

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 83610 / July 9, 2018

Administrative Proceeding
File No. 3-18580

In the Matter of the Application of
EGAN-JONES RATINGS COMPANY

ORDER INSTITUTING
ADMINISTRATIVE
PROCEEDINGS PURSUANT TO
SECTION 15E(a)(2)(A)(ii) OF THE
SECURITIES EXCHANGE ACT OF
1934 AND NOTICE OF HEARING

I.

Egan-Jones Ratings Company (“EJR”) is a credit rating agency registered with the Securities and Exchange Commission (“Commission”) as a nationally recognized statistical rating organization (“NRSRO”) for the credit ratings classes described in clauses (i) through (iii) of Section 3(a)(62)(A) of the Securities Exchange Act of 1934 (“Exchange Act”)—namely, (a) financial institutions, brokers, or dealers, (b) insurance companies, and (c) corporate issuers.

EJR previously was registered with the Commission as an NRSRO for the credit ratings classes described in clauses (iv) and (v) of Section 3(a)(62)(A)—namely, (a) issuers of asset-backed securities (“asset-backed securities”) and (b) issuers of government securities, municipal securities, and foreign government securities (collectively, “government securities”). On January 22, 2013, the Commission revoked EJR’s registrations in the asset-backed securities and government securities classes and provided EJR the right to re-apply to the Commission for registration in such classes after 18 months from that date.¹ EJR furnished such a re-application to the Commission on April 10, 2018.²

¹ See Order Making Findings and Imposing Remedial Sanctions and Cease-and-Desist Orders Pursuant to Sections 15E(d) and 21C of the Securities Exchange Act of 1934 (“Order”), Release No. 34-68703. The Commission’s order also barred EJR’s president and sole owner, Sean Egan (“Egan”), from association with any NRSRO registered in such classes and provided him the right to apply to the Commission for re-entry after 18 months from the date of the order. Egan so applied on April 10, 2018.

² Under Rule 17g-1(h), a Form NRSRO is considered “furnished” to the Commission on the date the Commission receives a complete and properly executed Form NRSRO that follows all applicable instructions for the form.

Exchange Act Section 15E(a)(2)(A) requires the Commission to, not later than 90 days after the date on which the application for registration is furnished to the Commission (or within such longer period as to which the applicant consents), by order, grant such registration for ratings in the subject category or categories of obligors or institute proceedings to determine whether registration should be denied. Such 90-day period, in this case, expires on July 9, 2018.

Exchange Act Section 15E(a)(2)(C) requires the Commission to grant such registration if the Commission finds that the requirements of Section 15E are satisfied and unless the Commission finds (in which case the Commission shall deny such registration) that, (a) the applicant does not have adequate financial and managerial resources to consistently produce credit ratings with integrity and to materially comply with the procedures and methodologies disclosed under Section 15E(a)(1)(B) and with subsections (g), (h), (i), and (j) of Section 15E; or (b) if the applicant were so registered, its registration would be subject to suspension or revocation under Section 15E(d).

If the Commission institutes proceedings to determine whether registration should be denied, Exchange Act Section 15E(a)(2)(B)(i)(I) requires such proceedings to include notice of the grounds for denial under consideration and an opportunity for a hearing. Section 15E(a)(2)(B)(i)(II) requires such proceedings to be concluded not later than 120 days after the date on which the application for registration is furnished to the Commission.

The Commission may extend the time for conclusion of such proceedings, pursuant to Exchange Act Section 15E(a)(2)(B)(iii), for not longer than 90 days, if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which the applicant consents. Section 15E(a)(2)(B)(ii) provides that, at the conclusion of such proceedings, the Commission, by order, shall grant or deny such application for registration.

II.

Exchange Act Section 15E(a)(1)(A) requires a credit rating agency that elects to be treated as an NRSRO for purposes of the Exchange Act to furnish to the Commission a registration application, in such form as the Commission requires by rule or regulation and containing the information described in Section 15E(a)(1)(B). Exchange Act Rule 17g-1(b) provides that an NRSRO applying to register for an additional ratings class described in Exchange Act Section 3(a)(62)(A) must file with the Commission two paper copies of an application on Form NRSRO that follows all applicable instructions for the form.

An application to register for additional classes of credit ratings must include certain information generally about the relevant ratings, the NRSRO, and its policies, methodologies, and procedures. It also must include not fewer than two written certifications from qualified institutional buyers (“QIBs”) for each relevant ratings class. Such QIBs must meet the definition of a “qualified institutional buyer” under Exchange Act

Section 3(a)(64) and must have used the applicant's credit ratings for at least the immediately preceding three years.³

Several aspects of EJR's application, as well as other non-public information available to the Commission, raise questions about EJR's ability to satisfy the requirements of Section 15E. For example, the required QIB certifications included with EJR's application raise questions such as whether the QIBs are current EJR clients, qualify as QIBs, and have used EJR's ratings as required. Further, EJR's application raises questions about the consistency and accuracy of the number of relevant credit ratings outstanding. Moreover, EJR did not describe in Exhibit 2 of Form NRSRO the procedures and methodologies it uses to determine certain credit ratings and did not define in Exhibit 1 of Form NRSRO the symbols it uses for certain credit ratings.

EJR's application also raises questions about the adequacy of EJR's financial and managerial resources to consistently produce credit ratings with integrity, particularly in light of the information included in EJR's 2017 audited financial statements that were filed with the Commission as well as other non-public information available to the Commission.

Accordingly, pursuant to Section 15E(a)(2)(A)(ii) of the Exchange Act, the Commission is instituting proceedings to determine whether EJR's application should be granted or denied. In these proceedings, grounds for denial under consideration will include the following:

- (I) Whether the requirements of Exchange Act Section 15E are satisfied;
- (II) Whether EJR does not have adequate financial and managerial resources to consistently produce credit ratings with integrity and to materially comply with the procedures and methodologies disclosed under Exchange Act Section 15E(a)(1)(B) and with Sections 15E(g), (h), (i), and (j); and
- (III) Whether, if EJR were so registered, its registration would be subject to suspension or revocation under Exchange Act Section 15E(d).

Given the nature of the issues raised by the application, the Commission is currently of the view that a hearing on the basis of written submissions will sufficiently allow for these issues to be addressed.

III.

Accordingly, **IT IS ORDERED**, that proceedings under Exchange Act Section 15E(a)(2)(A)(ii) be and hereby are instituted to determine whether re-registration of EJR should be denied.

³ See Exchange Act Section 15E(a)(1)(B), (C); Exchange Act Rule 17g-1(b); Form NRSRO Instructions.

IT IS FURTHER ORDERED that a hearing shall be conducted on the basis of written submissions (and in accordance with the Commission's Rules of Practice, 17 C.F.R. §§201.100-630, except as otherwise provided) addressing issues of law or fact in dispute and legal arguments. The interested division or office of the Commission shall file an opening submission not later than July 27, 2018, and EJR shall file a responsive submission not later than August 17, 2018. The interested division or office may file a reply to EJR's responsive submission not later than August 24, 2018. EJR may submit a response to any such reply not later than August 31, 2018. EJR and the interested division or office shall serve on each other a copy of each submission. In light of the non-public commercially sensitive nature of certain information that may be relevant, the Commission will maintain the submissions under seal and will disclose them only as required by law or in accordance with subsequent Commission orders.⁴

IT IS FURTHER ORDERED that the time period for the conclusion of all proceedings, after which the Commission is required to grant or deny the application, is extended for an additional 90 days pursuant to Exchange Act Section 15E(a)(2)(B)(iii) to November 6, 2018. The Commission finds good cause for this 90-day extension on the basis that the application raises substantial questions which necessitate granting additional time to prepare written submissions and the Commission sufficient time to consider those submissions.

IT IS FURTHER ORDERED that the Commission Secretary shall serve this Order forthwith upon EJR in accordance with Rule of Practice 141; and that this Order and any subsequent orders granting or denying the application, with appropriate redactions of non-public commercially sensitive information, shall be posted on the Commission's Web site at www.sec.gov.

By the Commission.

Brent J. Fields
Secretary

⁴ EJR may seek confidential treatment pursuant to applicable rules if it also seeks protection from disclosure under the Freedom of Information Act.