



DEPUTY GENERAL MANAGER
Market Intermediaries Regulation
& Supervision Department
Email: ashas@sebi.gov.in

भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India
MIRSD4/CRA/ 2964 /2013
February 4, 2013

SME Rating Agency of India Ltd. (SMERA)
Seagull House, 1st Floor
Plot No.6, Shivaji Colony
Chakala, Andheri (East)
Mumbai 400 099

Dear Sir,

Sub: Request for interpretative letter under the SEBI (Informal Guidance) Scheme, 2003, as amended ("the SEBI Scheme") in connection with Regulation 27 (1) of Chapter IV of Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999

This has reference to your letter dated November 7, 2012, requesting for an interpretative letter under clause 5 (ii) of the SEBI (Informal Guidance) Scheme, 2003, as amended, in respect of the issues mentioned therein. The letter states that:

1. SMERA has been engaged in assigning entity ratings such as rating of SMEs under NSIC "Performance and Credit rating Scheme", Green Field and Brown Field Ratings, Green Ratings, ratings of Maritime Training Institutions (MTI) and Micro Finance Institutions (MFI). These ratings are purely private in nature and non-regulatory, i.e. they are not governed by any of the regulatory norms of SEBI, RBI and other regulators.
2. SMERA also provides certain other services such as risk rating of industrial clusters, validation of rating models, code of conduct assessment for various institutions, due diligence exercise, etc. These services are in fact consultancy/ advisory services and/or not credit rating of any security issued by any entity.
3. SMERA has recently received accreditation from Reserve Bank of India to carry out ratings of various facilities provided by commercial banks to their borrowers such as loans, guarantees, cash credit limits, bill discounting facilities, pre and post shipment facilities, etc.
4. Further, vide your email dated January 3, 2013, additional information was furnished by you regarding activities being carried out by SMERA. It was

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informed that SMERA carries out (a) bank loan ratings, (b) SME Ratings, (c) SME/ NSIC performance ratings, (d) rating of non-convertible debentures and bonds, (e) rating of commercial papers and certificate of deposits, (f) Grading of IPOs and Maritime Training Institutes, (g) Microfinance Institution ratings, (h) Greenfield and Brownfield Grading and (i) Green Ratings. SMERA also informed that the rating process and activities carried out under these products are available on its website www.smera.in.

5. You have also furnished a write-up on the 'Impact of the above SEBI directive on the rating/ grading activities of SMERA'

Based on the above facts, you have sought our guidance in respect of the following:

- i. Since SIDBI holds more than 10% of the equity share capital of SMERA and is deemed to be a promoter of SMERA in terms of provisions of Regulation 25 (b) of CRA Regulations, whether Regulation 27 (1) of CRA Regulations is attracted in case of any of the services provided by SMERA mentioned above in points 1, 2, 3 & 4.
- ii. It is also mentioned that as per SMERA's understanding, based on the definition of securities (as per Securities Contracts Regulation Act, 1956), the above mentioned services, bank facilities and advisory services may not fall under the category of securities and may not attract the provisions of Regulation 27(1) of the said regulations. Similarly, the guidelines issued vide circular dated March 1, 2012 may not be applicable for the services mentioned under points 1, 2 & 3.
- iii. SIDBI also provides resource support through re-finance/ bill discounting and re-discounting facilities to banks. For similar reasons, as stated in earlier paragraph, these facilities from SIDBI may not attract provisions of Regulation 27 (1) of the said regulations.

We have considered the submissions made by you in your letter and email under reference and without necessarily agreeing to your views, our comments on the issues are as under:

- a. *SEBI circular dated March 1, 2012 regarding "Guidelines for Credit Rating Agencies" states that the requirements pertaining to rating process and methodology and its records, transparency and disclosures, avoidance of conflict of interest, code of conduct, etc, shall also be applicable to rating of*

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- b. *other securities / instruments and loans / facilities provided by banks which are not regulated by SEBI but are being used by the other regulators or their regulated entities.*

Accordingly, the rating of other securities / instruments and loans / facilities provided by banks which are not regulated by SEBI and are being used by the other regulators or their regulated entities shall be subject to the provisions of Regulations and circulars issued by SEBI from time to time including Regulation 27 (1) of SEBI (Credit Rating Agencies) Regulations, 1999 and SEBI circular dated March 1, 2012.

- c. Clause 16 (b) of Code of Conduct specified in Third Schedule under Regulation 13 of SEBI (Credit Rating Agencies) Regulations, 1999 states that "a credit rating agency shall not offer fee based services to the rated entities, beyond credit ratings and research".

This position is based on the representation made to the Department/ Division in your letter. Different facts or conditions might require a different result. It does not express decision of the Board on the questions presented.

You may note that the above views are expressed only with respect to the clarifications sought and do not affect the applicability of any other law or requirement.

Yours faithfully,

Asha Shetty