Weiss to FCC

Role of Independent Ratings in the Screening of Commercial Banks by Federal Communications Commission

Weiss Ratings Response to FCC Decision Granting Waiver to Banks That Fall Below Its Safety Standards

by

Martin D. Weiss, Weiss Ratings Founder
Gavin Magor, Director of Research
Nicole Brown, Media and Outreach

11780 U.S. Hwy 1 N Suite 201
Palm Beach Gardens, FL 33408

Inquiries: Nicole Brown
nbrown@weissinc.com
+1-727-900-5293

Executive Summary

The Federal Communications Commission (FCC) uses the independent Weiss Bank Safety Ratings as its standard to help screen commercial banks qualified to finance broadband for rural America.

Other institutions as well as individual depositors also refer to the Weiss Bank Safety Ratings to help find institutions with the lowest risk of financial difficulties.

A critical factor they cite when deciding to use Weiss' ratings is that Weiss is not paid by the banks for its ratings. Indeed, in its 53 years in business, Weiss has never accepted any compensation in any form from the 50,000 financial institutions and investment issuers that it rates.

Thus, Weiss is not subject to conflicts of interest and biases, such as those that became especially evident during the 2008 financial crisis, a period when many major banks failed or required a government bailout despite top grades from Moody's, Standard & Poor's and other Nationally Recognized Statistical Ratings Organizations (NRSROs).

In contrast, among banks that failed during and since the 2008 financial crisis, 97.4 percent received a Weiss Bank Safety Rating of D+ or lower (defined by the GAO as in a "vulnerable" category) well before they failed. Weiss also warned in advance of nearly all major 2008 failures in the brokerage industry and among government-sponsored agencies, while accurately identifying the truly safe institutions.

However, earlier this year, responding to appeals by the Bank Policy Institute (BPI) and others, the FCC decided to grant a six-month waiver to banks already participating in rural broadband programs, even if their current Weiss Bank Safety Rating is below the minimum standard previously established by the FCC (B minus) for U.S. banks. This waiver does not apply to institutions seeking to participate in the program going forward. However, it raises serious questions about possible conflicts of interest between the Bank Policy Institute and the public's best interests.

It is also unfortunate that, in its effort to persuade the FCC to cease using the Weiss Safety Ratings, the BPI refers to information and opinion about Weiss that is untruthful or misleading.

This paper represents Weiss' response along with an offer to provide additional support or data, as needed.

Introduction

The Federal Communications Commission (FCC) uses the independent Bank Safety Ratings issued by Weiss Ratings, LLC, as its standard for screening commercial banks qualified to offer letters of credit to companies that help bring broadband to rural America, including the Connect America Fund Phase II and the Rural Digital Opportunity Fund.

Other institutions as well as individual depositors also refer to the Weiss Bank Safety Ratings as their standard when seeking to select banks with the lowest risk of financial difficulties.

The Weiss Insurance Safety Ratings and Credit Union Safety Ratings play a similar role.

In many cases, a critical factor that users cite when choosing Weiss Ratings is that it's the only ratings agency covering these sectors that does not use the issuer-pay business model prevailing among its competitors.

In its 53 years in business, Weiss Ratings has never accepted any compensation in any form from the rated institutions or investment issuers for its ratings. Weiss also does not accept their advertising on its website.

As a result, it has never been subject to the conflicts of interest and biases that are endemic to the issuer-pay business model and that became especially evident during the 2008 financial crisis, when major banks failed despite top grades from Moody's, Standard & Poor's and other Nationally Recognized Statistical Ratings Organizations (NRSROs).

Similar conflicts have been widely reported with respect to stock ratings published by major Wall Street research organizations under the same roof as, or affiliated with, investment banking operations.[1] As a rule, independent research organizations with no such affiliations have been found to provide a higher level of accuracy.[2]

It's thanks to the independence and objectivity of its ratings that Weiss has consistently warned the public of nearly all failures well in advance, while also accurately identifying the truly safe institutions that did not subsequently suffer financial difficulties.

Thus, Weiss firmly believes that the FCC's decision to use the Weiss Bank Safety Ratings as a standard was a correct one.

However, in early 2024, responding to appeals by the Bank Policy Institute (BPI) and others, the FCC decided to grant a six-month waiver to banks already participating in the two broadband programs, even though their Weiss Bank Safety Rating had fallen below B minus, the minimum standard established by the FCC for U.S. banks. This waiver does not apply to institutions seeking to participate in the program going forward. However, it does raise serious questions about conflicts of interest between the Bank Policy Institute and the public's best interests.

It is also unfortunate that, in their effort to persuade the FCC to cease using the Weiss Bank Safety Ratings, the BPI and others refer to information and opinion about Weiss that is untruthful or misleading.

This paper represents Weiss' response along with an offer to provide additional support or data, as needed.

The goal of Weiss Ratings, LLC is to help empower individuals and institutions to make informed decisions based on facts and analysis that are independent, objective and as accurate as possible.

In that regard, this all-important fact bears repeating: Weiss Ratings, LLC does not accept, and never has accepted, compensation in any form from the institutions or investment issuers for their ratings.

Weiss applies the same strict rules to its ratings in other sectors, including credit unions; health, life and property insurers; common stocks, ETFs and mutual funds as well as digital assets.

Unlike a common practice at other ratings agencies,[3] Weiss does not give the rated entities the right to appeal their ratings or downgrades. Nor does Weiss cease publishing its ratings upon their request.

As a result, it is not uncommon for institutions receiving lower grades to criticize Weiss' process or seek to use public relations campaigns in an attempt to influence or mislead journalists, consumers or government officials.

In the late 1980s and early 1990s, for example, several large life and health insurers — including Executive Life of California, Executive Life of New York, Fidelity Bankers Life, First Capital Life, Monarch Life and Mutual Benefit Life — received very low Weiss Safety Ratings.

In response, some of the companies, concerned that the Weiss grades might negatively impact their revenues, appealed to the American Council of Life Insurers (ACLI), the lobbying association of large life and health insurers. The ACLI then wrote to the editors of major media outlets, requesting that they cease using Weiss' ratings or quoting Weiss in their news articles. The ACLI also distributed a press kit to the U.S. Congress criticizing Weiss

Ratings before and during founder Martin D. Weiss' public testimony to Congressional committees regarding the rising risk of failure among large insurers, including some of the six cited above.[4]

Subsequently, all six companies failed, prompting state insurance commissioners to declare a blanket moratorium on policy surrenders and policy loans. Based on data Weiss acquired from the National Association of Insurance Commissioners (NAIC), Weiss found that the moratorium impacted 1.9 million policyholders with cash value and 6 million policyholders overall.

In the wake of the failures, the ACLI contacted Weiss, recognizing that a PR battle was not in the public's best interest, while requesting a meeting to "work out our differences."

Meanwhile, the Government Accountability Office (GAO) initiated a landmark study to compare the Weiss insurance company ratings to those of A.M. Best, Moody's, S&P and others.[5]

The GAO found that, since each rating agency's grade scale differed, any study would be difficult without first establishing a standard basis for comparison.

Thus, the GAO defined two broad ratings categories — "Secure" and "Vulnerable." Furthermore, within these, it defined five "Bands."[6] (See GAO chart below.)

GAO Rating Scales Differed

		Rating agencies				
Rating	**Bands**	**Weiss** [a]	**Best** [a, b]	**S&P** [c]	**Moody's**	**D&P**
Secure	**1**	A+, A, A-	A++, A+	AAA	Aaa	AAA
	2	B+, B, B-	A, A-	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
	3	C+, C, C-	B++, B+ B, B-	A+, A, A- BBB+, BBB, BBB-	A1, A2, A3 Baa1, Baa2, Baa3	A+, A, A- BBB+, BBB, BBB-
Vulnerable	**4**	D+, D, D-	C++, C+, C, C-	BB+, BB, BB- B+, B, B-	Ba1, Ba2, Ba3 B1, B2, B3	BB+, BB, BB- B+, B, B-
	5	E+, E, E- F	D E, F	CCC, (CC, C) (D), R	Caa, Ca, C	CCC+, CCC, CCC- DD

Using this scale to ensure fairness, the GAO found that only Weiss warned the public of the six large insurance failures; only Weiss issued ratings defined by the GAO as "vulnerable" before the companies failed.

All other ratings agencies issued "vulnerable" ratings only after the failures or did not issue ratings at all.[7] (See GAO chart on next page.)

In a subsequent study using the GAO's definitions and methodology, Weiss also found that Weiss was the only one that accurately identified the safest insurers.

Today, we seem to be facing a similar situation, albeit with three notable differences:

Difference #1. Instead of large life and health insurers bringing their concerns to the ACLI and the U.S. Congress, it is primarily large commercial banks, including Wells Fargo and Bank of America, which have done so vis-a-vis the Bank Policy Institute and the Federal Communications Commission (FCC).

Difference #2. In this case, the financial institutions in question have not received Weiss safety ratings of "D" and "E," which the GAO defines as "vulnerable," but rather ratings of "C," which the GAO defines as "secure."

GAO When Were "Vulnerable" Ratings Assigned to Large Insurers?

	Number of days rater assigned a "vulnerable" rating before (-) or after (+) first public regulatory action					
Rating agencies	**Executive Life of CA**	**Executive Life of NY**	**Fidelity Bankers**	**First Capital**	**Monarch**	**Mutual Benefit**
Weiss	- 379	- 372	- 308	- 617	- 162	- 40
Best	- 6	+ 1	+ 2	+ 5	a	+ 3
S&P	- 190	na	- 6	- 3	+ 351 [b]	c
Moody's	- 422	na	na	na	na	+ 2
D&P	- 41	na	na	na	na	na

Also, it should be noted that, based on the GAO's grade scale equivalency chart on page 5, Bank of America and Wells Fargo receive approximately the same grade from Weiss (C and C+ respectively, or Band 3) as from Standard & Poor's (A+, also Band 3).

Weiss agrees with the GAO's definition that the Weiss "C" grade can be included in the "secure" category, albeit at the lower end of its range. However, in times of economic or financial adversity, such as recession or surges in withdrawals, users are advised to view the Weiss "C" grades as a yellow warning flag.

Weiss also believes that the FCC's minimum standard for screening U.S. banks, set at a Weiss Bank Safety Rating of B minus, is appropriate inasmuch as it helps provide a buffer of protection from downgrades, especially in times of adversity or crisis.

Difference #3. The issue that has prompted the banks' complaint to the FCC is not related to the company's business with consumers, but rather to letters of credit for companies participating in the Connect America Fund Phase II or The Rural Digital Opportunity Fund.

It is also important to point out some similarities between the insurance company solvency crisis of the 1990s and the banking solvency crisis of the recent period, as follows.

Similarity #1. Rising risk levels.

In the 1990s, there was a significant decline in the average capital ratios of U.S. insurers and, consequently, a decreasing percentage of insurers receiving a Weiss Rating of B minus or higher. Similarly, in the 2020s, publicly available FDIC data indicate that a growing number of banks have suffered declines in capital ratios and in metrics related to liquidity, again resulting in a decreasing percentage of institutions that merit a Weiss rating of B minus or higher.

Similarity #2. Accuracy of Weiss Ratings.

In the insurance sector, the GAO found that the accuracy of the Weiss insurance company ratings beat that of its only significant competition, A.M. Best, by a factor of three to one,[8] while the GAO noted that S&P and Moody's issued so few "vulnerable" ratings that they were not even visible on the GAO's bar charts depicting the distribution of each agency's ratings.[9]

Similarly, in the banking sector, among institutions that failed during and since the 2008 financial crisis, 97.4 percent received a Weiss "vulnerable" rating prior to failure. This is despite the fact that, overall, only 14.7% of banks have received Weiss "vulnerable" grades.

Weiss also warned ahead of time of nearly all major 2008 failures in the brokerage industry and among government-sponsored agencies, while accurately identifying the institutions not vulnerable to failure.[10]

Similarity #3. Press relations.

As was the case in the insurance industry, Weiss believes a PR battle between some of the nation's largest institutions and an independent ratings agency is not in the public's best interest.

All rated companies have the right to disagree with our ratings, as we maintain the right to continue publishing them. At the same time, we take this opportunity to point out some errors in the BPI's and banks' communications with the FCC, the subject of the next section.

Errors in BPI's and Banks' Communications to FCC

1. **Small bank participation:** The BPI seems concerned that many smaller banks are unable to qualify due to low Weiss ratings. However, there are 1,581 commercial banks with assets under $2 billion currently meriting a B minus or higher rating.

2. **Transparency:** One report to the FCC states that Weiss Ratings may lack transparency. However, on its public website, Weiss clearly defines the factors that help determine a bank's safety ratings. Plus, Weiss is open to providing more detail regarding how they affect each institution's letter grade. Weiss has done so recently in meetings with Bank of America and other institutions. It will continue to do so as needed.

3. **Research and commentary by Weiss Crypto Ratings division:** The banks seem to believe there's a conflict of interest between the Weiss division that rates and discusses cryptocurrencies with the Weiss division that rates banks. The two types of ratings are not comparable because investments in cryptocurrencies are typically speculative in nature. However, currently, 41% of U.S. commercial banks merit a Weiss bank safety rating of B minus ("good") or higher, while only 0.28% of cryptocurrencies merit a Weiss cryptocurrency rating of B minus or higher. Thus, the percentage of banks in this category is more than 1,400 times greater than that of cryptocurrencies. This data shows that, although a small minority of cryptocurrencies may merit a high Weiss Rating, Weiss clearly does not favor cryptocurrencies over banks.

4. **Weiss commentary on public policy:** Some banks also seem to take issue with critical comments made by Weiss founder Martin D. Weiss about Federal Reserve and government policies with respect to the banking system. However, such policy discussions are irrelevant to Weiss Bank Safety Ratings or to their proven accuracy.

5. **Regulation:** The BPI noted that Weiss Ratings is not among the Nationally Recognized Statistical Ratings Organizations (NRSROs) and recommended that the FCC refer instead to ratings by NRSROs.

   However, among the 10 firms currently among the NRSROs, none provide full coverage of the banking industry, and nearly all of the major agencies are based on the issuer-pay model, accepting significant fees for their ratings from the rated institutions. This relationship creates severe conflicts of interest, which is known to have contributed to the 2008 financial crisis.

   Weiss has not sought to become an NRSRO because of concerns that it would compromise its independence and negatively impact the accuracy of its ratings.

Conclusions:

The record shows that the Weiss ratings have consistently achieved the goal of warning consumers away from risky institutions or investments while guiding them to truly safer alternatives. Moreover, there is abundant evidence that Weiss' strict avoidance of conflicts is an important factor supporting outperformance of its ratings in comparison to those of its competitors.

The FCC shares with Weiss the common goal of identifying the most worthy institutions and helping the public avoid risk. It is welcome to continue using the Weiss Bank Safety Ratings as part of its screening or decision-making processes in a manner that it deems most beneficial. And it is invited to discuss any additional information or support that may be helpful.

---

[1] U.S. Securities and Exchange Commission, "SEC Fact Sheet on Global Analyst Research Settlements" (https://www.sec.gov/news/speech/factsheet.htm). See also "Global Research Analyst Settlement Final Judgement Addendum A" (https://www.sec.gov/files/litigation/litreleases/finaljudgadda.pdf) and "Federal Court Approves Global Research Analyst Settlement" (https://www.sec.gov/litigation/litreleases/lr-18438).

[2] In 2005, *The Wall Street Journal* reported that, among 23 stock research providers, four of the five top performers were independent firms — Weiss (ranked #1 in performance), Columbine Capital (#2), Ford Equity Research (#4) and Channel Trend (#5). These four firms greatly outperformed the Wall Street firms Merrill Lynch, J.P. Morgan, Goldman Sachs, Piper Jaffray, Lehman Brothers, UBS Investment Research, Credit Suisse First Boston, Smith Barney, Morgan Stanley, Thomas Weisel Partners and Bear Stearns. Continuing bias and conflicts of interest on Wall Street were the primary cause. Despite their performance success, however, independent firms were not able to gain market share. See also Jane J. Kim, "Stock Research Gets More Reliable," The Wall Street Journal, June 7, 2005, https://www.wsj.com/articles/SB111810324746052399.

[3] Best & Co. defined its NA-9 Rating as "assigned to companies eligible for ratings, but which request that their rating not be published because they *disagree with our rating*." [Italics added.] The GAO found that, in four out of 30 insurers that failed in the early 1990s, "Best never actually assigned a 'vulnerable' rating. Instead, Best changed these ratings from 'secure' to one of its 'not assigned' categories." In each case, Best's standard operating procedure was to cooperate with the companies, remove the bad ratings from circulation, and hide the financial weaknesses from the public. When the companies went bankrupt, they caused severe hardships for consumers, a phenomenon

occurring again in Florida and other states today due to conflicted and biased ratings agencies, such as Demotech.

[4] Martin D. Weiss, "Toward a Full Disclosure Environment in the Insurance Industry," testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs.

[5] GAO, *Insurance Ratings: Comparison of Private Agency Ratings for Life/Health Insurers*, September 1994, https://www.gao.gov/assets/ggd-94-204br.pdf

[6] Ibid., page 8.

[7] Ibid., page 26

[8] GAO, ibid., page 23.

[9] GAO, ibid., page 11.

[10] Martin D. Weiss, "Dangerously Close to a Money Panic," *Money and Markets*, December 3, 2007 and "Closer to a Financial Meltdown," *Money and Markets*, March 17, 2008. Separately, Richard Bove of Punk Ziegel & Co., downgraded virtually all of the Wall Street banks, saying the Bear Stearns funds' collapse does not reflect a problem at the firm itself, but rather reveals troubles with the entire system. Weiss also warned of an outright failure of Fannie Mae in *Safe Money Report*, September 18, 2000.