Comments on the Rule 17g-5 Program (Unsolicited Ratings)

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Summary

The Rule 17g-5 program is a good start, but the SEC was too timid.

At the very least, the 10% rating requirement for additional raters should be eliminated; it only serves to inhibit potential raters from even looking at the existing "bundles" of information.

More important, the SEC should require that any information that an issuer/arranger of structured finance securities provides to a rating agency should be made available to the general public. By requiring that this information be made publicly available, the SEC would be encouraging even more "voices" that can offer critiques of (or support for) a set of ratings on a set of structured finance products, as well as helping bond investors know more about the securities in which they are investing. The model here should be the general disclosure regime that the SEC uses for the initial issuance of corporate securities and for the periodic disclosures that follow.

Finally the most important action that the SEC can take would be to encourage more "voices" with respect to ratings of all kinds. To do this, the SEC should finalize its proposed rules that would eliminate the "regulatory reliance" on NRSRO ratings by money market mutual funds (MMMFs) and by broker-dealers. By eliminating this reliance, the burden would be placed directly on these financial institutions to justify their use of and sources of creditworthiness information. This would open the door to other sources of creditworthiness information, in addition to (or in place of) NRSROs, being used; and it would be an important step toward allowing the NRSRO category to be eliminated. In turn, more "voices" would mean more possibilities for innovation – new ideas, new technologies, new methodologies, perhaps even new business models – to enter the marketplace for creditworthiness information.