

CIRCULAR

SEBI/ HO/ MIRSD/ MIRSD4/ CIR/ P/ 2017/ 71

June 30, 2017

To
All Credit Rating Agencies Registered with SEBI

Dear Sir/ Madam,

Sub: Monitoring and Review of Ratings by Credit Rating Agencies (CRAs)

It has come to notice that there have been instances where Credit Rating Agencies have not taken cognizance of information regarding delays in servicing debt obligations by the Issuer, even though the information has already been discounted by the market. As responsible institutions, CRAs are expected to proactively track all important changes relating to the client companies in order to yield timely and accurate ratings. It is reiterated that CRAs are required to ensure prompt and accurate rating action. Accordingly, the following clarifications in respect of monitoring mechanism, disclosure norms and timelines are being brought to the attention of CRAs for compliance:

1. Surveillance Mechanism for identifying potential defaults:

As per Regulation 15 of SEBI (Credit Rating Agencies) Regulations, 1999, CRAs are required to continuously monitor the rating of securities and disseminate information regarding newly assigned ratings, and changes in earlier rating promptly through press releases on websites of CRAs as well as all the stock exchanges where the said securities are listed. In order to enable CRAs to develop efficient and responsive systems to keep track of all important changes relating to the client companies as required under clause 8 of Code of Conduct of SEBI (CRA) Regulations, 1999, following is clarified:

A. Monitoring of repayment schedules:

- I. CRAs have to be proactive in early detection of defaults/ delays in making payments. In this regard, CRAs are required to track the servicing of debt obligations for each instrument rated by them, ISIN-wise, and look for potential deterioration in financials which might lead to defaults/ delays, particularly before/ around the due date(s) for servicing of debt obligations, on the basis of monitoring of indicators including, but not restricted to, the following:

- a. EBITDA not being sufficient to meet even the interest payments for last 3 years
 - b. Deterioration in liquidity conditions of the Issuer
 - c. Abnormal increase in borrowing cost of the Issuer
 - d. Any other information indicating deterioration in credit quality/ debt servicing capability of the Issuer.
- II. The CRA shall also monitor the Exchange website for disclosures made by the Issuer in this regard.
- III. In case no confirmation of servicing of debt obligation by the Issuer is received by the CRA from the Debenture Trustee within 1 day post the due date, the CRA shall immediately follow up with the Issuer for confirmation of payment. In case no response is received from the Issuer within 2 days of such communication, the CRA shall issue a Press Release as enlisted at point 3B (III) below and disseminate the same on its website and to all stock exchanges where the security is listed.
- IV. The CRA shall also make a reference to SEBI regarding such suppression of information by the issuer/ non-cooperation of Issuer with CRA. Failure to make such reference shall be considered as aiding and abetting the Issuer in suppression of material information by the CRA which would be in contravention of Clause 12 of Code of Conduct of CRAs and may result in violation of the provisions of section 12A of the Securities and Exchange Board of India Act, 1992 and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 by the CRA.

B. Material Events requiring a review:

- I. CRAs shall carry out a review of the ratings upon the occurrence of or announcement/ news of material events including, but not restricted to, the following:
 - a. Quarterly/ Half-yearly/ Annual results
 - b. Merger/ Demerger/ Amalgamation/ Acquisition
 - c. Corporate debt restructuring, reference to BIFR and winding-up petition filed by any party /creditors.
 - d. Significant decline in share prices/bond prices of the issuer or group companies which is not linked to overall market movement

- e. Significant increase in debt level or cost of debt of the issuer company
- f. Losses, sharp revenue de-growth etc. based on publicly disclosed financial statements, which are not in line with CRA's earlier estimates
- g. Granting, withdrawal, surrender, cancellation or suspension of key licenses or regulatory approvals.
- h. Disruption/ commencement/ postponement of operations of any unit or division of the listed entity.
- i. Any attachment or prohibitory orders against the Issuer
- j. Any rating action taken by an International Rating Agency with respect to rating assigned to the Issuer/ Instruments issued by the Issuer.

- II. CRAs shall publish on their website press release regarding the rating action (including reiteration of existing rating), if warranted, immediately, but not later than 7 days of occurrence of the said event.

C. 'No Default Statement' to be sought from the Issuer on a monthly basis:

- I. In order to enable timely recognition of default by the CRA, the CRA shall seek a 'No Default Statement (NDS)' from the Issuer at the end of each month, which shall be provided to the CRA by the Issuer on the first working day of the next month.
- II. The NDS shall require the Issuer to explicitly confirm to the CRA that it has not delayed on any payment of interest/ principal in the previous month.
- III. In case there have been delays, the Issuers shall state the same in this statement and the CRA shall promptly conduct a rating review and disseminate the rating action through Press Release within 2 days of receipt of such statement.
- IV. A standardized format of the NDS is provided at Annexure A.

2. Timelines of review and Press Releases:

A. In order to enable CRAs to disseminate information on ratings promptly through press releases as per requirements of Regulation 15 and 16 of SEBI (CRA) Regulations, following is clarified:

I. Initial Rating:

Scenario	Timelines – immediately but not later than
Acceptance of Rating/ Appeal for Review of Rating by the Issuer	5 working days of communication of rating by the CRA to the Issuer
Disclosure of rating as non-accepted Rating	In case rating is not accepted by the Issuer within a month of communication of rating by the CRA to the Issuer, the same shall be disclosed as Non-Accepted Rating on the CRA's website
Dissemination of Press Release on CRA's website and intimation of same to Stock Exchange/ Debenture Trustee	2 working days of acceptance of Rating by the Issuer

II. Periodic Surveillance:

Scenario	Timeline - immediately but not later than
Dissemination of Press Release on CRA's website and intimation of same to Stock Exchange/ Debenture Trustee	5 working days of Rating Committee Meeting

III. Dissemination of Press Release on CRA's website and intimation of same to Stock Exchange/ Debenture Trustee in case of event based review:

Scenario	Timeline- immediately but not later than
Intimation from Issuer/ Debenture Trustee/ Bankers of the Issuer regarding delay in servicing debt obligation	2 working days of intimation
Material Events requiring review (as stated in point 1B)	7 working days of occurrence of the event.

3. Disclosure Norms:

A. Press Release:

- I. In line with requirements of Circular MIRSD4/ CIR/ P/ 2016/ 119 dated November 01, 2016 on standardization of press release, it is reiterated that press releases for rating actions by CRAs shall include key financial indicators and ratios for the Issuer for the last and current financial year, in tabular form, as well as any other significant information relevant to the Issuer and its Sector.
- II. With regard to Structured Finance products, the CRA shall include all the assumptions/ covenants made while carrying out the review of such products in the Press Release.

B. Disclosures in case of considerable delay in providing information by the Issuer:

- I. As per Regulation 18(2) of SEBI (CRA) Regulations, 1999, the CRA, while covering the analysis of the various factors justifying the assessment in press release, shall also disclose the factors constituting a risk.
- II. Accordingly, it is further clarified that if the issuer does not share information sought by the CRA within 7 days of seeking such information from the Issuer, even after repeated reminders (within these 7 days) from the CRA, the CRA shall take appropriate rating action depending upon the severity of information risk of the issuer.

III. The Press Release in such cases shall mention the efforts made by the CRA in seeking such information and limitations regarding such information availability.

4. Rating Agreement between the Issuer and the CRA:

A. Rating Agreement to be signed between Issuer and CRA prior to commencement of rating exercise:

- I. Regulation 14 of SEBI (CRA) Regulations, 1999 requires CRAs to enter into a written agreement with each client whose securities it proposes to rate.
- II. In this regard, it has come to the notice that in some instances, CRAs have provided indicative ratings to Issuers without entering into a written agreement with such Issuers and have thereafter not disclosed such ratings on their websites.
- III. CRAs are advised to refrain from giving Indicative Ratings without having a written agreement in place. In case such Indicative Ratings are provided by the CRA, it shall be considered as aiding and abetting the Issuer in suppression of material information by the CRA which would be in contravention of Clause 12 of Code of Conduct of CRAs and may result in violation of the provisions of section 12A of the Securities and Exchange Board of India Act, 1992 and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 by the CRA.

B. Strengthening of Rating Agreement:

- I. It is clarified that in order to ensure cooperation from the Issuer, as required under Regulation 14(d) of SEBI (CRA) Regulations, 1999, the following enabling clauses maybe built in the Rating Agreement:
 - a. *“The client (issuer/ borrower) agrees to provide the information sought by the CRA immediately, but not later than 7 days from the date of seeking such information by the CRA.
In cases of delay/ default in servicing debt obligations, the information shall be provided immediately. Failure to provide the same immediately shall be considered as suppression of material information and may result in violation of the provisions of section 12A of the Securities and Exchange Board of India Act, 1992 and*

SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003”

- b. *"The client (issuer/ borrower) agrees to inform the CRA details about the instrument in the format below immediately, but not later than 7 days from the date of placing the debt security. For instruments already listed, the information will be provided at the time of signing the agreement."*

Instrument type	ISIN	Issue Size (Rs cr)	Coupon Rate	Coupon Payment Dates	Terms of Redemption	Redemption date	Name and contact details of Debenture Trustee	Details of top 10 investors

- c. *"The client (Issuer/ borrower) undertakes to provide the CRA a No Default Statement on a monthly basis wherein the Issuer shall explicitly confirm that it has not delayed on any payment of interest/ principal in the previous month. Such statement shall be provided to the CRA on the first working day of the next month."*

5. **Internal Audit of CRAs:** As required under Regulation 22 of the SEBI (Credit Rating Agencies) Regulations, 1999 and provisions of Circular SEBI/ MIRSD/CRA/Cir-01/ 2010 dated January 06, 2010 and Circular MIRSD4/ CIR/ P/ 2016/ 119 dated November 01, 2016, compliance by CRA with the provisions clarified vide this Circular shall be verified during the half-yearly Internal Audit.
6. This circular is issued in exercise of the powers conferred by Section 11 (1) of Securities and Exchange Board of India Act, 1992 read with the provisions of Regulation 20 of SEBI (Credit Rating Agencies) Regulations, 1999 to protect the interest of investors in securities and to promote the development of, and to regulate, the securities market.

Yours faithfully,

Surabhi Gupta
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Annexure-A: Standard Template for No Default Statement (Minimum Information be sought)

To

<CRA Name and Address>

Dear Sir/ Madam,

1. We hereby Confirm that as on date there are no Over dues or default on our debt obligations
2. We also confirm that in the month ended <Month and Year name>, there has been no instance of delay in servicing of our debt obligations.
3. We also confirm that there has not been any instance of devolvement of Letter of Credit in the month ended <Month and Year name>.
4. We also confirm that in the month ended <Month and Year name>, there has been no instance of delay in servicing of debt obligations guaranteed by us.
5. We also confirm that there has been no overdraw of the drawing power sanctioned by the bank for a period of more than 30 consecutive days in case of bank facilities which do not have scheduled maturity/repayment dates.
6. Details of delay/ default/ rescheduling of interest or principal as on date/ in the month ended <Month and Year name>, in any of the above case (if any) :

Name of the Instrument	ISIN	Amount to be paid	Due Date of Payment	Actual Date of Payment	Remarks

Thanking You,

Yours faithfully,

<Authorized Signatory of Issuer>