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(E) A withdrawal of an existing credit rating and, if the classification is withdrawal, the nationally recognized statistical rating organization also must classify the reason for the withdrawal as either:

(1) The obligor defaulted, or the security or money market instrument went into default;

(2) The obligation subject to the credit rating was extinguished by payment in full of all outstanding principal and interest due on the obligation according to the terms of the obligation; or

(3) The credit rating was withdrawn for reasons other than those set forth in paragraph (b)(2)(v)(E)(1) or (2) of this section; and

(vi) The classification of the class or subclass that applies to the credit rating as either:

(A) Financial institutions, brokers, or dealers;

(B) Insurance companies;

(C) Corporate issuers; or

(D) Issuers of structured finance products in one of the following subclasses:

(1) Residential mortgage backed securities (“RMBS”) (for purposes of this subclass, RMBS means a securitization primarily of residential mortgages);

(2) Commercial mortgage backed securities (“CMBS”) (for purposes of this subclass, CMBS means a securitization primarily of commercial mortgages);

(3) Collateralized loan obligations (“CLOs”) (for purposes of this subclass, a CLO means a securitization primarily of commercial loans);

(4) Collateralized debt obligations (“CDOs”) (for purposes of this subclass, a CDO means a securitization primarily of other debt instruments such as RMBS, CMBS, CLOs, CDOs, other asset backed securities, and corporate bonds);

(5) Asset-backed commercial paper conduits (“ABCP”) (for purposes of this subclass, ABCP means short term notes issued by a structure that securitizes a variety of financial assets, such as trade receivables or credit card receivables, which secure the notes);

(6) Other asset-backed securities (“other ABS”) (for purposes of this subclass, other ABS means a securitization primarily of auto loans, auto leases, floor plans, credit card receivables, student loans, consumer loans, or equipment leases); or

(7) Other structured finance products (“other SFPs”) (for purposes of this subclass, other SFPs means any structured finance product not identified in paragraphs (b)(2)(iv)(D)(1) through (6) of this section; or

(E) Issuers of government securities, municipal securities, or securities issued by a foreign government in one of the following subclasses:

(1) Sovereign issuers;

(2) U.S. public finance; or

(3) International public finance; and

(vii) The credit rating symbol, number, or score in the applicable rating scale of the nationally recognized statistical rating organization assigned to the obligor, security, or money market instrument as a result of the rating action or, if the credit rating remained unchanged as a result of the action, the credit rating symbol, number, or score in the applicable rating scale of the nationally recognized statistical rating organization assigned to the obligor, security, or money market instrument as of the date of the rating action (in either case, include a credit rating in a default category, if applicable).

(3) *Format and frequency of updating.* The information identified in paragraph (b)(2) of this section must be disclosed in an interactive data file that uses an XBRL (eXtensible Business Reporting Language) format and the List of XBRL Tags for nationally recognized statistical rating organizations as published on the Internet Web site of the Commission, and must be updated no less frequently than monthly.

(4) *Timing.* The nationally recognized statistical rating organization must disclose the information required in paragraph (b)(2) of this section:

(i) Within twelve months from the date the rating action is taken, if the credit rating subject to the action was paid for by the obligor being rated or by the issuer, underwriter, depositor, or sponsor of the security being rated; or

(ii) Within twenty-four months from the date the rating action is taken, if the credit rating subject to the action is not a credit rating described in paragraph (b)(4)(i) of this section.

(5) *Removal of a credit rating history.* The nationally recognized statistical rating organization may cease disclosing a rating history of an obligor, security, or money market instrument if at least 15 years have elapsed since a rating action classified as a withdrawal of a credit rating pursuant to paragraph (b)(2)(v)(E) of this section was disclosed in the rating history of the obligor, security, or money market instrument.

§ 240.17g-8 Policies, procedures, and internal controls.

(a) *Policies and procedures with respect to the procedures and methodologies used to determine credit ratings.* A nationally recognized statistical rating organization must establish, maintain, enforce, and document policies and procedures reasonably designed to ensure:

(1) That the procedures and methodologies, including qualitative and quantitative data and models, the nationally recognized statistical rating organization uses to determine credit

ratings are approved by its board of directors or a body performing a function similar to that of a board of directors.

(2) That the procedures and methodologies, including qualitative and quantitative data and models, the nationally recognized statistical rating organization uses to determine credit ratings are developed and modified in accordance with the policies and procedures of the nationally recognized statistical rating organization.

(3) That material changes to the procedures and methodologies, including changes to qualitative and quantitative data and models, the nationally recognized statistical rating organization uses to determine credit ratings are:

(i) Applied consistently to all current and future credit ratings to which the changed procedures or methodologies apply; and

(ii) To the extent that the changes are to surveillance or monitoring procedures and methodologies, applied to current credit ratings to which the changed procedures or methodologies apply within a reasonable period of time, taking into consideration the number of credit ratings impacted, the complexity of the procedures and methodologies used to determine the credit ratings, and the type of obligor, security, or money market instrument being rated.

(4) That the nationally recognized statistical rating organization promptly publishes on an easily accessible portion of its corporate Internet Web site:

(i) Material changes to the procedures and methodologies, including to qualitative models or quantitative inputs, the nationally recognized statistical rating organization uses to determine credit ratings, the reason for the changes, and the likelihood the changes will result in changes to any current credit ratings; and

(ii) Notice of the existence of a significant error identified in a procedure or methodology, including a qualitative or quantitative model, the nationally recognized statistical rating organization uses to determine credit ratings that may result in a change to current credit ratings.

(5) That the nationally recognized statistical rating organization discloses the version of a credit rating procedure or methodology, including the qualitative methodology or quantitative inputs, used with respect to a particular credit rating.

(b) *Policies and procedures with respect to credit rating symbols, numbers, or scores.* A nationally recognized statistical rating organization must establish, maintain, enforce, and document policies and procedures that are reasonably designed to:

(1) Assess the probability that an issuer of a security or money market instrument will default, fail to make timely payments, or otherwise not make payments to investors in accordance with the terms of the security or money market instrument.

(2) Clearly define each symbol, number, or score in the rating scale used by the nationally recognized statistical rating organization to denote a credit rating category and notches within a category for each class of credit ratings for which the nationally recognized statistical rating organization is registered (including subclasses within each class) and to include such definitions in Exhibit 1 to Form NRSRO (§ 249b.300 of this chapter).

(3) Apply any symbol, number, or score defined pursuant to paragraph (b)(2) of this section in a manner that is consistent for all types of obligors, securities, and money market instruments for which the symbol, number, or score is used.

(c) *Policies and procedures with respect to look-back reviews.* The policies and procedures a nationally recognized statistical rating organization is required to establish, maintain, and enforce pursuant to section 15E(h)(4)(A) of the Act (15 U.S.C. 78o-7(h)(4)(A)) must address instances in which a review conducted pursuant to those policies and procedures determines that a conflict of interest influenced a credit rating assigned to an obligor, security, or money market instrument by including, at a minimum, procedures that are reasonably designed to ensure that the nationally recognized statistical rating organization will:

(1) Promptly determine whether the current credit rating assigned to the

obligor, security, or money market instrument must be revised so that it no longer is influenced by a conflict of interest and is solely a product of the documented procedures and methodologies the nationally recognized statistical rating organization uses to determine credit ratings; and

(2)(i) Promptly publish, based on the determination of whether a current credit rating referred to in paragraph (c)(1) of this section must be revised (as applicable):

(A) A revised credit rating, if appropriate, and include with the publication of the revised credit rating the information required by § 240.17g-7(a)(1)(ii)(J)(3)(i); or

(B) An affirmation of the credit rating, if appropriate, and include with the publication of the affirmation the information required by § 240.17g-7(a)(1)(ii)(J)(3)(ii).

(ii) If the credit rating is not revised or affirmed pursuant to paragraph (c)(2)(i) of this section within fifteen calendar days of the date of the discovery that the credit rating was influenced by a conflict of interest, publish a rating action placing the credit rating on watch or review and include with the publication an explanation that the reason for the action is the discovery that the credit rating was influenced by a conflict of interest.

(d) *Internal control structures.* A nationally recognized statistical rating organization must take into consideration the factors identified in paragraphs (d)(1) through (4) of this section when establishing, maintaining, enforcing, and documenting an effective internal control structure governing the implementation of and adherence to policies, procedures, and methodologies for determining credit ratings pursuant to section 15E(c)(3)(A) of the Act.

(1) With respect to establishing the internal control structure, the nationally recognized statistical rating organization must take into consideration:

(i) Controls reasonably designed to ensure that a newly developed methodology or proposed update to an in-use methodology for determining credit ratings is subject to an appropriate review process (for example, by persons who are independent from the persons that developed the methodology or

methodology update) and to management approval prior to the new or updated methodology being employed by the nationally recognized statistical rating organization to determine credit ratings;

(ii) Controls reasonably designed to ensure that a newly developed methodology or update to an in-use methodology for determining credit ratings is disclosed to the public for consultation prior to the new or updated methodology being employed by the nationally recognized statistical rating organization to determine credit ratings, that the nationally recognized statistical rating organization makes comments received as part of the consultation publicly available, and that the nationally recognized statistical rating organization considers the comments before implementing the methodology;

(iii) Controls reasonably designed to ensure that in-use methodologies for determining credit ratings are periodically reviewed (for example, by persons who are independent from the persons who developed and/or use the methodology) in order to analyze whether the methodology should be updated;

(iv) Controls reasonably designed to ensure that market participants have an opportunity to provide comment on whether in-use methodologies for determining credit ratings should be updated, that the nationally recognized statistical rating organization makes any such comments received publicly available, and that the nationally recognized statistical rating organization considers the comments;

(v) Controls reasonably designed to ensure that newly developed or updated quantitative models proposed to be incorporated into a credit rating methodology are evaluated and validated prior to being put into use;

(vi) Controls reasonably designed to ensure that quantitative models incorporated into in-use credit rating methodologies are periodically reviewed and back-tested;

(vii) Controls reasonably designed to ensure that a nationally recognized statistical rating organization engages in analysis before commencing the rating of a class of obligors, securities, or

money market instruments the nationally recognized statistical rating organization has not previously rated to determine whether the nationally recognized statistical rating organization has sufficient competency, access to necessary information, and resources to rate the type of obligor, security, or money market instrument;

(viii) Controls reasonably designed to ensure that a nationally recognized statistical rating organization engages in analysis before commencing the rating of an “exotic” or “bespoke” type of obligor, security, or money market instrument to review the feasibility of determining a credit rating;

(ix) Controls reasonably designed to ensure that measures (for example, statistics) are used to evaluate the performance of credit ratings as part of the review of in-use methodologies for determining credit ratings to analyze whether the methodologies should be updated or the work of the analysts employing the methodologies should be reviewed;

(x) Controls reasonably designed to ensure that, with respect to determining credit ratings, the work and conclusions of the lead credit analyst developing an initial credit rating or conducting surveillance on an existing credit rating is reviewed by other analysts, supervisors, or senior managers before a rating action is formally taken (for example, having the work reviewed through a rating committee process);

(xi) Controls reasonably designed to ensure that a credit analyst documents the steps taken in developing an initial credit rating or conducting surveillance on an existing credit rating with sufficient detail to permit an after-the-fact review or internal audit of the rating file to analyze whether the analyst adhered to the nationally recognized statistical rating organization’s procedures and methodologies for determining credit ratings;

(xii) Controls reasonably designed to ensure that the nationally recognized statistical rating organization conducts periodic reviews or internal audits of rating files to analyze whether analysts adhere to the nationally recognized statistical rating organiza-

tion’s procedures and methodologies for determining credit ratings; and

(xiii) Any other controls necessary to establish an effective internal control structure taking into consideration the nature of the business of the nationally recognized statistical rating organization, including its size, activities, organizational structure, and business model.

(2) With respect to maintaining the internal control structure, the nationally recognized statistical rating organization must take into consideration:

(i) Controls reasonably designed to ensure that the nationally recognized statistical rating organization conducts periodic reviews of whether it has devoted sufficient resources to implement and operate the documented internal control structure as designed;

(ii) Controls reasonably designed to ensure that the nationally recognized statistical rating organization conducts periodic reviews or ongoing monitoring to evaluate the effectiveness of the internal control structure and whether it should be updated;

(iii) Controls reasonably designed to ensure that any identified deficiencies in the internal control structure are assessed and addressed on a timely basis;

(iv) Any other controls necessary to maintain an effective internal control structure taking into consideration the nature of the business of the nationally recognized statistical rating organization, including its size, activities, organizational structure, and business model.

(3) With respect to enforcing the internal control structure, the nationally recognized statistical rating organization must take into consideration:

(i) Controls designed to ensure that additional training is provided or discipline taken with respect to employees who fail to adhere to requirements imposed by the internal control structure;

(ii) Controls designed to ensure that a process is in place for employees to report failures to adhere to the internal control structure; and

(iii) Any other controls necessary to enforce an effective internal control structure taking into consideration the nature of the business of the nationally

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recognized statistical rating organization, including its size, activities, organizational structure, and business model.

(4) With respect to documenting the internal control structure, the nationally recognized statistical rating organization must take into consideration any controls necessary to document an effective internal control structure taking into consideration the nature of the business of the nationally recognized statistical rating organization, including its size, activities, organizational structure, and business model.

[79 FR 55267, Sept. 15, 2014]

EFFECTIVE DATE NOTE: At 79 FR 55267, Sept. 15, 2014, § 240.17g-8 was added, effective June 15, 2015.

§ 240.17g-9 Standards of training, experience, and competence for credit analysts.

(a) A nationally recognized statistical rating organization must establish, maintain, enforce, and document standards of training, experience, and competence for the individuals it employs to participate in the determination of credit ratings that are reasonably designed to achieve the objective that the nationally recognized statistical rating organization produces accurate credit ratings in the classes of credit ratings for which the nationally recognized statistical rating organization is registered.

(b) The nationally recognized statistical rating organization must consider the following when establishing the standards required under paragraph (a) of this section:

(1) If the credit rating procedures and methodologies used by the individual involve qualitative analysis, the knowledge necessary to effectively evaluate and process the data relevant to the creditworthiness of the obligor being rated or the issuer of the securities or money market instruments being rated;

(2) If the credit rating procedures and methodologies used by the individual involve quantitative analysis, the technical expertise necessary to understand any models and model inputs that are a part of the procedures and methodologies;

(3) The classes and subclasses of credit ratings for which the individual participates in determining credit ratings and the factors relevant to such classes and subclasses, including the geographic location, sector, industry, regulatory and legal framework, and underlying assets, applicable to the obligors or issuers in the classes and subclasses; and

(4) The complexity of the obligors, securities, or money market instruments for which the individual participates in determining credit ratings.

(c) The nationally recognized statistical rating organization must include the following in the standards required under paragraph (a) of this section:

(1) A requirement for periodic testing of the individuals employed by the nationally recognized statistical rating organization to participate in the determination of credit ratings on their knowledge of the procedures and methodologies used by the nationally recognized statistical rating organization to determine credit ratings in the classes and subclasses of credit ratings for which the individual participates in determining credit ratings; and

(2) A requirement that at least one individual with an appropriate level of experience in performing credit analysis, but not less than three years, participates in the determination of a credit rating.

[79 FR 55269, Sept. 15, 2014]

EFFECTIVE DATE NOTE: At 79 FR 55269, Sept. 15, 2014, § 240.17g-9 was added, effective June 15, 2015.

§ 240.17g-10 Certification of providers of third-party due diligence services in connection with asset-backed securities.

(a) The written certification that a person employed to provide third-party due diligence services is required to provide to a nationally recognized statistical rating organization pursuant to section 15E(s)(4)(B) of the Act (15 U.S.C. 78o-7(s)(4)(B)) must be on Form ABS Due Diligence-15E (§ 249b.500 of this chapter).

(b) The written certification must be signed by an individual who is duly authorized by the person providing the third-party due diligence services to make such a certification.