

OFFICE OF CREDIT RATINGS

Annual Report

ON

NATIONALLY
RECOGNIZED
STATISTICAL RATING
ORGANIZATIONS

As Required by Section 6 of the Credit
Rating Agency Reform Act of 2006

December 2020

U.S. SECURITIES AND EXCHANGE COMMISSION



THIS IS A REPORT OF THE STAFF OF THE U.S. SECURITIES AND EXCHANGE COMMISSION.
THE COMMISSION HAS EXPRESSED NO VIEW REGARDING THE ANALYSIS, FINDINGS, OR CONCLUSIONS CONTAINED HEREIN.

Table of Contents

I.	INTRODUCTION	1
II.	STATUS OF REGISTRANTS AND APPLICANTS	2
III.	ACTIVITIES RELATING TO NRSROs	4
	A. Activities	4
	B. Commission Orders and Releases and Staff Publications	6
IV.	COMPETITION	9
	A. Select NRSRO Statistics	9
	1. NRSRO Credit Ratings Outstanding	9
	2. NRSRO Analytical Staffing Levels	13
	3. NRSRO Revenue	14
	B. Recent Developments in the State of Competition Among NRSROs	16
	1. Market Share Observations in the Asset-Backed Securities Rating Category	16
	(a) CMBS	16
	(b) ABS/MBS/CLO	20
	2. Other Asset-Backed Securities Market Share Observations	22
	C. Barriers to Entry	23
V.	TRANSPARENCY	25
VI.	CONFLICTS OF INTEREST	27
VII.	CONCLUSION	28

Table of Charts

Chart 1. List of NRSROs	2
Chart 2. Number of Outstanding Credit Ratings as of December 31, 2019 by Rating Category	11
Chart 3. Percentage by Rating Category of Each NRSRO’s Outstanding Credit Ratings of the Total Outstanding Credit Ratings of all NRSROs as of December 31, 2019	11
Chart 4. Breakdown of Ratings Reported Outstanding as of December 31, 2019	12
Chart 5. Breakdown of Non-Government Securities Ratings Reported Outstanding as of December 31, 2019.	12
Chart 6. NRSRO Credit Analysts and Credit Analyst Supervisors.	13
Chart 7. NRSRO Revenue Information: Fiscal Year Percentage of Total Reported NRSRO Revenue	14
Chart 8. Rating Agency Market Share for Total Non-Agency U.S. CMBS Issued in 2018, 2019, and First Half of 2020	18
Chart 9. Rating Agency Market Share for U.S. Conduit CMBS Issued in 2018, 2019, and First Half of 2020	18
Chart 10. Rating Agency Market Share for U.S. Single-Borrower CMBS Issued in 2018, 2019, and First Half of 2020	19
Chart 11. Rating Agency Market Share for Agency CMBS Issued in 2018, 2019, and First Half of 2020	19
Chart 12. Rating Agency Market Shares for U.S. ABS Issued in 2018, 2019, and First Half of 2020	20
Chart 13. Rating Agency Market Shares for U.S. MBS Issued in 2018, 2019, and First Half of 2020	21
Chart 14. Rating Agency Market Shares for U.S. CLO Issued in First Half of 2018, 2019, and First Half of 2020	21

I. Introduction

The staff (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission” or “SEC”) is providing this report (“Report”) regarding nationally recognized statistical rating organizations (“NRSROs”) pursuant to Section 6 of the Credit Rating Agency Reform Act of 2006 (“Rating Agency Act”).¹ This Report reflects solely the Staff’s views. Section 6 of the Rating Agency Act requires the Commission to submit an annual report (“Annual Report”) to the Committee on Banking, Housing, and Urban Affairs of the U.S. Senate and the Committee on Financial Services of the U.S. House of Representatives (“Congressional Committees”) that, with respect to the year to which the Annual Report relates:

- identifies applicants for registration as NRSROs under Section 15E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”);²
- specifies the number of, and actions taken on, such applications; and
- specifies the views of the Commission on the state of competition, transparency, and conflicts of interest among NRSROs.

This Report generally focuses on the period from June 26, 2019 to June 25, 2020 (the “Report Period”).³ In addition to addressing the items specified in Section 6 of the Rating Agency Act, this Report provides an overview of certain Commission and Staff activities relating to NRSROs.

Information regarding the topics covered in this Report with respect to prior periods can be found on the Office of Credit Ratings (“OCR”) page of the Commission’s website.⁴

1 Pub. L. No. 109-291, 120 Stat. 1327 (Sept. 29, 2006). The Rating Agency Act, among other things, added Section 15E to the Securities Exchange Act of 1934 to establish self-executing requirements on NRSROs and provide the Commission with the authority to implement a registration and oversight program for NRSROs. In June 2007, the Commission approved rules implementing such a program. *See Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations*, Release No. 34-55857 (June 5, 2007), 72 FR 33564 (June 18, 2007), available at <https://www.sec.gov/rules/final/2007/34-55857fr.pdf>.

2 Unless otherwise noted, all references to specific statutory sections and rules in this Report are to sections in the Exchange Act and related rules.

3 Note, however, that Section III.B of this Report includes information regarding Commission Orders and Releases and Staff Publications from June 26, 2019 through November 30, 2020.

4 Prior Annual Reports can be found under “Annual Reports to Congress” in the “Reports and Studies” section of the OCR webpage, available at <https://www.sec.gov/ocr/ocr-reports-and-studies.html>.

II. Status of Registrants and Applicants

Section 3(a)(62) defines a “nationally recognized statistical rating organization” as a credit rating agency that is registered under Section 15E and issues credit ratings certified by qualified institutional buyers, in accordance with Section 15E(a)(1)(B)(ix), with respect to:

- i. financial institutions, brokers, or dealers;
- ii. insurance companies;
- iii. corporate issuers;
- iv. issuers of asset-backed securities (as that term is defined in 17 CFR 229.1101(c));

- v. issuers of government securities, municipal securities, or securities issued by a foreign government; or
- vi. a combination of one or more categories of obligors described in any of clauses (i) through (v) above.

As of November 30, 2020, there are nine credit rating agencies registered as NRSROs.⁵ Chart 1 below lists each NRSRO registered with the Commission, categories of credit ratings described in clauses (i) through (v) of Section 3(a)(62)(A) in which each NRSRO is registered, and location of each NRSRO’s principal office.⁶

Chart 1: List of NRSROs		
NRSRO	Categories of Credit Ratings	Principal Office
A.M. Best Rating Services, Inc. (“AMB”)	(ii), (iii), and (iv)	U.S.
DBRS, Inc. (“DBRS”)	(i) through (v)	U.S.
Egan-Jones Ratings Company (“EJR”)	(i) through (iii)	U.S.
Fitch Ratings, Inc. (“Fitch”)	(i) through (v)	U.S.
HR Ratings de México, S.A. de C.V. (“HR”)	(i), (iii), and (v)	Mexico
Japan Credit Rating Agency, Ltd. (“JCR”)	(i), (ii), (iii), and (v)	Japan
Kroll Bond Rating Agency, Inc. (“KBRA”)	(i) through (v)	U.S.
Moody’s Investors Service, Inc. (“MIS”)	(i) through (v)	U.S.
S&P Global Ratings (“S&P”)	(i) through (v)	U.S.

⁵ Section 15E(a) sets out registration procedures for a credit rating agency to voluntarily apply to be registered with the Commission as an NRSRO.

⁶ See the current Form NRSRO on each NRSRO’s website for any updates to this information. Each NRSRO must file with the Commission on EDGAR a Form NRSRO for annual certification and registration updates pursuant to Rule 17g-1(e) and (1)(f), and each NRSRO must make its current Form NRSRO publicly and freely available on its website pursuant to Rule 17g-1(i). Links to each NRSRO’s website can be found under the “Current NRSROs” section of the OCR webpage, available at <https://www.sec.gov/ocr/ocr-current-nrsros.html>.

On July 2, 2019, Morningstar, Inc., the parent of Morningstar Credit Ratings, LLC (“MCR”), completed an acquisition of DBRS and the two NRSROs began integrating their operations. On November 15, 2019, MCR furnished a notice of withdrawal from registration to the Commission (which became effective on December 30, 2019), and DBRS filed an update to Form NRSRO to add MCR as a credit rating affiliate. On November 23, 2020, DBRS filed an update to Form NRSRO to remove MCR as a credit rating affiliate. For purposes of this Report: (1) activities of DBRS, Inc. prior to July 2, 2019 are attributed to “pre-integration DBRS;” (2) activities of MCR prior to July 2, 2019 are attributed to “MCR;” and (3) activities of the two NRSROs from July 2, 2019 onward are attributed to “DBRS.”

For purposes of this Report only, we refer to Fitch, MIS, and S&P as “larger NRSROs” and the other NRSROs (AMB, DBRS, EJR, HR, JCR, and KBRA) as “smaller NRSROs.”

Applications for initial registration and for registration by current NRSROs in additional rating categories are filed on Form NRSRO.⁷ In addition, Section 15E(b) requires NRSROs to promptly amend Form NRSRO if any information or document provided therein becomes materially inaccurate. This section also requires NRSROs to annually amend Form NRSRO to update ratings count and performance information, certify the continuing accuracy of the information and documents provided therein, and list any material change thereto during the previous calendar year. OCR Staff review such amendments to Forms NRSRO in light of the requirements of Section 15E(b), Rule 17g-1, and the Instructions to Form NRSRO.

No applications for initial registration as an NRSRO or for registration by a current NRSRO in additional rating categories were filed with the Commission during the Report Period.

⁷ See Section 15E(a) and Rule 17g-1; *see also* Form NRSRO, available at <https://www.sec.gov/about/forms/formnrsro.pdf>.

III. Activities Relating to NRSROs

A. ACTIVITIES

The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”)⁸ mandated the creation of OCR. OCR is responsible for the oversight of credit rating agencies registered with the Commission as NRSROs. OCR’s Staff includes professionals with expertise in a variety of areas that relate to its regulatory mission, such as corporate, municipal, and structured debt finance.⁹

OCR’s responsibilities—as mandated by the Dodd-Frank Act—include, among other things, conducting an examination of each NRSRO at least annually in eight specified review areas.¹⁰ Information regarding the examinations is included in OCR’s annual examination reports.¹¹

OCR also monitors trends and developments affecting the credit rating industry. For example, OCR Staff may meet with NRSROs to discuss rating and industry developments and with the boards of directors of NRSROs to discuss, among other things, compliance and oversight matters. OCR Staff also

may meet with a variety of other market participants, including investors, issuers, regulators, and industry organizations, to discuss matters relevant to the credit rating industry.

During the Report Period, OCR Staff continued to participate in meetings that involved rating agency regulators globally, including those of the supervisory colleges that were formed for the largest internationally active credit rating agencies. The supervisory colleges were formed to enhance communication among credit rating agency regulators globally with respect to examinations of the relevant credit rating agencies.¹² During the Report Period, each college held an in-person meeting and conducted quarterly calls. OCR Staff also conducted additional discussions with international regulators, as appropriate.

In 2019, the Fixed Income Market Structure Advisory Committee (“FIMSAC”)¹³ established a Credit Ratings Subcommittee to consider the role of credit ratings issued by NRSROs in the corporate

8 See Pub. L. No. 111-203, 124 Stat. 1376 (2010).

9 See Section 15E(p)(2) for a description of OCR staffing requirements.

10 See Section 15E(p)(3).

11 The examination reports can be found under “Summary Examination Reports” in the “Reports and Studies” section of the OCR webpage, available at <https://www.sec.gov/ocr/ocr-reports-and-studies.html>.

12 See IOSCO, Supervisory Colleges for Credit Rating Agencies, Final Report (July 2013), available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD416.pdf>. The SEC serves as chair of the colleges for S&P and MIS, and OCR Staff represents the SEC in this regard. The European Securities and Markets Authority serves as chair of the college for Fitch.

13 FIMSAC was formed in November 2017 to provide the Commission with diverse perspectives on the structure and operations of the U.S. fixed income markets, as well as advice and recommendations on matters related to fixed income market structure. The FIMSAC’s current charter is available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-charter-nov-2019.pdf>.

bond and municipal securities markets.¹⁴ During the Report Period, the Credit Ratings Subcommittee made several presentations regarding NRSRO competition and compensation models at the FIMSAC's quarterly meetings.¹⁵ At the FIMSAC meeting on June 1, 2020,¹⁶ the FIMSAC approved, for the Commission's consideration, the Credit Ratings Subcommittee's recommendation for mitigating potential conflicts of interest in credit ratings.¹⁷

In addition, the SEC's Investor Advisory Committee ("IAC")¹⁸ met on July 25, 2019 to discuss the SEC's

approach to regulation in areas with limited competition, including the credit rating agency industry.¹⁹ The IAC met on September 19, 2019 to discuss increased leverage and related SEC regulatory implications, including the role of NRSROs in the leveraged loan and CLO markets.²⁰ At the IAC meeting on November 7, 2019,²¹ SEC Chairman Jay Clayton suggested future topics of focus for the committee, including questions related to credit rating agencies.²² At the IAC meeting on May 21, 2020,²³ Chairman Clayton suggested additional topics of focus for the committee related to credit rating agencies.²⁴

-
- 14 Topics that may be considered by the Credit Ratings Subcommittee include, but are not limited to, (1) the use of credit ratings by various market participants and the implications of ratings changes for these market participants, (2) the costs and benefits of the current model for credit rating issuance, (3) the U.S. regulatory regime for credit rating agencies registered as NRSROs, and (4) issuances of unsolicited credit ratings and the publication of commentaries. *See* <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fixed-income-market-structure-advisory-committee-subcommittees.htm>.
- 15 *See* Transcript of FIMSAC Meeting, SEC (July 29, 2019), available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-072919transcript.txt>; Transcript of FIMSAC Meeting, SEC (Nov. 4, 2019), available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-110419transcript.txt>; Transcript of FIMSAC Meeting, SEC (Feb. 10, 2020), available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-021020-transcript.pdf>. The Credit Ratings Subcommittee circulated a discussion document ahead of the February 10, 2020 FIMSAC meeting, which is available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-021020-crs-working-document-alternate-model-and-potential-initiatives.pdf>.
- 16 *See* Transcript of FIMSAC Meeting, SEC (June 1, 2020), available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-060120-transcript.pdf>. The Credit Ratings Subcommittee circulated its preliminary recommendation ahead of this FIMSAC meeting. *See* <https://www.sec.gov/spotlight/fixed-income-advisory-committee/preliminary-recommendations-credit-ratings-subcommittee.pdf>.
- 17 *See* FIMSAC Recommendation Regarding Ways to Mitigate Conflicts of Interest in Credit Ratings (June 1, 2020), available at <https://www.sec.gov/spotlight/fixed-income-advisory-committee/fimsac-recommendations-credit-ratings-subcommittee.pdf>.
- 18 Section 911 of the Dodd-Frank Act established the IAC to advise the Commission on regulatory priorities, the regulation of securities products, trading strategies, fee structures, the effectiveness of disclosure, and on initiatives to protect investor interests and to promote investor confidence and the integrity of the securities marketplace. The Dodd-Frank Act authorizes the IAC to submit findings and recommendations for review and consideration by the Commission. *See* <https://www.sec.gov/spotlight/investor-advisory-committee.shtml>; <https://www.sec.gov/spotlight/investor-advisory-committee-2012/iac-charter.pdf>.
- 19 *See* Webcast of IAC Meeting, SEC (July 25, 2019), available at https://www.sec.gov/video/webcast-archive-player.shtml?document_id=iac072519.
- 20 *See* Webcast of IAC Meeting, SEC (Sept. 19, 2019), available at https://www.sec.gov/video/webcast-archive-player.shtml?document_id=iac091919.
- 21 *See* Webcast of IAC Meeting, SEC (Nov. 7, 2019) available at https://www.sec.gov/video/webcast-archive-player.shtml?document_id=iac110719.
- 22 *See* Chairman Jay Clayton, Remarks to the SEC Investor Advisory Committee (Nov. 7, 2019), available at <https://www.sec.gov/news/public-statement/clayton-remarks-investor-advisory-committee-110719> (noting interest in issues such as reliance by retail investors on credit rating agencies, whether credit rating agencies are appropriately disclosing, monitoring and managing their conflicts, whether investors are harmed by compensation models of credit rating agencies, and whether there are alternative payment models that would better align the interests of rating agencies with those of investors).
- 23 *See* Webcast of IAC Meeting, SEC (May 21, 2020), available at https://www.sec.gov/video/webcast-archive-player.shtml?document_id=iac052120.
- 24 *See* Chairman Jay Clayton, Remarks to the SEC Investor Advisory Committee (May 21, 2020), available at <https://www.sec.gov/news/public-statement/clayton-statement-investor-advisory-committee-meeting-052120> (noting, in addition to reliance by retail investors on credit rating agencies, interest in issues such as how much ratings influence today's marketplace, including the potential risks and downstream effects of investment strategies and mandates that reference ratings (and consequently take action based on downgrades)).

In January 2020, Chairman Clayton asked Commission Staff to monitor and, to the extent necessary or appropriate, provide guidance and other assistance to issuers and other market participants regarding disclosures related to the current and potential effects of COVID-19.²⁵ Following the Chairman's January 2020 statement, Commission Staff expanded the ongoing outreach efforts with credit rating agencies, which included periodically communicating with the NRSROs to keep abreast of how they are considering the impacts of COVID-19 on their credit ratings and operations.²⁶

On April 24, 2020, the Commission announced the formation of an internal, interdisciplinary COVID-19 Market Monitoring Group, the membership of which includes the Director of OCR.²⁷ This group was formed to assist the Commission and its various divisions and offices in (1) developing Commission and Staff analyses and actions related to the effects of COVID-19 on markets, issuers, and investors, and (2) responding to requests for information, analyses, and assistance from fellow regulators and other public sector partners on market matters arising from the effects of COVID-19.²⁸ In addition to OCR's continued participation in the COVID-19 Market Monitoring Group, OCR Staff continues to monitor the impact of COVID-19 on market matters related to the activities of the NRSROs.

B. COMMISSION ORDERS AND RELEASES AND STAFF PUBLICATIONS

The Commission and the Staff, as applicable, issued the following orders, releases, and publications relating to NRSROs or credit ratings in general from the start of the Report Period to November 30, 2020:

- *Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15E(d) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order*, Release No. 34-90037 (Sept. 29, 2020).²⁹ The Commission instituted settled administrative proceedings against KBRA concerning violations of Rule 17g-8(b)(1) in connection with rating CLO Combo Notes. The SEC's order finds that KBRA's policies and procedures were not reasonably designed to ensure that it rated CLO Combo Notes in accordance with the terms of those securities.
- *Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15E(d) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order*, Release No. 34-90036 (Sept. 29, 2020).³⁰ The Commission instituted settled administrative proceedings against KBRA concerning violations of Section 15E(c)(3)(A) in connection with rating CMBS. The SEC's order finds that KBRA's

25 See Chairman Jay Clayton, Statement on Proposed Amendments to Modernize and Enhance Financial Disclosures; Other Ongoing Disclosure Modernization Initiatives; Impact of the Coronavirus; Environmental and Climate-Related Disclosure (Jan. 30, 2020), available at <https://www.sec.gov/news/public-statement/clayton-md-a-2020-01-30>.

26 See SEC Coronavirus (COVID-19) Response: Market Monitoring and Engagement with Market Participants, available at <https://www.sec.gov/sec-coronavirus-covid-19-response>.

27 See SEC Forms Cross-Divisional COVID-19 Market Monitoring Group (Apr. 24, 2020), available at <https://www.sec.gov/news/press-release/2020-95>.

28 See SEC COVID-19 Market Monitoring Group – Update and Current Efforts (May 13, 2020), available at <https://www.sec.gov/news/public-statement/statement-clayton-kothari-covid-19-2020-05-13>.

29 Available at <https://www.sec.gov/litigation/admin/2020/34-90037.pdf>.

30 Available at <https://www.sec.gov/litigation/admin/2020/34-90036.pdf>.

internal control structure failed to prevent or detect the ambiguity in KBRA's record of its methodology for determining the CMBS ratings, such as a comparison of the methodology to the analysis used for specific transactions.

- *Credit Ratings, Procyclicality and Related Financial Stability Issues: Select Observations* (July 15, 2020).³¹ The Commission's COVID-19 Market Monitoring Group, which is discussed in Section III.A above, issued this statement describing the Group's exploration of whether credit assessments and credit rating agency downgrades—and market anticipation of, and responses to, those ratings actions—may (1) contribute to negative procyclicality in certain circumstances, and (2) have implications for financial stability.
- *Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15E(d) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order*, Release No. 34-88880 (May 15, 2020).³² The Commission instituted settled administrative proceedings against MCR concerning violations of Rule 17g-5(c)(8)(i), which prohibits a rating agency from issuing or maintaining a credit rating where an analyst who participates in determining or monitoring credit ratings also participates in sales and marketing activity, and Section 15E(h) (1), which requires credit rating agencies to establish, maintain, and enforce policies and procedures reasonably designed to address and manage conflicts of interest.
- *Staff No-Action Letter* (Mar. 30, 2020).³³ Due to COVID-19, EJR submitted a letter to staff related to its delay in filing its audited financial statements required by Rule 17g-3(a)(1).³⁴ The Staff issued a no-action letter to EJR informing it that the Staff would not recommend enforcement action to the Commission if EJR did not file its audited financial statements by March 30, 2020 as required by Rule 17g-3(a)(1), subject to the condition that such financial statements would be filed with the Commission no later than April 20, 2020.
- *The SEC's Office of Credit Ratings and NRSRO Regulation: Past, Present, and Future* (Feb. 24, 2020).³⁵ OCR then-Director Jessica Kane delivered a speech describing the NRSRO regulatory framework and certain regulatory requirements; OCR's responsibility for administering this regulatory framework; and observed trends in NRSRO compliance. The speech referenced the Commission's August 2019 rule release³⁶ (discussed in the final bullet point under this section of the Report) and invited interested parties to provide input on the effectiveness of Rule 17g-5(a)(3).

31 Available at <https://www.sec.gov/news/public-statement/covid-19-monitoring-group-2020-07-15>.

32 Available at <https://www.sec.gov/litigation/admin/2020/34-88880.pdf>.

33 Available at https://www.sec.gov/ocr/EJRNoActionLetter/EJR_Letter_3-30-20_1.pdf.

34 See Letter from EJR to OCR Staff (Mar. 30, 2020), available at https://www.sec.gov/ocr/EJRNoAction/EJR-Final_%20No-Action_%20Application_3-30-2020.pdf.

35 OCR Former Director Jessica Kane, Speech, *The SEC's Office of Credit Ratings and NRSRO Regulation: Past, Present, and Future* (Feb. 24, 2020), available at <https://www.sec.gov/news/speech/speech-jessica-kane-2020-02-24>.

36 See *Amendments to Rules for Nationally Recognized Statistical Rating Organizations*, Release No. 34-86590 (Aug. 7, 2019), 84 FR 40247, 40250 (Aug. 14, 2019) ("2019 Adopting Release"), available at <https://www.govinfo.gov/content/pkg/FR-2019-08-14/pdf/2019-17218.pdf>.

- *2019 Summary Report of Commission Staff's Examinations of Each Nationally Recognized Statistical Rating Organization*, dated January 2020, as required under Section 15E(p)(3)(C).³⁷ The report summarizes essential findings of the examinations conducted by Staff under Section 15E(p)(3)(C).
- *Annual Report on Nationally Recognized Statistical Rating Organizations*, dated January 2020 ("January 2020 Annual Report"), as required by Section 6 of the Rating Agency Act.³⁸ The Annual Report addresses the matters described in the first paragraph under Section I of this Report.
- *2019 Adopting Release*.³⁹ The Commission adopted an amendment to Rule 17g-5(a)(3) that provides for an exemption from the rule with respect to credit ratings for certain structured finance products where the issuer is a non-U.S. person and the NRSRO has a reasonable basis to conclude that the structured finance product will be offered and sold exclusively outside the United States. In the 2019 Adopting Release, the Commission directed the Staff to further evaluate the effectiveness of Rule 17g-5(a)(3) with respect to ratings of structured finance products that are not eligible for relief under the exemption. The Commission also adopted conforming amendments to similar exemptions in Rule 17g-7(a) and Rule 15Ga-2.

37 Available at <https://www.sec.gov/files/nrsro-summary-report-2019.pdf>.

38 Available at <https://www.sec.gov/files/2019-annual-report-on-nrsros.pdf>.

39 84 FR at 40250.

IV. Competition

A. SELECT NRSRO STATISTICS

Sections 1 through 3 below summarize and discuss certain information reported by NRSROs on Form NRSRO or pursuant to Rule 17g-3 that provides insight into the state of competition among NRSROs. While this information indicates that the larger NRSROs continue to account for the highest percentages of outstanding ratings, other information suggests that smaller NRSROs have gained ratings share in certain asset classes.⁴⁰

1. NRSRO Credit Ratings Outstanding

Each NRSRO annually reports the number of credit ratings outstanding, as of the end of the preceding calendar year, in each rating category for which it is registered.⁴¹ This information, for the calendar year ending December 31, 2019, is summarized in Charts 2 through 5 below and can be useful in determining the breadth of an NRSRO's coverage with respect to issuers, obligors, and securities or money market instruments within a particular rating category.

Chart 2 depicts the number of credit ratings each NRSRO had outstanding in each rating category

for which it was registered as of December 31, 2019. Chart 3 shows the percentage of credit ratings each NRSRO had outstanding across all rating categories and also breaks out the percentages for each NRSRO in each of the rating categories. Chart 4 illustrates the relative size of each rating category based on the aggregate number of ratings reported outstanding by all NRSROs. Chart 5 depicts the percentage of ratings each NRSRO had outstanding across all rating categories other than the government securities category.

Comparing the number of ratings *outstanding* for established NRSROs and newer NRSROs may not provide as comprehensive a picture of the state of competition as comparing the number of ratings *issued* by such NRSROs in a given period. Certain NRSROs (particularly the larger NRSROs) have a longer history of issuing ratings and their ratings include those for debt obligations and obligors that were rated well before the establishment of the newer entrants.⁴² Consequently, the information described in Section IV.B of this Report (relating to recent market share developments in the asset-backed securities rating category) may provide

40 As discussed in Section IV.B.1 of this Report, information available on the websites of *Commercial Mortgage Alert* (<https://www.cmalert.com/>) and *Asset-Backed Alert* (<https://www.abalert.com/>) regarding NRSRO market shares in the asset-backed securities category indicates that some of the smaller NRSROs have developed significant market shares in such rating category over the past few years. In addition, Section IV.B.2 of this Report provides examples of certain asset classes in which it has been reported that smaller NRSROs have gained market share.

41 Annual certifications on Form NRSRO must be filed with the Commission on EDGAR pursuant to Rule 17g-1(f) and made publicly available without cost on each NRSRO's website pursuant to Rule 17g-1(i). The number of outstanding credit ratings for each rating category for which an NRSRO is registered is reported on Item 7A of Form NRSRO.

42 The ratings counts disclosed on Item 7A of Form NRSRO include outstanding credit ratings, regardless of when they were issued. As a result, the ratings counts of the more established NRSROs may include credit ratings that were issued before the newer entrants began issuing credit ratings. These earlier ratings will continue to be included in the disclosed ratings counts until the credit ratings are withdrawn, either because the rated securities have been repaid or otherwise. Because outstanding ratings are included in the ratings counts, historical results factor significantly into the disclosed number of ratings, making it more difficult to discern current-year trends and identify gains achieved by the newer entrants.

additional insight regarding how newer entrants are competing with more established rating agencies, specifically in the asset-backed securities rating category.

There are additional limitations to assessing the state of competition in each rating category and in the aggregate based on the number of outstanding ratings. For instance, some NRSROs have pursued business strategies to specialize in particular rating categories or sub-categories⁴³ and may not desire to issue ratings in certain of the other NRSRO rating categories. Also, the reported information does not reflect any credit ratings being issued by NRSROs in rating categories in which they are not registered with the Commission, nor does it reflect ratings issued by an affiliate of an NRSRO unless the affiliate is identified as a credit rating affiliate on Item 3 of Form NRSRO.

Further, when reporting its outstanding ratings, each NRSRO makes its own determination of the applicable rating category into which each of its ratings falls. The classification of ratings into the five rating categories is not necessarily consistent across NRSROs. In addition, to the extent NRSROs have adjusted their ratings count disclosures in accordance with the amended Instructions to Form NRSRO, it may be more difficult to draw comparisons to ratings counts disclosed in prior years.⁴⁴

Chart 2 provides the number of outstanding credit ratings reported by each NRSRO in its annual certification for the calendar year ending December 31, 2019, in each of the five rating categories identified in Section 3(a)(62) for which the NRSRO is registered, as applicable.

Chart 3 displays the percentage of each NRSRO's outstanding credit ratings of the total outstanding credit ratings of all NRSROs, for each rating category in which the NRSRO was registered, as reported by each NRSRO in its annual certification for the calendar year ending December 31, 2019.⁴⁵

The larger NRSROs account for 95.1% of all the ratings outstanding as of December 31, 2019—slightly lower than their 95.4% share as of December 31, 2018.⁴⁶ The share of outstanding credit ratings of the larger NRSROs decreased in three of the five categories, most significantly in the asset-backed securities category, which decreased by 2.3 percentage points.

Charts 2 and 3 also show that AMB, one of the smaller NRSROs, had the most credit ratings outstanding in the insurance category. In each of the past six years, AMB reported that it had the most credit ratings outstanding in the insurance category.⁴⁷

43 For example, AMB has traditionally focused on rating insurance companies and their affiliates.

44 Effective January 1, 2015, Item 7A of Form NRSRO and the corresponding Instructions were amended to clarify the manner in which the number of outstanding credit ratings should be calculated and presented. The clarifying amendments were designed to help ensure that disclosures on Item 7A of Form NRSRO are consistent across NRSROs. The change in Instructions may have caused some NRSROs to modify the way they count ratings for purposes of Item 7A of Form NRSRO, which may affect comparisons to disclosures made in prior years. See *Nationally Recognized Statistical Rating Organizations*, Release No. 34-72936 (Aug. 27, 2014), 79 FR 55077, 55220-22 (Sept. 15, 2014) (“2014 Adopting Release”), available at <https://www.govinfo.gov/content/pkg/FR-2014-09-15/pdf/2014-20890.pdf> (discussing the clarifying amendments to Item 7A of Form NRSRO).

45 For example, according to Chart 2, AMB reported that it had 7,171 insurance company credit ratings, and the total of the credit ratings in that category reported by all NRSROs was 20,990. Therefore, the percentage of NRSRO insurance company ratings attributable to AMB was approximately 34.2% (i.e., 7,171 divided by 20,990, expressed as a percentage), as shown on Chart 3.

46 In 2007, the year when NRSROs began reporting outstanding ratings on Form NRSRO, these three NRSROs accounted for 98.8% of all outstanding ratings.

47 See Annual Reports for prior years, which can be found under “Annual Reports to Congress” in the “Reports and Studies” section of the OCR webpage, available at <https://www.sec.gov/ocr/ocr-reports-and-studies.html>.

Chart 2: Number of Outstanding Credit Ratings as of December 31, 2019 by Rating Category*

NRSRO	Financial Institutions	Insurance Companies	Corporate Issuers	Asset-Backed Securities	Government Securities	Total Ratings
AMB	N/R	7,171	998	5	N/R	8,174
DBRS	10,592	166	4,185	22,217	20,699	57,859
EJR	9,752	881	7,321	N/R	N/R	17,954
Fitch	35,312	3,302	20,193	34,080	185,367	278,254
HR	677	N/R	313	N/R	401	1,391
JCR	949	78	2,797	N/R	339	4,163
KBRA	1,101	106	220	12,791	135	14,353
MIS	35,583	2,516	31,908	49,388	562,320	681,715
S&P	55,608	6,770	55,118	36,539	914,907	1,068,942
Total	149,574	20,990	123,053	155,020	1,684,168	2,132,805

* N/R indicates that the NRSRO was not registered in the applicable rating category as of the reporting date.

Source: NRSRO annual certifications for the 2019 calendar year, Item 7A on Form NRSRO.

Chart 3: Percentage by Rating Category of Each NRSRO's Outstanding Credit Ratings of the Total Outstanding Credit Ratings of all NRSROs as of December 31, 2019*

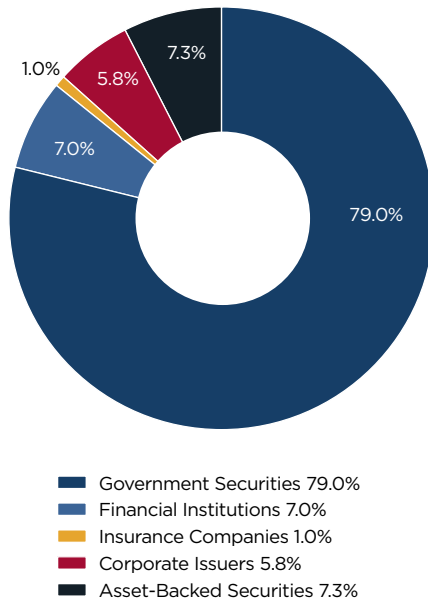
NRSRO	Financial Institutions	Insurance Companies	Corporate Issuers	Asset-Backed Securities	Government Securities	Total Ratings
AMB	N/R	34.2%	0.8%	0.0%	N/R	0.4%
DBRS	7.1%	0.8%	3.4%	14.3%	1.2%	2.7%
EJR	6.5%	4.2%	5.9%	N/R	N/R	0.8%
Fitch	23.6%	15.7%	16.4%	22.0%	11.0%	13.0%
HR	0.5%	N/R	0.3%	N/R	0.0%	0.1%
JCR	0.6%	0.4%	2.3%	N/R	0.0%	0.2%
KBRA	0.7%	0.5%	0.2%	8.3%	0.0%	0.7%
MIS	23.8%	12.0%	25.9%	31.9%	33.4%	32.0%
S&P	37.2%	32.3%	44.8%	23.6%	54.3%	50.1%

* N/R indicates that the NRSRO was not registered in the applicable rating category as of the reporting date.

Percentages have been rounded to the nearest one-tenth of one percent.

Source: NRSRO annual certifications for the 2019 calendar year, Item 7A on Form NRSRO.

Chart 4: Breakdown of Ratings Reported Outstanding as of December 31, 2019*



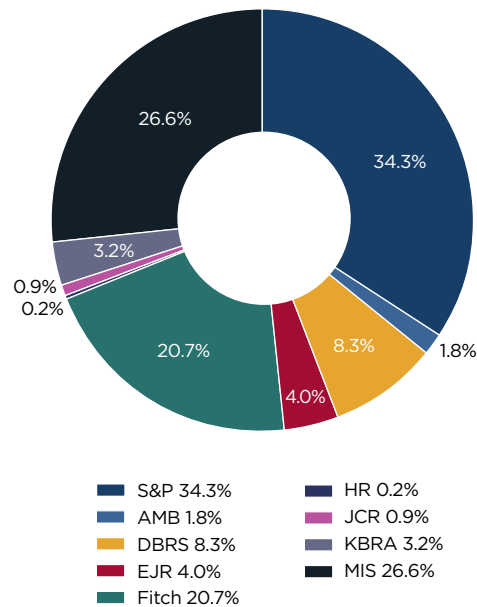
* Percentages have been rounded to the nearest one-tenth of one percent.

Source: NRSRO annual certifications for the 2019 calendar year, Item 7A on Form NRSRO.

Chart 4 depicts the percentages of outstanding credit ratings attributable to each rating category, as reported by the NRSROs in their annual certifications for the calendar year ending December 31, 2019.

As illustrated by Chart 4, as of December 31, 2019, the largest proportion of the aggregate credit ratings reported to be outstanding were in the government securities category, which may be attributable to the large number of government bond issuers and their multiple debt offerings. The government securities category accounted for 79.0% of the total number of credit ratings reported across all categories and, as shown on Chart 3, is also the most concentrated rating category, with the larger NRSROs accounting for 98.7% of all outstanding government ratings.

Chart 5: Breakdown of Non-Government Securities Ratings Reported Outstanding as of December 31, 2019*



* Percentages have been rounded to the nearest one-tenth of one percent.

Source: NRSRO annual certifications for the 2019 calendar year, Item 7A on Form NRSRO.

Chart 5 depicts the percentages of the credit ratings outstanding that are attributable to each NRSRO over all the rating categories other than the government securities category, as reported by each NRSRO in its annual certification for the calendar year ending December 31, 2019.

A comparison of Chart 5 to Chart 3 (which shows each NRSRO's share of outstanding ratings over all the rating categories, including government securities) illustrates that there is less concentration in the non-government securities rating categories. S&P's and MIS's percentage share of all outstanding ratings declines by 15.8 and 5.4 percentage points, respectively, when government securities are excluded. Fitch's percentage share of outstanding ratings, on the other hand, increases by 7.7 percentage points when government securities are

excluded. The percentage share for all the remaining NRSROs also increases when government securities are excluded.

Further, when government securities are included in the total calculation, each of the smaller NRSROs, except for DBRS, has less than 1.0% of all outstanding ratings, making it difficult to assess their relative rating shares. When government securities are excluded, a clearer picture of the relative percentage shares of the smaller NRSROs in the categories in which they are active can be observed, as illustrated in Chart 5. The percentage share of each smaller NRSRO for all rating categories other than government securities as of December 31, 2019 did not change significantly compared to their percentage share as of December 31, 2018.⁴⁸

As discussed above, Charts 2 through 5 reflect the number and percentages, respectively, of credit ratings outstanding as of December 31, 2019, which may include credit ratings that were issued years ago. As a result, the measure may not be indicative of the current market position of each NRSRO with respect to newly issued credit ratings. For a discussion of recent market share developments in the asset-backed securities rating category and other developments that could impact NRSRO market share, see Section IV.B of this Report.

2. NRSRO Analytical Staffing Levels

Chart 6 reports the number of credit analysts (including credit analyst supervisors) and the number of credit analyst supervisors employed by each of the NRSROs, as reported on Exhibit 8 to Form NRSRO.⁴⁹

NRSRO	Credit Analysts (Including Credit Analyst Supervisors)	Credit Analyst Supervisors
AMB	154	55
DBRS	475	110
EJR	23	12
Fitch	1,277	312
HR	52	10
JCR	62	30
KBRA	172	48
MIS	1,732	278
S&P	1,559	119
Total	5,506	974

Source: Exhibit 8 to Form NRSRO, in effect as of each NRSRO's annual certification for the 2019 calendar year filed on or before March 30, 2020.

The larger NRSROs report employing 4,568 credit analysts (including supervisors), which is approximately 83.0% of the total number employed by all of the NRSROs. Although the smaller NRSROs in the aggregate employ only approximately 17.0% of all credit analysts employed by NRSROs, this percentage has increased steadily in recent years.⁵⁰ During this time, some of the smaller NRSROs have reported significant increases in their analytical staff. Between the 2018 and 2019 calendar years, the number of credit analysts (including credit analyst supervisors) employed by smaller NRSROs, in the aggregate, increased 13.7%, compared to an increase of 0.6% at the larger NRSROs, in the aggregate.

48 A comparison of Chart 5 in this Report with Chart 4 in Section IV.A.1 of the January 2020 Annual Report (available at <https://www.sec.gov/files/2019-annual-report-on-nrsros.pdf>) shows that, except for DBRS, each smaller NRSRO's total non-government market share as of December 31, 2019 remained constant or increased modestly (the largest increase was 0.4% by KBRA) compared to the market shares as of December 31, 2018.

49 Effective January 1, 2015, the Instructions for Exhibit 8 to Form NRSRO were amended to clarify that NRSROs must include credit analyst supervisors in the total number of credit analysts disclosed on Exhibit 8. This amendment was designed to enhance consistency of the disclosures on Exhibit 8 of Form NRSRO. See 2014 Adopting Release, 79 FR at 55222 (discussing the clarifying amendments to Exhibit 8 of Form NRSRO).

50 Based on reports by the NRSROs on their annual certifications for the applicable calendar year, the smaller NRSROs employed approximately 11.4% of all NRSRO analysts in 2014, 12.8% of all NRSRO analysts in 2015, 14.6% of all NRSRO analysts in 2016, 15.2% of all NRSRO analysts in 2017, and 15.4% of all NRSRO analysts in 2018.

3. NRSRO Revenue

Chart 7 shows the percentage of total NRSRO revenues since 2016 that were accounted for by the larger NRSROs in the aggregate and by the smaller NRSROs in the aggregate.⁵¹ The percentage of aggregate NRSRO revenue reported by the larger NRSROs has gradually declined over this time period and the percentage of total revenue reported by the smaller NRSROs has correspondingly gradually increased.

Chart 7: NRSRO Revenue Information: Fiscal Year Percentage of Total Reported NRSRO Revenue				
	2019	2018	2017	2016
Larger NRSROs	93.3%	93.5%	94.1%	94.4%
Smaller NRSROs	6.7%	6.5%	5.9%	5.6%
Total	100.0%	100.0%	100.0%	100.0%

Source: Financial reports filed with the Commission under Rule 17g-3(a)(3) for the fiscal years ended 2016 through 2019. For the preparation of this Report, if an NRSRO reported revenue in a foreign currency, the revenue was converted to U.S. dollars using the average exchange rate over all U.S. banking days in the fiscal year of such NRSRO.

Further revenue information is available for NRSROs that are owned, in whole or in part, by public companies. The following information is from the 2019 annual reports of public companies with an ownership interest in an NRSRO:

- Moody's Corporation, which is MIS's parent company, reported a 6% increase in external revenue at MIS compared to 2018 results. The increase, according to the report, reflects higher revenue from rating corporate debt (both investment-grade and high-yield) resulting from both higher volumes of rated issuances reflecting favorable market conditions and favorable product mix. The report notes that the increase in revenue at MIS was partially offset by a decline in activity in bank loans and the CLO asset class primarily resulting from higher borrowing costs and shift in investor demand to fixed-rate instruments. The corporate finance group, financial institutions group, and public, project and infrastructure finance group of MIS had an increase in revenue compared to 2018 results.⁵²
- S&P Global Inc. ("S&P Global"), which is S&P's parent company, indicated that revenue at S&P increased by 8% compared to its 2018 results, due to an increase in transaction revenue. S&P Global attributed the increase in S&P's revenue to an increase in corporate bond ratings revenue primarily driven by higher corporate bond issuance in the U.S. and Europe, which was partially offset by lower bank loan ratings revenue driven by reduced U.S. issuance volumes. The report also noted an increase in public finance revenue from increased issuance contributed to transaction revenue growth.⁵³

51 Under Rule 17g-3(a)(3), each NRSRO is required to file annually with the Commission an unaudited report providing revenue information, including revenue from determining and maintaining credit ratings, revenue from subscribers, revenue from granting licenses or rights to publish credit ratings, and revenue from other services and products. These reports are not required to be made publicly available by the NRSROs

52 See Moody's Corporation, Annual Report on Form 10-K for the year ended December 31, 2019, available at <https://www.sec.gov/Archives/edgar/data/0001059556/000105955620000005/mco-20191231.htm>.

53 See S&P Global, Annual Report on Form 10-K for the year ended December 31, 2019, available at <https://www.sec.gov/Archives/edgar/data/0000064040/000006404020000055/spgi-20191231x10k.htm>.

- Morningstar, Inc. indicated that NRSRO revenue for the twelve months ended December 31, 2018 reflects MCR; NRSRO revenue for the first six months of 2019 includes revenue from MCR; and NRSRO revenue for the third and fourth quarters of 2019 includes revenue from DBRS, the newly combined credit ratings operations. For the six months ended December 31, 2019, approximately 63% of the revenue generated by DBRS was derived from one-time, transaction-based fees driven by its provision of ratings on newly-issued securities; whereas the remainder can be classified as transaction-related, with recurring annual fees tied to surveillance, credit research, or other services. The combination of pre-integration DBRS and MCR's U.S.-based credit ratings operations in 2019 makes it difficult to ascribe the origin of revenue growth to either entity. In 2019, Morningstar, Inc.'s consolidated revenue rose \$159.1 million, or 15.6%. DBRS contributed \$91.3 million of revenue growth during 2019.⁵⁴

Recent regulatory filings also show increases in revenue at MIS and S&P in the first half of 2020. Moody's Corporation reported a 23% increase in MIS external revenue in the first half of 2020, as compared to the first half of 2019, due to higher investment-grade rated issuance volumes as corporate issuers bolstered liquidity positions in response to COVID-19 uncertainties coupled with strong speculative-grade issuance despite a severe market disruption late in the first quarter.⁵⁵ S&P

Global reported a 22% increase in S&P revenue in the first half of 2020, as compared to the first half of 2019, primarily due to an increase in transaction revenue. S&P Global attributed the increased revenue to an increase in corporate bond ratings revenue primarily driven by higher corporate bond issuance in the U.S. mainly resulting from historically low borrowing costs and central bank lending actions that initially were announced at the end of the first quarter of 2020, which was partially offset by a decrease in bank loan ratings revenue.⁵⁶

Morningstar, Inc. indicated that NRSRO revenue for the six months ended June 30, 2019 reflects MCR; NRSRO revenue for the six months ended June 30, 2020 reflects DBRS, the combined credit ratings operations. The combination of pre-integration DBRS and MCR's U.S.-based credit ratings operations in 2019 makes it difficult to ascribe the origin of revenue growth to either entity. Morningstar, Inc. reported that many new issuance segments of the transaction-based credit rating business in both Europe and the U.S. slowed or paused during the second quarter as the pandemic persisted. However, DBRS benefited from record corporate issuance volumes in Canada, as many Canadian investment grade issuers accelerated their full year issuance plans into the second quarter. In the first six months of 2020, Morningstar, Inc.'s consolidated revenue increased 19.7% to \$327.9 million. DBRS contributed \$76.3 million of revenue growth during the first six months of 2020.⁵⁷

54 See Morningstar, Inc., Annual Report on Form 10-K for the year ended December 31, 2019, available at <https://www.sec.gov/Archives/edgar/data/0001289419/000128941920000041/morn10k12312019.htm>.

55 See Moody's Corporation, Quarterly Report on Form 10-Q for the period ended June 30, 2020, available at <https://www.sec.gov/Archives/edgar/data/0001059556/000105955620000019/mco-20200630.htm>.

56 See S&P Global, Quarterly Report on Form 10-Q, for the period ended June 30, 2020, available at <https://www.sec.gov/Archives/edgar/data/0000064040/000006404020000144/spgi-20200630.htm>.

57 See Morningstar, Inc., Quarterly Report on Form 10-Q for the period ended June 30, 2020, available at <https://www.sec.gov/Archives/edgar/data/0001289419/000128941920000161/morn-20200630.htm>.

B. RECENT DEVELOPMENTS IN THE STATE OF COMPETITION AMONG NRSROs

1. Market Share Observations in the Asset-Backed Securities Rating Category

As noted in Section IV.A.1 of this Report, the number of ratings recently issued by NRSROs may give a clearer picture of competition than the number of ratings each NRSRO currently has outstanding. For example, Chart 3 indicates that, as of December 31, 2019, the smaller NRSROs collectively have 22.6% of the ratings outstanding in the asset-backed securities rating category. However, the market share data discussed in this Section IV.B show that higher market share percentages have been obtained by smaller NRSROs in ratings issuance with respect to certain types of asset-backed securities. This market share data continues the

growth trend the Staff has observed since the 2012 Annual Report for some smaller NRSROs in the asset-backed securities rating category.

Sections (a) and (b) below discuss NRSRO market share information with respect to certain asset-backed securities, as reported on the *Commercial Mortgage Alert* and *Asset-Backed Alert* websites.⁵⁸ *Commercial Mortgage Alert* shares information on one category of asset-backed securities: CMBS.⁵⁹ *Asset-Backed Alert* reports NRSRO market share information on three categories of asset-backed securities: (i) ABS;⁶⁰ (ii) MBS;⁶¹ and (iii) CLO.⁶²

(a) CMBS

Charts 8 through 11 provide information concerning U.S.⁶³ CMBS ratings by NRSROs,⁶⁴ as reported in the *Commercial Mortgage Alert*. NRSRO market share varies between the conduit CMBS and single-

58 See *Commercial Mortgage Alert* website, available at <https://www.cmalert.com/> and *Asset-Backed Alert* website, available at <https://www.abalert.com/>. The information in Charts 8 through 11 is based on the *Commercial Mortgage Alert* website as of September 17, 2020, and the information in Charts 12 through 14 is based on the *Asset-Backed Alert* website as of September 17, 2020. Although the information available on these websites may provide insight into recent developments regarding the state of competition among NRSROs in the asset-backed securities rating category, it has certain limitations. For instance, the information treats each transaction as one undivided whole. An NRSRO is counted as having rated a transaction, and the aggregate amount of securities issued, even if the NRSRO rated only a portion of it.

59 The “CMBS” category is comprised of transactions collateralized by mortgages or leases on commercial or multi-family income-producing properties (excluding commercial real estate collateralized debt obligations). See *Commercial Mortgage Alert* website, available at <https://www.cmalert.com/>.

60 The “ABS” category is comprised of securities that are collateralized by assets other than the following: CMBS; MBS; Fannie Mae and Freddie Mac issues (other than risk transfer transactions); issuances by municipalities; tax exempt issues; issues that are fully retained by an affiliate of the deal sponsor; commercial paper and other continuously offered securities such as medium-term notes; CLOs and other collateralized debt obligations; and refinancings of previously offered securities. See *Asset-Backed Alert* website, available at <https://www.abalert.com/>.

61 The “MBS” category is comprised of securities secured by U.S. first-lien mortgages on residential properties (excluding Fannie Mae and Freddie Mac issues, securities secured by non-performing or re-performing mortgages, subprime mortgages, or mortgages financing single-family rental businesses, and refinancings of previously offered securities). See *id.*

62 The “CLO” category is comprised of arbitrage collateralized loan obligations secured by broadly syndicated corporate loans and middle market collateralized loan obligations secured by loans to small to medium sized enterprises. See *id.*

63 References to “U.S.” CMBS, MBS, ABS, and CLO issuance and market shares in this Section IV.B.1 and Section IV.B.2 reflect securities issued for sale primarily in the U.S., which include securities issued publicly and those issued under Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”). See *Asset-Backed Alert* website, available at <https://www.abalert.com/>; *Commercial Mortgage Alert* website, available at <https://www.cmalert.com/>.

64 For purposes of Charts 8 through 11, all rating activity for pre-integration DBRS, MCR, and DBRS has been aggregated and presented for DBRS. This includes information for all of 2018 and 2019. Please refer to the January 2020 and December 2018 Annual Reports for information for pre-integration DBRS and MCR.

borrower CMBS segments,⁶⁵ the two segments that account for most of the non-agency⁶⁶ U.S. CMBS transactions rated by NRSROs. The charts include reported market share information for total non-agency U.S. CMBS transactions,⁶⁷ U.S. conduit CMBS transactions, U.S. single-borrower CMBS transactions, and agency CMBS transactions⁶⁸ for calendar year 2018, calendar year 2019, and the first half of calendar year 2020.

Charts 8 through 10 show that in 2018, 2019, and the first half of 2020 the larger NRSROs generally obtained the highest market shares in rating non-agency U.S. CMBS transactions, but smaller NRSROs have achieved significant market shares as well. In the first half of 2020, each NRSRO active in rating non-agency U.S. CMBS had market shares greater than 34.9%.

S&P has continued to gain market share in the U.S. conduit CMBS segment. S&P had the second-highest market share in this segment during 2019 and the first half of 2020, rating more than half of the transactions over that period. KBRA had the second-highest market share in the U.S. conduit CMBS

segment in 2018, and the third-highest ranking in 2019 and the first half of 2020. In each of 2017, 2018, 2019, and the first half of 2020, KBRA has rated more than half of these transactions.

The relative size (proportionate to total U.S. CMBS issuance) of the U.S. single-borrower segment had been almost half of the non-agency U.S. CMBS transactions for the past two years. However, in the first half of 2020, due to a decline in issuance, the U.S. single-borrower segment accounted for about a third of all non-agency U.S. CMBS transactions. KBRA gained market share in this segment, achieving the second highest market share in the first half of 2020, albeit rating only three out of the twenty transactions in the segment.⁶⁹

As illustrated in Chart 11, smaller NRSROs gained market share in the agency CMBS segment. In 2019 and the first half of 2020, KBRA and DBRS had the second and third-highest market shares, respectively, each rating approximately half of the agency CMBS transactions.

65 The term “conduit” refers to a financial intermediary that functions as a link, or conduit, between the lender(s) originating loans and the ultimate investor(s). The conduit makes loans or purchases loans from third party correspondents under standardized underwriting parameters and once sufficient volume has accumulated, pools the loans for sale to investors in the CMBS market. See https://www.crefc.org/uploadedFiles/Site_Framework/Industry_Resources/Glossary%20Revised%202014%20Update.pdf. In contrast, a single-borrower transaction includes commercial mortgage loans made to a single-borrower.

66 “Non-agency” CMBS refers to CMBS that are not issued or guaranteed by Fannie Mae, Freddie Mac, or Ginnie Mae. “Agency” CMBS generally refers to CMBS that are issued or guaranteed by such entities.

67 Total U.S. CMBS transactions include conduit CMBS, single-borrower CMBS, and other types of CMBS, such as distressed/non-performing CMBS transactions and re-securitizations of CMBS transactions.

68 Only agency CMBS transactions with a rating from one or more NRSROs are included for determining NRSRO market share in the agency CMBS category. See *Commercial Mortgage Alert* website, available at <https://www.cmalert.com/>.

69 The coronavirus pandemic contributed to a slowdown in the issuance of CMBS transactions in the first half of 2020, which impacted the NRSROs’ market shares in certain CMBS segments. In particular, the NRSROs’ market shares in the U.S. single-borrower segment were skewed because one transaction accounted for a third of the volume in the first half of 2020. See *Commercial Mortgage Alert*, July 17, 2020.

Chart 8: Rating Agency Market Share for Total Non-Agency U.S. CMBS Issued in 2018, 2019, and First Half of 2020*

1H-2020 Rank	NRSRO	1H-2020 Issuance (\$Mil.)	No. of deals	Market Share (%)	2019 Issuance (\$Mil.)	No. of deals	Market Share (%)	2018 Issuance (\$Mil.)	No. of deals	Market Share (%)
1	Fitch	23,369	26	77.8	56,048	66	57.3	50,422	63	65.5
2	KBRA	14,383	15	47.9	45,924	56	47.0	30,302	38	39.4
3	S&P	11,850	13	39.5	49,634	70	50.8	34,764	58	45.2
4	DBRS	11,286	17	37.6	42,425	56	43.4	38,801	58	50.5
5	MIS	10,476	19	34.9	42,184	55	43.1	32,851	44	42.7
	Total Rated Market	30,035	43		97,767	143		76,936	122	

* Chart 8 reflects market share percentages based on dollar amounts of issuance. The sum of the market share percentages exceeds 100% because more than one NRSRO may rate a particular transaction.

Source: Based on information available through the *Commercial Mortgage Alert* website, available at <https://www.cmalert.com/>. The Staff has adjusted the presentation of the information by aggregating individual pre-integration DBRS and MCR information to present the information consistently as a combined entity, DBRS. See note 64.

Chart 9: Rating Agency Market Share for U.S. Conduit CMBS Issued in 2018, 2019, and First Half of 2020*

1H-2020 Rank	NRSRO	1H-2020 Issuance (\$Mil.)	No. of deals	Market Share (%)	2019 Issuance (\$Mil.)	No. of deals	Market Share (%)	2018 Issuance (\$Mil.)	No. of deals	Market Share (%)
1	Fitch	15,313	16	100.0	49,154	52	100.0	40,249	44	100.0
2	S&P	9,738	9	63.6	35,582	36	72.4	19,358	19	48.1
3	KBRA	8,947	10	58.4	32,755	36	66.6	22,610	26	56.2
4	DBRS	6,366	6	41.6	18,318	18	37.2	17,640	18	43.8
5	MIS	4,848	6	31.7	14,836	17	30.2	20,891	25	51.9
	Total Rated Market	15,313	16		49,154	52		40,249	44	

* Chart 9 reflects market share percentages based on dollar amounts of issuance. The sum of the market share percentages exceeds 100% because more than one NRSRO may rate a particular transaction.

Source: Based on information available through the *Commercial Mortgage Alert* website, available at <https://www.cmalert.com/>. The Staff has adjusted the presentation of the information by aggregating individual pre-integration DBRS and MCR information to present the information consistently as a combined entity, DBRS. See note 64.

Chart 10: Rating Agency Market Share for U.S. Single-Borrower CMBS Issued in 2018, 2019, and First Half of 2020*

1H-2020 Rank	NRSRO	1H-2020 Issuance (\$Mil.)	No. of deals	Market Share (%)	2019 Issuance (\$Mil.)	No. of deals	Market Share (%)	2018 Issuance (\$Mil.)	No. of deals	Market Share (%)
1	Fitch	5,816	7	57.0	6,894	14	15.0	9,783	18	27.9
2	KBRA	4,505	3	44.2	12,506	18	27.2	7,692	12	22.0
3	MIS	3,396	9	33.3	26,518	36	57.6	11,796	18	33.7
4	DBRS	2,688	7	26.4	23,368	35	50.7	20,864	38	59.6
5	S&P	501	2	4.9	12,638	30	27.4	14,410	37	41.2
	Total Rated Market	10,201	20		46,060	83		35,003	73	

* Chart 10 reflects market share percentages based on dollar amounts of issuance. The sum of the market share percentages exceeds 100% because more than one NRSRO may rate a particular transaction.

Source: Based on information available through the *Commercial Mortgage Alert* website, available at <https://www.cmalert.com/>. The Staff has adjusted the presentation of the information by aggregating individual pre-integration DBRS and MCR information to present the information consistently as a combined entity, DBRS. See note 64.

Chart 11: Rating Agency Market Share for Agency CMBS Issued in 2018, 2019, and First Half of 2020*

1H-2020 Rank	NRSRO	1H-2020 Issuance (\$Mil.)	No. of deals	Market Share (%)	2019 Issuance (\$Mil.)	No. of deals	Market Share (%)	2018 Issuance (\$Mil.)	No. of deals	Market Share (%)
1	Fitch	11,141	9	100.0	16,767	12	59.2	14,256	11	58.3
2	KBRA	6,416	5	57.6	12,311	9	43.5	11,343	9	46.4
3	DBRS	4,725	4	42.4	15,995	11	56.5	11,633	9	47.6
4	MIS	0	0	0.0	5,862	4	20.7	9,011	7	36.9
5	S&P	0	0	0.0	5,677	4	20.1	2,650	2	10.8
	Total Rated Market	11,141	9		28,306	20		24,446	19	

* Chart 11 reflects market share percentages based on dollar amounts of issuance. The sum of the market share percentages exceeds 100% because more than one NRSRO may rate a particular transaction.

Source: Based on information available through the *Commercial Mortgage Alert* website, available at <https://www.cmalert.com/>. The Staff has adjusted the presentation of the information by aggregating individual pre-integration DBRS and MCR information to present the information consistently as a combined entity, DBRS. See note 64.

(b) ABS/MBS/CLO

Charts 12 through 14 provide information concerning U.S. ABS, U.S. MBS, and U.S. CLO ratings by NRSROs,⁷⁰ as reported in the *Asset-Backed Alert*. The charts include reported market share information for these transactions for calendar years 2018, calendar year 2019, and the first half of calendar year 2020.

Chart 12 shows that smaller NRSROs, in particular DBRS and KBRA, have built and maintained significant U.S. ABS rating market shares.⁷¹ DBRS has consistently attained a marketshare of over 20% in each of 2018, 2019, and the first half of 2020, and KBRA has maintained a market share of approximately 17.5% during the same time period.⁷²

Chart 13 shows that for the U.S. MBS market, KBRA obtained the third-highest market share in 2018, and then the second-highest market shares in 2019 and the first half of 2020. DBRS also obtained a large ratings share of this market, maintaining a market share of over 30% in 2018, 2019, and the first half of 2020.

Chart 14 shows that the larger NRSROs have the highest market shares in the U.S. CLO segment. However, DBRS has attained some market share in the U.S. CLO segment, and KBRA began rating such transactions in 2019.⁷³

Chart 12: Rating Agency Market Shares for U.S. ABS Issued in 2018, 2019, and First Half of 2020*

1H-2020 Rank	NRSRO	1H-2020 Issuance (\$Mil.)	No. of deals	Market Share (%)	2019 Issuance (\$Mil.)	No. of deals	Market Share (%)	2018 Issuance (\$Mil.)	No. of deals	Market Share (%)
1	S&P	77,262	113	63.3	192,315	313	57.4	184,537	296	57.8
2	MIS	57,130	76	46.8	143,742	203	42.9	153,642	215	48.2
3	Fitch	46,549	65	38.1	151,090	192	45.1	154,878	205	48.5
4	DBRS	30,525	72	25.0	106,894	200	31.9	95,937	183	30.1
5	KBRA	22,534	68	18.5	64,909	177	19.4	55,990	147	17.5
	Total Rated Market	122,133	219		334,868	584		319,052	555	

* Chart 12 reflects market share percentages based on dollar amounts of issuance. The sum of the market share percentages exceeds 100% because more than one NRSRO may rate a particular transaction.

Source: Based on information available through the *Asset-Backed Alert* website, available at <https://www.abalert.com/>. The Staff has adjusted the presentation of the information by aggregating individual pre-integration DBRS and MCR information to present the information consistently as a combined entity, DBRS. See note 70.

70 For purposes of Charts 12 through 14, all rating activity for pre-integration DBRS, MCR, and DBRS has been aggregated and presented for DBRS. This includes information for all of 2018 and 2019. Please refer to the January 2020 and December 2018 Annual Reports for information for pre-integration DBRS and MCR.

71 See Section IV.B.2 of this Report for a discussion of specific ABS asset classes where the smaller NRSROs have reported success in gaining market share.

72 COVID-19 contributed to a slowdown in the issuance of U.S. ABS transactions in the first half of 2020. See *Asset-Backed Alert*, July 3, 2020.

73 COVID-19 contributed to a slowdown in the issuance of CLO transactions in the first half of 2020, which impacted the NRSROs' market shares in this sector. See *Asset-Backed Alert*, July 10, 2020; *Asset-Backed Alert*, July 3, 2020.

Chart 13: Rating Agency Market Shares for U.S. MBS Issued in 2018, 2019, and First Half of 2020*

1H-2020 Rank	NRSRO	1H-2020 Issuance (\$Mil.)	No. of deals	Market Share (%)	2019 Issuance (\$Mil.)	No. of deals	Market Share (%)	2018 Issuance (\$Mil.)	No. of deals	Market Share (%)
1	MIS	8,149	16	54.7	19,074	44	67.4	17,245	36	67.3
2	KBRA	7,762	17	52.1	13,126	33	46.4	11,757	27	45.9
3	Fitch	6,959	21	46.7	8,664	29	30.6	10,610	28	41.4
4	DBRS	4,692	10	31.5	11,871	27	42.0	15,367	29	60.0
5	S&P	265	1	1.8	2,788	7	9.9	5,302	8	20.7
	Total Rated Market	14,894	37		28,296	78		25,617	60	

* Chart 13 reflects market share percentages based on dollar amounts of issuance. The sum of the market share percentages exceeds 100% because more than one NRSRO may rate a particular transaction.

Source: Based on information available through the *Asset-Backed Alert* website, available at <https://www.abalert.com/>. The Staff has adjusted the presentation of the information by aggregating individual pre-integration DBRS and MCR information to present the information consistently as a combined entity, DBRS. See note 70.

Chart 14: Rating Agency Market Shares for U.S. CLO Issued in First Half of 2018, 2019, and First Half of 2020*

1H-2020 Rank	NRSRO	1H-2020 Issuance (\$Mil.)	No. of deals	Market Share (%)	2019 Issuance (\$Mil.)	No. of deals	Market Share (%)	2018 Issuance (\$Mil.)	No. of deals	Market Share (%)
1	S&P	30,709	70	83.4	73,791	152	60.1	64,030	117	48.3
2	Fitch	20,818	42	56.6	79,889	166	65.1	99,485	182	75.1
3	MIS	7,313	17	19.9	73,538	155	59.9	88,546	170	66.8
4	DBRS	330	1	0.9	3,424	8	2.8	10,077	18	7.6
5	KBRA	0	0	0.0	5,678	13	4.6	0	0	0.0
	Total Rated Market	36,805	84		122,716	260		132,547	249	

* Chart 14 reflects market share percentages based on dollar amounts of issuance. The sum of the market share percentages exceeds 100% because more than one NRSRO may rate a particular transaction.

Source: Based on information available through the *Asset-Backed Alert* website, available at <https://www.abalert.com/>. The Staff has adjusted the presentation of the information by aggregating individual pre-integration DBRS and MCR information to present the information consistently as a combined entity, DBRS. See note 70.

2. Other Asset-Backed Securities Market Share Observations⁷⁴

As illustrated above, some of the smaller NRSROs have gained market share in the asset-backed securities rating category. In particular, the smaller NRSROs have gained market share rating asset-backed securities backed by discrete asset types, especially newer or esoteric assets.

For instance, smaller NRSROs are significant raters of securities backed by unsecured consumer loans, including consumer loans originated through marketplace lending platforms. KBRA and DBRS had the two highest market shares in this category during the Report Period, both rating approximately 57.8% of the transactions priced during such period.⁷⁵

Another example of market share gains achieved by smaller NRSROs in discrete asset classes is KBRA's rating of securitizations backed by aircraft-lease receivables. KBRA rated each of the fifteen aircraft-lease receivables transactions (with an aggregate principal amount of \$7.6 billion) that priced during the Report Period.⁷⁶ KBRA has rated each aircraft-lease receivables transaction (fifty-seven in total) issued from December 2015 through the end of the Report Period.⁷⁷

KBRA was also active rating whole-business securitizations during the Report Period, rating 88.2% of the issuance amount of such transactions.⁷⁸ KBRA's market share in the whole-business category is further demonstrated when measured by the number of transactions rather than dollar amounts of issuance; KBRA rated nine of the eleven transactions priced during the Report Period.⁷⁹

Smaller NRSROs have also been able to gain market share in rating more traditional types of asset-backed securities. During the Report Period, DBRS rated more traditional types of asset-backed securities (aside from the MBS and CMBS categories) than the other smaller NRSROs. For example, DBRS rated 64.9% of the transactions backed by student loans that priced during the Report Period.⁸⁰ DBRS also rated a sizable minority of one of the larger asset-backed securities asset classes—i.e., credit card transactions.⁸¹ DBRS rated 23.6% of the credit card asset-backed securities priced during the Report Period.⁸²

DBRS has also been able to gain market share in auto-related asset-backed securities. During the Report Period, DBRS rated 40.9% of the auto-fleet lease transactions, 30.3% of the subprime auto loan transactions, 13.7% of the prime auto loan trans-

74 Unless noted otherwise, all market share percentages in this Section IV.B.2 are based on dollar amounts of issuance. The information in this Section IV.B.2 is from the *Asset-Backed Alert* database as of July 10, 2020. For purposes of this section, the information for pre-integration DBRS and MCR were aggregated to reflect their current operations as the combined entity, DBRS. See *supra* text accompanying note 70.

75 See *Asset-Backed Alert* database. The *Asset-Backed Alert* database indicates that fifty-two unsecured consumer loan transactions totaling \$17.1 billion priced during the Report Period.

76 See *id.*

77 See *id.*

78 See *id.* The *Asset-Backed Alert* database indicates that eleven whole-business securitization transactions totaling \$6.0 billion priced during the Report Period. DBRS also rated two whole-business securitization transactions representing 9.4% of the transactions during the Report Period.

79 See *id.*

80 See *id.* The *Asset-Backed Alert* database indicates that forty student loan transactions totaling \$17.2 billion priced during the Report Period.

81 The *Asset-Backed Alert* database lists thirty-six credit card transactions totaling \$19.4 billion that priced during the Report Period.

82 See *Asset-Backed Alert* database.

actions, and 3.2% of the auto lease transactions that priced during the Report Period.⁸³ KBRA has also established a market share presence in some of these auto-related asset-backed security categories, rating 32.8% of the subprime auto loan transactions and 1.0% of the prime auto loan transactions during the Report Period.⁸⁴

Smaller NRSROs have also achieved notable market share in certain types of residential mortgage-backed securities not included in Chart 13. DBRS rated all but two of the transactions backed by non-performing or re-performing mortgages that priced in the Report Period.⁸⁵ Additionally, DBRS and KBRA were active rating securities backed by subprime mortgages and risk transfer securities during the Report Period. For securities backed by subprime mortgages, DBRS rated 54.9% and KBRA rated 38.2%.⁸⁶ For risk transfer securities, DBRS rated 51.4% and KBRA rated 31.8%.⁸⁷

C. BARRIERS TO ENTRY

Barriers to entry continue to exist in the credit ratings industry, presenting competitive challenges for the smaller NRSROs.

One such potential barrier that has been raised by certain smaller NRSROs are the investment management contracts of some institutional fund managers and the investment guidelines of some fixed income mutual fund managers, pension plan sponsors, and endowment fund managers, which require the use of ratings of specified rating agencies.⁸⁸ The effect of these requirements can be to increase the demand for and liquidity of securities bearing the ratings of specified rating agencies. Historically, many of these guidelines refer to the ratings from the larger NRSROs by name (i.e., Fitch, MIS, and S&P). Despite reports in recent years that investors are increasingly changing their guidelines to allow for investments in securities rated by a wider group of NRSROs,⁸⁹ investment guidelines continue to be identified as a factor impacting the selection of NRSROs to rate certain transactions.⁹⁰

A related barrier to entry is the inclusion requirements of some fixed income indices. To be included in certain of these indices, securities must be rated by specified NRSROs. Certain investment companies try to closely track the performance of the indices by purchasing the securities included in them, and can

83 See *id.* For the Report Period, the *Asset-Backed Alert* database lists nine auto-fleet lease transactions totaling \$6.1 billion, fifty-five subprime auto loan transactions totaling \$26.7 billion, 108 prime auto loan transactions totaling \$95.7 billion, and thirty-eight auto lease transactions totaling \$30.0 billion.

84 See *id.*

85 See *id.* The *Asset-Backed Alert* database indicates that twenty-six non-performing or re-performing mortgage backed securities transactions totaling \$16.5 billion priced during the Report Period

86 See *id.* The *Asset-Backed Alert* database indicates that fifty-seven subprime mortgage-backed securities transactions totaling \$20.9 billion priced during the Report Period.

87 See *id.* The *Asset-Backed Alert* database indicates that twenty-eight risk transfer transactions totaling \$23.6 billion priced during the Report Period.

88 See Letter from KBRA to the Commission (Aug. 19, 2014), available at <https://www.sec.gov/comments/s7-18-11/s71811-88.pdf>. This barrier to entry was also mentioned during the SEC's Credit Ratings Roundtable held on May 14, 2013. At the roundtable, a representative of MCR mentioned that, according to a study conducted by MCR, approximately 42% of open-end fixed income funds with investment guidelines that reference ratings specifically refer to S&P, MIS, or a "major NRSRO." See Credit Rating Roundtable, May 14, 2013, available at <https://www.sec.gov/spotlight/credit-ratings-roundtable.shtml>.

89 See, e.g., Big Investors Accept More Rating Agencies, *Asset-Backed Alert*, May 19, 2017.

90 See S&P Vaults Past Moody's in Conduit Sector, *Commercial Mortgage Alert*, Jan. 24, 2020; S&P, Moody's Duke It Out in Fitch's Shadow, *Commercial Mortgage Alert*, Jan. 25, 2019.

thus increase the demand for securities bearing the ratings of particular NRSROs.⁹¹ For instance, Fitch announced that its ratings had been added to the J.P. Morgan High-Yield Bond Indices, noting that investors rely on such indices to determine which bonds suit their level of credit risk.⁹²

Market participants and academics have identified various other barriers to entry in the credit rating industry, including economic and regulatory barriers.⁹³ Among the regulatory barriers to entry for NRSROs are the costs associated with complying with the statutory provisions implemented by the Rating Agency Act and the Dodd-Frank Act and the related rules adopted by the Commission, including the rules and rule amendments that the Commission adopted pursuant to the Dodd-Frank Act (the “NRSRO Amendments”).⁹⁴ Commenters on the proposed NRSRO Amendments expressed

concerns that certain of the requirements would be burdensome for smaller NRSROs to implement and could raise barriers to entry for credit rating agencies to seek to register as NRSROs.⁹⁵ In connection with the NRSRO Amendments, the Commission acknowledged that, despite efforts to limit the impact on small entities, the Dodd-Frank Act contained requirements, including those implemented by the NRSRO Amendments, which impose costs on NRSROs and may consequently create barriers to entry and have negative impacts on competition.⁹⁶ The NRSRO Amendments as adopted by the Commission include various changes intended to address concerns regarding barriers to entry, including standards allowing NRSROs to tailor particular requirements to their business models, size, and rating methodologies.⁹⁷

91 See, e.g., Rating Firms Seek Changes to Index, *Asset-Backed Alert*, May 26, 2017.

92 See Fitch Ratings Joins J.P. Morgan High Yield Bond Indices, Fitch Ratings, June 28, 2017. In a related example, DBRS announced that its ratings would be included in the determination of index credit quality classifications for CAD-denominated securities in the Bloomberg Barclays Canada Aggregate Index and the Global Aggregate Index, resulting in approximately 49 securities being added to the Canadian Aggregate Index. See DBRS Bond Ratings to Be Included in the Bloomberg Barclays Canada Aggregate Index, DBRS, Inc., Apr. 19, 2018.

93 See, e.g., Section IV.C of the March 2012 Annual Report, available at <https://www.sec.gov/divisions/marketreg/ratingagency/nrsroannrep0312.pdf>; Fitch Assigns ‘A-’ Rating to S&P’s Senior Unsecured Notes Offering, Outlook Stable, Fitch Ratings, Aug. 10, 2020; Fitch Assigns ‘BBB+’ Rating to Moody’s Senior Unsecured Notes Offering, Outlook Stable, Fitch Ratings, Aug. 4, 2020.

94 See 2014 Adopting Release, 79 FR 55077 (Sept. 15, 2014), available at <https://www.govinfo.gov/content/pkg/FR-2014-09-15/pdf/2014-20890.pdf>.

95 See 2014 Adopting Release, 79 FR at 55090, 55154, 55161, and 55254-55. See also comment letters received with respect to the NRSRO Amendments as proposed, available at <https://www.sec.gov/comments/s7-18-11/s71811.shtml>.

96 See 2014 Adopting Release, 79 FR at 55254.

97 See Section IV.C of the December 2015 Annual Report, available at <https://www.sec.gov/ocr/reportspubs/annual-reports/2015-annual-report-on-nrsros.pdf>.

V. Transparency

Congress described the Rating Agency Act as an Act to improve ratings quality for the protection of investors and in the public interest “by fostering accountability, transparency, and competition in the credit rating agency industry.”⁹⁸ Section 932 of the Dodd-Frank Act is entitled “Enhanced regulation, accountability, and transparency of NRSROs.” Both Acts contain various provisions designed to increase the transparency—through clear disclosure open to public scrutiny—of, among other things, NRSROs’ credit rating procedures and methodologies, business practices, and credit ratings performance. Under Exchange Act rules, NRSROs are required to disclose:

- standardized performance statistics;⁹⁹
- consolidated information about credit rating histories;¹⁰⁰
- information about material changes and significant errors in the procedures and methodologies used to determine credit ratings;¹⁰¹
- information about specific rating actions;¹⁰² and
- clear definitions of each symbol, number, or score in the rating scale used by the NRSRO.¹⁰³

NRSROs must also disclose certain information in connection with each rating action.¹⁰⁴ Such information includes, among other things, the version of the procedure or methodology used to determine the credit rating, a description of the types of data that were relied upon for purposes of determining the credit rating, an assessment of the quality of information available and considered in determining the credit rating, and information on the sensitivity of the credit ratings to assumptions made by the NRSRO.¹⁰⁵

In addition to or in connection with required disclosures, NRSROs often issue press releases and reports at the time of a rating action to describe the rationale behind such rating action, and make versions of methodologies for determining credit ratings available on their websites.¹⁰⁶ The availability of underlying methodologies, together with a report discussing the analysis supporting the rating action, may provide additional transparency into an NRSRO’s credit analysis and credit rating process.

98 See the preamble to the Rating Agency Act.

99 See Instructions for Exhibit 1 to Form NRSRO.

100 See Rule 17g-7(b).

101 See Rule 17g-8(a)(4).

102 See Rule 17g-7(a).

103 See Rule 17g-8(b)(2).

104 See Rule 17g-7(a).

105 See Rule 17g-7(a)(1)(ii).

106 The reports accompanying a rating action are frequently available on a paid subscription basis, although some NRSROs provide access to such reports for free.

From time-to-time, NRSROs also publish revisions and updates to their methodologies. They may also at times publish revisions to the assumptions that are inputs to their methodologies and rating approaches, including changes to their economic outlooks or default rate assumptions. Revised methodologies and related assumptions may provide additional transparency into changes in the NRSROs' credit views and analyses.

NRSROs may also provide transparency to the extent they publish commentaries or research. NRSROs publish commentaries and research that generally include data, analyses, or projections on market sectors and economic outlooks.¹⁰⁷ These publications may be helpful to investors to understand industry trends and the NRSROs' credit views. For example, following the emergence of COVID-19 in early 2020, NRSROs began publishing commentaries and research that provide their perspectives on the potential credit and rating impacts of COVID-19 on issuers and debt obligations in different market sectors. They also began publishing COVID-19-related commentaries on economic and market trends.

¹⁰⁷ NRSROs may also make market and economic data separately available.

VI. Conflicts of Interest

NRSROs operate under one or more business models, each having potential conflicts of interest. Most of the NRSROs primarily operate under the “issuer-pay” model, which is subject to a potential conflict in that the credit rating agency may be influenced to determine more favorable (i.e., higher) ratings than warranted to retain the obligors or issuers as clients. Certain NRSROs may also operate under the “subscriber-pay” model, which means that investors pay a subscription fee to access an NRSRO’s ratings. This model is also subject to potential conflicts of interests. For example, an NRSRO may be aware that an influential subscriber holds a securities position (long or short) that could be advantaged if a credit rating upgrade or downgrade causes the market value of the security to increase or decrease or that a subscriber invests in newly issued bonds and would obtain higher yields if the bonds were to have lower ratings.

Section 15E and the related Commission rules address conflicts of interest.¹⁰⁸ For example, Rule 17g-5 identifies certain conflicts of interest that are prohibited under all circumstances¹⁰⁹ and other conflicts of interest that are prohibited unless an NRSRO has publicly disclosed the existence of the conflict and has implemented policies and procedures reasonably designed to address and manage such conflict.¹¹⁰

Among the conflicts of interest identified in Rule 17g-5 are conflicts involving individual credit analysts or other employees of an NRSRO. For example, an NRSRO is prohibited from issuing or maintaining a credit rating for a person where an employee of the NRSRO that participated in determining, or is responsible for approving, the credit rating directly owns securities of, or is an officer or director of, the person that would be subject to the credit rating.¹¹¹

Rule 17g-5(c)(8) is another example of a prohibited conflict of interest involving persons within an NRSRO. Under the Rule, an NRSRO is prohibited from issuing or maintaining a credit rating where a person within the NRSRO who participates in determining or monitoring the rating, or developing or approving procedures or methodologies used for determining the rating, also (a) participates in sales or marketing activities of the NRSRO or its affiliate, or (b) is influenced by sales or marketing considerations.¹¹²

Other statutory provisions and Commission rules address potential conflicts of interest that may arise when a credit analyst seeks employment outside the NRSRO. Section 15E requires each NRSRO to have policies and procedures in place to provide for an internal “look-back” review process in order to determine whether any conflict of interest of a former employee influenced a credit rating in certain

108 See, e.g., Section 15E(h); Rule 17g-5.

109 See Rule 17g-5(c).

110 See Rule 17g-5(a)(1)-(2); Rule 17g-5(b); Instructions for Exhibits 6 and 7 to Form NRSRO. In addition, Section 15E(t)(3)(B) requires an NRSRO’s board of directors to oversee the establishment, maintenance, and enforcement of policies and procedures to address, manage, and disclose any conflicts of interest.

111 See Rule 17g-5(c)(2); Rule 17g-5(c)(4).

112 See Rule 17g-5(c)(8).

instances.¹¹³ Rule 17g-8(c) requires an NRSRO's policies and procedures to address instances in which a "look-back" review determined that a conflict of interest influenced a credit rating. Such policies and procedures are required to be reasonably designed to ensure that the NRSRO will promptly determine whether a credit rating must be revised and promptly publish a revised credit rating or an affirmation of the credit rating, along with certain disclosures about the existence of the conflict.¹¹⁴

One of the conflict of interest rules concerns the issuer-pay conflict of interest relating to structured finance products. The Commission adopted Rule 17g-5(a)(3) in 2009 to address this conflict of interest. Since the June 2, 2010 compliance date of Rule 17g-5(a)(3), an exemption has been in effect with regard to structured finance products issued by non-U.S. issuers in transactions outside the United States. As described in the final bullet point under

Section III.B above, the Commission codified the exemption in August 2019. In the adopting release, the Commission directed the Staff to further evaluate the effectiveness of Rule 17g-5(a)(3) with respect to ratings of structured finance products that are not eligible for relief under the adopted exemption.¹¹⁵ Towards this end, in a February 2020 speech, former Director Kane welcomed input and engagement from all interested parties on the effectiveness of Rule 17g-5(a)(3).¹¹⁶

The annual examinations conducted by Staff in accordance with Section 15E(p) are required to include, among other things, a review of the management of conflicts of interest by the NRSROs.¹¹⁷ Information regarding the examinations, including any essential findings with respect to the required review areas, is included in OCR's annual examination reports.¹¹⁸

VII. Conclusion

The Staff will continue to conduct its oversight function with respect to NRSROs, including the performance of Staff examinations, and engage in

other activities in furtherance of OCR's regulatory mission, as described in this Report.

113 See Section 15E(h)(4)(A).

114 See Rule 17g-8(c).

115 See 2019 Adopting Release, 84 FR 40247, 40250 (Aug. 14, 2019), available at <https://www.govinfo.gov/content/pkg/FR-2019-08-14/pdf/2019-17218.pdf>.

116 See OCR Former Director Jessica Kane, Speech, *supra* note 35. Further details about this speech can be found in the sixth bullet point under Section III.B above.

117 See Section 15E(p)(3)(B)(ii).

118 The examination reports can be found under "Summary Examination Reports" in the "Reports and Studies" section of the OCR webpage, available at <https://www.sec.gov/ocr/ocr-reports-and-studies.html>.

U.S. SECURITIES AND EXCHANGE COMMISSION

Washington, DC