries) (Amendment) Regulations 2001, w.e.f. 29-5-2001.

- 10.**A credit rating agency shall, wherever necessary, disclose to the clients, possible sources of conflict of duties and interests, which could impair its ability to make fair, objective and unbiased ratings. Further it shall ensure that no conflict of interest exists between any member of its rating committee participating in the rating analysis, and that of its client.
- 11.**A credit rating agency shall not make any exaggerated statement, whether oral or written, to the client either about its qualification or its capability to render certain services or its achievements with regard to the services rendered to other clients.
- 12.**A credit rating agency shall not make any untrue statement, suppress any material fact or make any misrepresentation in any documents, reports, papers or information furnished to the board, stock exchange or public at large.
- 13.**A credit rating agency shall ensure that the Board is promptly informed about any action, legal proceedings etc., initiated against it alleging any material breach or non-compliance by it, of any law, rules, regulations and directions of the Board or of any other regulatory body.
- 14.**A credit rating agency shall maintain an appropriate level of knowledge and competence and abide by the provisions of the Act, regulations and circulars, which may be applicable and relevant to the activities carried on by the credit rating agency. The credit rating agency shall also comply with award of the Ombudsman passed under the Securities and Exchange Board of India (Ombudsman) Regulations, 2003.
- 15.**A credit rating agency shall ensure that there is no misuse of any privileged information including prior knowledge of rating decisions or changes.
- 16.**(a) A credit rating agency or any of his employees shall not render, directly or indirectly any investment advice about any security in the publicly accessible media.

(b) A credit rating agency shall not offer fee-based services to the rated entities, beyond credit ratings and research.

- 17.**A credit rating agency shall ensure that any change in registration status/any penal action taken by board or any material change in financials which may adversely affect the interests of clients/investors is promptly informed to the clients and any business remaining outstanding is transferred to another registered person in accordance with any instructions of the affected clients/investors.
- 18.**A credit rating agency shall maintain an arm's length relationship between its credit rating activity and any other activity.
- 19.**A credit rating agency shall develop its own internal code of conduct for governing its internal operations and laying down its standards of appropriate conduct for its employees and officers in the carrying out of their duties within the credit rating agency and as a part of the industry. Such a code may extend to the maintenance of professional excellence and standards, integrity, confidentiality, objectivity, avoidance of conflict of interests, disclosure of shareholdings and interests, etc. Such a code shall also provide for procedures and guidelines in relation to the establishment and conduct of rating committees and duties of the officers and employees serving on such committees.
- 20.**A credit rating agency shall provide adequate freedom and powers to its compliance officer for the effective discharge of his duties.
- 21.**A credit rating agency shall ensure that the senior management, particularly decision makers have access to all relevant information about the business on a timely basis.
- 22.**A credit rating agency shall ensure that good corporate policies and corporate governance are in place.
- 23.**A credit rating agency shall not, generally and particularly in respect of issue of securities rated by it, be party to or instrumental for—

 - (a) creation of false market;
 - (b) price rigging or manipulation; or

(c) dissemination of any unpublished price sensitive information in respect of securities which are listed and proposed to be listed in any stock exchange, unless required, as part of rationale for the rating accorded.