



DCU BULLETIN

Division of Credit Unions

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Examiner Guidance for Institutions Affected by a Major Disaster

In December 2017, NCUA published guidance¹ to examiners on the supervisory approach in the event of a Presidential declared major disaster. Division of Credit Unions is adopting this approach not only in the event of a declared national disaster but also in the event that our Governor issues a declaration of a major disaster in Washington State. This guidance will apply to both credit unions located within the disaster and also to credit unions that are located outside the disaster area but have loans to or investments in individuals or entities located in the disaster area. Examiners are expected to be flexible in their supervisory response after considering the unique and potential long-term nature of the issues confronting the affected credit unions.

We remind Washington Credit Unions to prepare not only for the typical local disasters of flood and wildfire but also for a Cascadia Subduction Zone earthquake. Even those credit unions not located in this earthquake zone will likely have members who will be affected. The Washington Department of Natural Resources published an executive summary of the earthquake hazard² and has other instructive materials about the threat. The Washington Emergency Management Division provides resources for businesses in preparedness for any disaster³.

Division of Credit Unions will work with credit unions affected by a major disaster to determine their needs, reschedule any examinations, work with NCUA about extensions for filing quarterly call reports, and address capital declines due to temporary deposit growth, as needed.

Attached is the Guidance we adopted for Division of Credit Unions.

If you have any questions, please contact Linda Jekel, Director of Credit Unions at Linda.Jekel@dfi.wa.gov or 360-902-8778.

¹ For a copy of the Interagency Supervisory Examiner Guide for Institutions Affected by a Major Disaster, see <https://www.ncua.gov/Resources/Documents/SL-17-02-examiner-guidance-institutions-affected-major-disaster-enclosure.pdf>

² For a copy of the “Understanding Earthquake Hazards in Washington State, see http://www.dnr.wa.gov/Publications/ger_seismic_scenario_cascadia.pdf .

³ To review resources for business preparedness of a disaster, see Emergency Management Division at <https://www.mil.wa.gov/emergency-management-division/preparedness/businesses>

**Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency
National Credit Union Administration**

**Interagency Supervisory Examiner Guidance for Institutions
Affected by a Major Disaster**

December 2017

Purpose

The federal financial institution regulatory agencies,¹ in consultation with the Conference of State Bank Supervisors, are jointly issuing this examiner guidance to outline the supervisory practices to be followed in assessing the condition of institutions² directly affected by an event that results in a Presidential declaration of a major disaster with individual assistance.³ This guidance also applies to institutions that may be located outside the disaster area, but have loans to or investments in individuals or entities located in the disaster area. Examiners should be flexible in their supervisory response after considering the unique and potential long-term nature of the issues confronting affected institutions.

A major disaster generally has a devastating effect that can continue to impact the business activities of the institutions serving the affected area for an extended period. Some of these institutions may face extensive asset quality issues caused by business failures, interruptions of borrowers' income streams, increases in borrowers' operating costs, the loss of jobs, and uninsured or underinsured collateral damage. Further, as a result of a substantial loss in their tax and revenue base, state and local governments in the affected area may face major challenges in paying their obligations, which could adversely affect institutions with large investments in municipal securities and loans.

¹ The federal financial institution regulatory agencies include: the Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System (Board), Office of the Comptroller of the Currency, and the National Credit Union Administration (collectively, the supervisory agencies).

² Institutions include insured depository institutions and branches and agencies of foreign banking organizations (FBOs) (collectively, "institutions").

³ Under section 401(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170(a), the President may declare that a major disaster exists in a state. A "major disaster" is defined as any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major federal disaster assistance to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, 42 U.S.C. 5122(2). A "state" means any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, 42 U.S.C. 5122(4).

The supervisory agencies understand institutions affected by a major disaster may need to focus on the recovery of personnel and physical operations. The supervisory agencies will work with those institutions to determine their needs and to reschedule any examinations, as needed. The supervisory agencies' staff will continue to monitor all affected institutions through their off-site processes. Further, management at affected institutions experiencing significant operational difficulties may request an extension for filing quarterly Reports of Condition and Income or other reports.

Overall Supervisory Assessment

It is essential that the supervisory agencies maintain a clear understanding of the condition of each institution affected by a major disaster and the effectiveness of each institution's business continuity plans. To promote consistency across the supervisory agencies, examiners will continue to assign the component and composite ratings of impacted institutions in accordance with the definitions in the *Uniform Financial Institutions Rating System*, commonly referred to as the CAMELS rating⁴ and the interagency *Rating System for U.S. Branches and Agencies of Foreign Banking Organizations*, commonly referred to as the ROCA rating.⁵

When evaluating the composite and component ratings for CAMELS or ROCA at an institution affected by a major disaster, examiners should review management's response plans and assess the reasonableness of those plans given the institution's business strategy and operational capacity in the distressed economic and business environment. In particular, when assessing the management component, examiners should consider management's effectiveness in responding to the changes in the institution's business markets and whether the institution has addressed these issues in its longer-term business strategy and future response plans.

The examiner's assessment may result in assigning a lower component or composite rating for some affected institutions. However, in considering the supervisory response for institutions accorded a lower rating, examiners should give appropriate recognition to the extent to which weaknesses are caused by external problems related to the major disaster and its aftermath.

Examiners should consult with their supervisory agencies' management to determine whether supervisory action, if any, should be taken. Formal or informal administrative action that would ordinarily be considered for lower-rated institutions may not be necessary, provided the institution's management has appropriately planned for continuity of operations; implemented prudent policies; and is pursuing realistic resolution of the issues confronting the institution. In instances where a formal or informal supervisory action is warranted, examiners should tailor their response to capabilities and efforts of the institution's management in resolving the institution's specific issues.

⁴ Refer to the Federal Financial Institutions Examination Council's *Uniform Financial Institutions Rating System Notice*, 61 Fed. Reg. 67021 (December 19, 1996) available at https://www.ffiec.gov/press_register.htm. Examiners of federally insured credit unions will use the guidance in NCUA Letter to Credit Unions 07-CU-12, *CAMEL Rating System*, at <https://www.ncua.gov/Resources/Documents/LCU2007-12.pdf>, for assigning the CAMEL ratings.

⁵ See the Board's Supervision and Regulation Letter (SR Letter) 00-14 *Enhancements to the Interagency Program for Supervising the U.S. Operations of Foreign Banking Organizations*, at pages 13 – 21, at <https://www.federalreserve.gov/boarddocs/SRLETTERS/2000/sr0014a1.pdf>.

Effectiveness of Institution's Risk Assessment

Examiners should expect management at affected institutions to conduct initial risk assessments and have a process for refining such assessments as more complete information becomes available and recovery efforts proceed. The institution's risk assessment should reflect management's best estimate of the institution's asset quality, given the prevailing economic conditions in its business markets. In addition to determining the effect on asset quality, management should be able to explain the disaster's implications on the institution's earnings and capital, as well as its effect on funding, liquidity, operations, and sensitivity to market risk.

The assessment of operational risk should address the effectiveness of the institution's operational capability and its business continuity plan. Institution management should be able to explain its review and assessment methodology and demonstrate reasonable progress, given the circumstances. An institution that experienced heavy damage to its facilities or delays in key personnel returning to work may need more time to complete its initial operational risk assessment.

Examiners should determine whether the risk assessments are sufficient in scope and content. In reviewing the assessments, examiners should recognize that the issues confronting affected institutions are complex and may involve protracted resolution. Examination scope may need to be adjusted depending on the quality and thoroughness of the risk assessment. The quality of an institution's assessments can be considered, as appropriate, in the examiner's assessment of CAMELS ratings or the ROCA rating.

Components of the CAMELS Rating or ROCA Rating

When assessing the component ratings for CAMELS or ROCA, examiners should consider the following:

Capital Adequacy⁶

When evaluating the capital component for affected institutions, examiners should consider any asset losses, extraordinary expenses, unexpected deposit growth, contingent liabilities and risks that were incurred as a result of a major disaster. If substantial declines in the affected institution's capital ratios have occurred or are projected, examiners should determine whether management has developed a satisfactory capital restoration plan that provides for capital augmentation in a timely manner if the decline is not attributed to a temporary surge in deposits.

The supervisory agencies recognize affected institutions may experience significant temporary balance sheet growth due to unusually large deposit inflows from insurance proceeds or other funds. Such growth may result in a temporary decline in institutions' regulatory capital ratios. If such a situation results in a meaningful decline in regulatory capital, management should be

⁶ Branches and agencies of FBOs do not maintain regulatory capital separate from their foreign parent organizations. Federal branches and agencies of FBOs are instead required to maintain capital equivalency deposits as set forth in 12 CFR 28.15, and state-licensed branches and agencies may be subject to similar requirements through their respective state supervisors.

prepared to discuss its plans for addressing the situation in light of the institution's financial condition. In assessing supervisory options, the primary federal regulator will consider whether an institution maintains a fundamentally sound financial condition and evidence that a decline in regulatory capital ratios would be temporary.

Asset Quality

When assessing asset quality, examiners should consider whether management has been able to identify all loans and investments substantially affected by a major disaster and any potential loss exposure. For secured loans, examiners should expect management to have a process for tracking information on the condition of collateral and the collectability and timing of insurance proceeds. This analysis should be performed on an individual loan basis and supporting documentation should be included for significant credits. This process may necessitate a change in management's loan review criteria to reflect the need to monitor loans affected by a major disaster more frequently. Examiners also should consider management's efforts to address the following issues.

Loan Reviews. Examiners should expect an institution's loan review practices to be sufficient to verify that it is adequately identifying and reporting the risk in its portfolio. Examiners should identify any recourse arrangements with sold loans or other contractual agreements that may involve increased risk to the institution.

Examiners should recognize that supporting file documentation may be limited due to unusual circumstances caused by the disaster. Examiners should verify the accuracy of management's risk assessment by transaction testing and consider expanding the scope of the loan review if transaction testing indicates that management's risk assessment is insufficient.

New Loans. In keeping with existing practices, examiners should review a sample of loans originated after a major disaster to determine whether the institution's underwriting standards are appropriate. There may be a number of legitimate reasons why management may have eased underwriting standards after a major disaster to address the needs of its customer base. In addition, management may have changed its business strategy to focus on new lines of business or expand into new markets. Examiners should note any substantial changes in the institution's lending practices and assess whether these activities are consistent with the institution's loan policies, the board of directors' strategic plan, and prudent credit underwriting standards and administration practices.

Credit Modifications. Examiners should recognize that the economic conditions in disaster-affected areas may influence an institution's course of action as well as the timing of such action. Examiners generally should not criticize an institution that is attempting to work constructively with its borrowers in affected areas. Examiners should review an institution's policies and procedures for providing a borrower with a credit renewal, extension, or modification. The supervisory agencies have found that prudent credit modifications are often in the best interest of the institution and the borrower. Institutions that implement prudent loan workout arrangements after reviewing a borrower's financial condition after a major disaster

will not be subject to criticism for engaging in these efforts even if the restructured loans have weaknesses that result in adverse credit classification.

In addition, renewed, extended, or modified loans to borrowers who have the ability to repay their debts according to reasonable modified terms will not be subject to adverse classification solely because the value of the underlying collateral has declined to an amount that is less than the loan balance. Examiners should review appropriate documentation to support management's agreement with the borrower, including the borrower's recovery plans, source of repayment, reliance on insurance proceeds, advancement of additional funds for rebuilding, value of additional collateral, and the condition of existing collateral.

Regardless of the terms of the renewal, extension, or modification agreement, examiners should expect management to appropriately report credits that meet the definition of a troubled debt restructuring according to U.S. Generally Accepted Accounting Principles (GAAP) and recognize credit losses as soon as a loss can be reasonably estimated. Moreover, examiners should expect management to preserve the integrity of the institution's internal loan grading methodology and maintain appropriate accrual status on affected loans.

Nonaccrual. Management may find it appropriate to allow borrowers in affected areas to defer payment of principal, interest, or both for a reasonable period of time with the expectation that the borrower will resume payments in the future. Nevertheless, accrued interest should be reversed (written off) when it is deemed uncollectible. Examiners should ensure that institutions continue to follow applicable regulatory reporting requirements, as well as the institutions' internal accounting policies, when reporting nonaccrual assets.

Insurance Claims. In many cases, loan repayment may be dependent on borrowers settling the insurance claims that they filed with their insurance companies on insured properties. However, there may be uncertainty regarding the timing and amount of potential insurance claims. Examiners should consider the type, amount, and timing of proposed settlement offers. If an insurance company indicates a valid claim has been accepted, then the negotiated settlement amount normally would not be subject to adverse classification, barring any unusual issues, and examiners should use judgment in determining the appropriate classification for the balance of the loan, if any. If the validity of an insurance claim is in doubt or a protracted resolution is likely, then examiners should exercise judgment in classifying a loan based on the specific facts and circumstances.

Classification Standards. Examiners should rely upon existing credit classification standards for loans affected by a major disaster. The assessment of each loan should be based upon the fundamental characteristics affecting the collectability of that particular credit. Examiners should review management's assessment of the borrower's repayment ability and financial condition as well as the institution's collateral protection to determine the appropriate credit classification.

Examiners should apply appropriate credit classification and charge-off standards in cases where the information indicates a loan will not be repaid or the institution, despite its reasonable efforts, has been unable to establish contact with the borrower. Examiners should also assess the

reasonableness of management's plans for pursuing foreclosure of collateral on nonperforming assets, given the unknown environmental risks and other factors that may affect the condition of the collateral. In some cases, the deferral of foreclosure may be the most prudent course of action.

Allowance for Loan and Lease Losses (ALLL).⁷ Examiners should review an institution's methodology for calculating the ALLL. In determining an appropriate ALLL, management should consider all information available about the collectability of the institution's loan portfolio, including any changes in the institution's lending practices as a result of a major disaster. Consistent with U.S. GAAP, the amounts included in the ALLL for estimated credit losses incurred as a result of a major disaster should represent probable losses that can be reasonably estimated. As an institution obtains additional information about loans to borrowers affected by a major disaster, management is expected to reflect revised estimates of loan losses in the ALLL and subsequent regulatory reports.

There may be a period of time when an institution has difficulty in accurately determining the collectability of loans to borrowers in the affected areas. Examiners should recognize that management may need more time than in normal economic conditions to evaluate the effect of a major disaster on the ability of the borrower to pay, assess the condition of underlying collateral, and determine potential insurance proceeds. Examiners should ensure management has maintained the ALLL at an appropriate level based on its best estimate of probable losses within a range of loss estimates.

Obligations of Taxing Authorities. Examiners should review the institution's loan and investment portfolios to determine whether credit has been extended to taxing authorities via loans or through the purchase of state, county, parish, or other municipal obligations in areas that sustained damage during a major disaster. Communities in an affected area may be heavily dependent on local sales, hotel, property, and income tax revenues. These sources of income generally fall sharply after a major disaster, and the ultimate collection of such loans and investments may be adversely affected. Some loans and bonds may also be tied to specific facilities, such as hospitals, that may not resume operations for an extended period.

Examiners should ensure that affected institutions monitor their risk exposures in municipal bonds in order to assess whether those bonds continue to be the credit equivalent of an investment grade security and are appropriately classified, consistent with the *Uniform Agreement on the Classification and Appraisal of Securities Held by Depository Institutions*.⁸ Many public obligors and issuers have insurance or have access to debt payment and other reserve funds that help ensure the full and timely repayment of principal and interest for the projected life of the asset or exposure. However, examiners should ensure that management is

⁷ Maintenance of an ALLL is not required for branches or agencies of FBOs.

⁸ See the *Uniform Agreement on the Classification and Appraisal of Securities Held by Depository Institutions* (October 2, 2013) available at FDIC: FIL-51-2013, <https://www.fdic.gov/news/news/financial/2013/fil13051a.pdf>; OCC: OCC Bulletin 2013-28, <https://www.occ.treas.gov/news-issuances/bulletins/2013/bulletin-2013-28a.pdf>; and Board: SR letter 13-18, <https://www.federalreserve.gov/supervisionreg/srletters/sr1318a1.pdf>.

using all available information to ensure credit risk assessments are timely, accurate, and consistent with internal policies, as well as regulatory and accounting requirements.

Real Estate Values. Affected areas and neighboring evacuee locations often experience substantial fluctuations in real estate values after a major disaster. For both existing and new real estate loans, examiners should assess the institution's policies and practices for valuing collateral in real estate markets that have experienced a substantial, but possibly temporary, decrease or increase in real estate values as a result of a major disaster. When reviewing an institution's estimates of collateral values, examiners should ascertain whether the values are based on assumptions that are prudent and realistic.

Appraisal Exceptions Related to Major Disasters. The supervisory agencies may exercise their authority to grant an exception to statutory and regulatory appraisal requirements in areas that the President declares a major disaster with individual assistance.⁹ If granted, such exceptions apply to all real estate-related financial transactions secured by real property in the affected area and are subject to conditions the supervisory agencies impose. To date, these conditions have primarily consisted of requiring institutions to determine and document that:

1. The transaction involves real property within the area declared a major disaster;
2. There is a binding commitment to fund the transaction that is made within a specified time frame after the disaster is declared; and,
3. The value of the real property supports an institution's decision to enter into the transaction.

When an institution relies on a major disaster-related appraisal exception for a specific real estate-related transaction, the institution should provide sufficient documentation to support its credit decision and valuation of the collateral based on alternative valuation methods, including evaluations.¹⁰ Examiners should continue to review institutions' use of such exceptions to exempt real estate-related transactions from the appraisal regulations.

Other Assets and Premises. Examiners should determine whether the institution has acquired other assets, such as temporary equipment and office facilities to replace destroyed or unusable branches as well as temporary lodging facilities for employees whose homes have become uninhabitable. Examiners should assess the short- and long-term effect these assets may have on the institution's operations and earnings to the extent warranted, including the disposal of such

⁹ Section 2 of Depository Institutions Disaster Relief Act of 1992, which added section 1123 to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, authorizes the supervisory agencies to make exceptions to statutory and regulatory appraisal requirements for certain transactions. These exceptions are available for transactions involving real property located in areas in which the President has determined a major disaster exists, pursuant to 42 USC 5170, provided that the exception would facilitate recovery from the major disaster and is consistent with safety and soundness. See 12 USC 3352.

¹⁰ See the *Interagency Advisory on Use of Evaluations in Real Estate-Related Financial Transactions*, (March 4, 2016) available at: FDIC: <https://www.fdic.gov/news/news/financial/2016/fil16016a.pdf>; OCC: <https://www.occ.gov/news-issuances/bulletins/2016/bulletin-2016-8a.pdf>; and Board: SR Letter 16-5, available at <https://www.federalreserve.gov/supervisionreg/srletters/sr1605.htm>.

assets when no longer needed. Examiners should review management's impairment assessment of destroyed or damaged long-lived assets after a major disaster.

Management Capability

When rating an institution's management, existing supervisory policy instructs examiners to distinguish between problems caused by the institution's management and those due to a major disaster. Management of an institution with problems related to a major disaster and its aftermath would warrant a higher rating than management that is otherwise substantially responsible for an institution's problems, provided that prudent planning and policies are in place and management is pursuing realistic resolution of the institution's problems.

Many institutions affected by a major disaster may be confronted with unprecedented issues. In addition to an institution's risk assessment, examiners should evaluate management based on the scope and thoroughness of the institution's internal risk assessment and business continuity plan, and, if necessary, its plan for business restoration. In assessing management, examiners should consider the institution's asset size, complexity, and risk profile. While management of an affected institution should be rated on its ability to properly identify and manage these risks, examiners should give consideration to the extraordinary circumstances surrounding many of the decisions made immediately after a major disaster as well as the actions subsequently taken to resume operations.

Examiners should assess the effectiveness of an institution's disaster recovery and business continuity plans and consider whether these plans need to be modified.¹¹ This review should include an assessment of management's ability to:

- Communicate before, during, and after a major disaster, including:
 - Addressing staffing issues, such as:
 - Operating with limited staff due to personnel needing to respond to personal concerns arising from the major disaster;
 - Identifying and informing essential personnel needed to conduct operations on how and where they will perform those functions; and
 - Keeping staff informed of plans to share information throughout the major disaster;
 - Apprising customers on ways to receive updated information regarding the institution's operational capabilities; and
 - Notifying key third-party service providers and suppliers of the potential need to take preemptive action before the event and initiate business continuity plans after the event.

¹¹ For branches and agencies of FBOs emergency preparedness assessments and the effectiveness of business continuity plans should be considered as part of the assessment of operational controls.

- Deal with extensive damage to facilities, equipment, and records, if needed, such as;
 - Establishing temporary facilities;
 - Obtaining replacement equipment and supplies;
 - Handling and reproducing contaminated loan files and legal and collateral documents;
 - Replacing contaminated cash and coins; and
 - Handling contaminated safe deposit boxes and their contents.
- Retrieve and restore data systems, electronic information, and operational capabilities.

Risk Management of a Branch or Agency of a FBO

The aftermath of a major disaster will likely present different challenges to the FBO head office of a branch or agency as well as local management. When considering risk management of branches and agencies of FBOs, examiners should focus on the assessment factors outlined in the Board’s SR Letter 00-14, *Enhancements to the Interagency Program for Supervising the U.S. Operations of Foreign Banking Organizations*¹² and consider these factors in the context of the major disaster. Examiners should evaluate the level of support provided by the home office in restoring operations and the appropriateness of risk management in light of the changing operating environment and economic conditions due to a major disaster.

Earnings¹³

When evaluating the earnings of an affected institution, examiners should consider the duration of any reductions to core earnings caused by a major disaster. Examiners should also assess the quantity and quality of prior earnings as well as the influence that a major disaster may have on the institution’s future earnings potential. This assessment also should consider the adequacy and reasonableness of any revisions to the institution’s budget and strategic plan.

Liquidity

Many institutions affected by a major disaster may experience sharp fluctuations in liquidity resulting from the receipt of Federal Emergency Management Agency payments, insurance proceeds, or other disaster-related funds, as well as outflows of municipal deposits, out-of-area funds, or other large deposits. In addition, collateral requirements for secured funding sources (such as a line of credit from a Federal Home Loan Bank) may be temporarily modified. Examiners should consider the nature and timing of disaster-related inflows and outflows when

¹² SR Letter 00-14, available at: <https://www.federalreserve.gov/boarddocs/SRLETTERS/2000/sr0014a1.pdf>. Also see the “*Federal Branches and Agencies Supervision*” booklet of the Comptroller’s Handbook, (October 31, 2017) available at: <https://occ.gov/publications/publications-by-type/comptrollers-handbook/federal-branches-agencies/pub-ch-federal-branches-agencies.pdf>.

¹³ The ROCA rating does not contain a component rating for earnings.

reviewing the adequacy of an institution's liquidity and be cognizant of how management is employing any influx of liquid resources.

Although the ROCA rating does not contain a liquidity component rating, funding, liquidity risk, and risk management are important factors in the assessment of branches and agencies of FBOs. Examiners should assess the effect of a major disaster on liquidity as part of the risk management component of the ROCA rating.

Sensitivity to Market Risk

Many institutions affected by a major disaster may experience temporary shifts in their interest rate risk profiles from changes in cash flows associated with the short-term effect of the disaster. For example, the amount or timing of cash flows may be altered by deterioration in loan and bond portfolios or by the prepayment of mortgages with insurance proceeds.

Examiners should recognize that management may require a reasonable period of time to fully assess any changes to the institution's interest rate risk profile and to distinguish between permanent structural changes versus short-term fluctuations during a transitional period. Examiners should determine whether management has procedures for reviewing and updating its asset and liability management models for any unusual fluctuations in deposit balances, adjustments to loan payments, changes in interest rates, and other modifications to ensure the integrity, accuracy, and reasonableness of the models.

The ROCA rating does not contain a component for market sensitivity. However, examiners should consider sensitivity in the form of the interest rate risk profile, risk management, and effects from a major disaster in the assessment of the risk management component of the ROCA rating.