The McGraw-Hill Companies

STANDARD
&POOR'S

55 Water Street
New York, NY 10041
Tel 212-438-5600
www.standardandpoors.com

February 2, 2010

Ms. Elizabeth M. Murphy, Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: *Proposed Rules for Nationally Recognized Statistical Rating Organizations*
Securities Exchange Act of 1934 Rel. No. 61051 (November 23, 2009)
File No. S7-28-09

Dear Ms. Murphy:

Standard & Poor's Ratings Services ("Ratings Services"), a nationally recognized statistical rating organization ("NRSRO") registered under Section 15E of the Securities Exchange Act of 1934 (as amended, the "Exchange Act"), welcomes the opportunity to comment on the proposed rule and form amendments contained in the release (the "Proposing Release") referenced above.

The proposals would require an NRSRO to furnish an annual report to the Commission describing steps taken by the NRSRO's designated compliance officer ("DCO") during the fiscal year to fulfill the DCO's responsibilities, and to disclose on Form NRSRO additional information about the NRSRO's sources of revenue. In addition, the Commission has proposed a new rule to require an NRSRO to make publicly available on an annual basis a report containing certain information about the NRSRO's revenues attributable to persons paying the NRSRO for the issuance or maintenance of a credit rating. Finally, the Commission has solicited comment on whether its recently adopted rule amendments relating to structured finance products should be extended to create a mechanism for determining non-issuer-paid credit ratings for structured finance products issued prior to June 2, 2010.

Ratings Services supports the Commission's adoption of those aspects of the proposals that would foster improved compliance, alert users of credit ratings to the potential conflicts of interest affecting each NRSRO and provide users of credit ratings with information to facilitate the assessment of such conflicts of interest. However, we believe that in certain respects the Commission's proposals would impose excessive burdens on NRSROs and, because some of the proposals do not take into account the fact that NRSROs operating on the subscriber-pays business model are also subject to potential conflicts of interest based on who pays them, we believe that these proposals would not fully advance the Commission's goals. Ratings Services also believes that aspects of the proposals, if adopted as part of the rapidly developing and increasingly complex NRSRO regulatory regime, could contribute to burgeoning costs that threaten to create barriers to entry for new NRSROs, therefore potentially undermining the Commission's mandate to "enhance competition and provide investors with more choices, higher quality ratings, and lower costs." (*Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 3850, Credit Rating Agency Reform Act of 2006*, S. Report No. 109-326, 109th Cong., 2d Sess. (Sept. 6, 2006), p. 7 (the "Senate Report").)

A. Proposed Amendment to Rule 17g-3

The proposed amendment to rule 17g-3 under the Exchange Act would require an unaudited annual report to be furnished to the Commission that would describe the steps taken by the NRSRO's DCO during the fiscal year to administer the policies and procedures required to be established by the NRSRO pursuant to Sections 15E(g) and (h) of the Exchange Act and to "ensure" compliance with securities laws and rules and regulations. The new report would be required to include a description of any compliance reviews undertaken during the fiscal year, each material compliance matter identified during each compliance review, any remediation measures implemented to address such material compliance matters and persons within the NRSRO who were advised of the results of the compliance reviews. The proposed amendment to rule 17g-3 would further require that the report be accompanied by a statement signed by the DCO stating that the DCO has responsibility for the report and that, to the best knowledge of the DCO, the report fairly presents, in all material respects, steps taken by the DCO for the period presented.

1. *An overly broad materiality standard is inappropriate and may divert resources from more substantive matters*.

Ratings Services supports the Commission's goal of promoting discipline and rigor in the DCO's performance of his or her duties. We have already implemented a systematic compliance program in which our DCO is actively engaged. We believe, however, that the proposed amendment to rule 17g-3, if adopted, will create an unnecessary set of administrative tasks for the DCO, and thereby take time away from the DCO's ability to focus on identifying and remediating compliance problems. The proposed amendment to rule 17g-3 would require the DCO to attest to the existence and remediation of "material compliance matters." This would require the DCO, often in consultation with counsel, to parse each compliance matter on a case-by-case basis to determine whether or not it is "material" and thus required to be reported pursuant to rule 17g-3. We believe that this diversion of resources will not provide the Commission or the staff with any new information; rule 17g-2(b)(4) already requires NRSROs to retain compliance reports and compliance exception reports, and these reports are available for the staff to review during periodic inspections.

Moreover, by indicating that the Commission intends "material compliance matters" to include *any* failure to adhere to the policies, procedures or methodologies of the NRSRO, the Commission may be suggesting that any compliance matter is "material." (See Proposing Release at p. 18.) If this is the Commission's intent, many minor, even purely technical, matters could be elevated to a level that exceeds their substantive import. Rather than contributing to the Commission's goal of raising "questions about the integrity of the NRSRO's activities and operations" (Id.), requiring the DCO to report such immaterial compliance matters will divert attention from truly material compliance matters of substantive importance to the operation of the NRSRO.

In articulating the Commission's preliminary understanding, the Proposing Release cites the use of the term "material compliance matters" in rule 38a-1 under the Investment Company Act of 1940 (the "Investment Company Act"). (Proposing Release at p. 18 n. 37.) We believe that it would be most appropriate to allow an NRSRO's DCO to exercise appropriate discretion in identifying "material compliance matters." However, to the extent that any formal articulation of the meaning of "material compliance matter" is adopted, we believe that it should retain an appropriate materiality standard. In this regard, we note that rule 38a-1 includes language that limits "material compliance matter" to "any compliance matter about which the fund's board of directors would reasonably need to know to oversee fund compliance" and ask the Commission to avoid imposing a significantly broader understanding of this term on NRSROs and their DCOs.

2. *Consistent with requirements for other industries the Commission regulates, the DCO's compliance report should be provided to the NRSRO's internal oversight body, not the Commission.*

If the Commission's goal in proposing that a DCO report be furnished to the Commission is to ensure that compliance matters receive appropriate internal consideration within the NRSRO itself, a more effective way to accomplish this goal would be to require the DCO to provide an annual report to the NRSRO's internal oversight body, such as an oversight committee or board of directors (which would also be available for review by the Commission's staff). In this connection, the Commission has recognized in other contexts that the goals of promoting an effective compliance program and facilitating the Commission's examination and oversight do not require that reports be provided to the Commission. For example, the Commission's rules and regulations applicable to registered investment companies and investment advisers do not require that an annual compliance report be furnished to the Commission. For a registered investment company, rule 38a-1 under the Investment Company Act provides that a registered investment company's chief compliance officer must at least annually provide the board with a written compliance report addressing, among other things, the operation of the fund's policies and procedures and each material compliance matter that occurred since the last report. For registered investment advisers, rule 206(4)-7 under the Investment Advisers Act of 1940 (the "Advisers Act") neither specifies who must conduct the annual compliance review, nor requires that a report of such review be provided to any particular oversight body within the investment adviser. Notably, when the Commission proposed these rules, some commenters recommended "requiring funds to submit the annual report to the Commission, and . . . requiring advisers to prepare a similar report for submission to the Commission." (*Summary of Comments on*

Proposed New Rules 38a-1 Under the Investment Company Act and 206(4)-7 Under the Investment Advisers Act, and Proposed Amendments to Rule 204-2 Under the Investment Advisers Act, Compliance Programs of Investment Companies and Investment Advisers, File No. S7-03-03 (Nov. 20, 2003), p. 13.) The Commission did not adopt these recommendations yet remained confident that the new rules would result in "strong compliance controls administered by a chief compliance officer" and would "permit the Commission to address the failure of an adviser or fund to have in place adequate compliance controls, before that failure has a chance to harm clients or investors." (*Compliance Programs of Investment Companies and Investment Advisers*, Advisers Act Release No. 2204; Investment Company Act Release No. 26299 (Dec. 17, 2003).)

3. *A standard that requires "ensuring compliance" is inappropriate and inconsistent with the standards applied or approved by the Commission in respect of other regulated entities.*

Proposed section (a)(7)(i)(B) of rule 17g-3 would require an NRSRO's new annual report to include a description of the steps taken by the DCO to "ensure" compliance with the securities laws and rules and regulations thereunder. Proposed section (b)(2) would then require the DCO to certify as to the DCO's responsibility for the report itself and as to the fair presentation, in all material respects, of the steps described in the report. This standard could be read as placing the DCO in the position of being a guarantor of compliance, which we submit would be inappropriate. As described below, the Commission has previously acknowledged the difficulties associated with placing compliance officers in such a position and has chosen alternative, more effective approaches with respect to other regulated entities.

Although Section 15E(j) of the Exchange Act speaks in broad terms of the DCO "ensuring" the NRSRO's compliance with the securities laws, other subsections of Section 15E that address specific affirmative responsibilities of the NRSRO do not impose the duty of "ensuring" they are met. For example, Section 15E(g) requires the NRSRO to establish and maintain written policies and procedures "*reasonably designed . . . to prevent*" the misuse of material nonpublic information, as opposed to requiring the NRSRO to establish and maintain written policies and procedures to "ensure" against such violations. Similarly, Section 15E(h) only requires NRSROs to have policies and procedures reasonably designed to address and manage conflicts of interest.

In mandating the establishment of compliance policies, procedures and programs with respect to other types of entities it regulates, the Commission has not chosen to phrase these requirements in terms of "ensuring" compliance. Rather, it has used the same "*reasonably designed*" language employed by Sections 15E(g) and (h) of the Exchange Act. We note in this regard that rule 38a-1 under the Investment Company Act and rule 206-4(7) under the Advisers Act both require the adoption and implementation of policies and procedures reasonably designed to prevent violations, not to "ensure" against violations. In addition, both rules call for the designation of a chief compliance officer responsible for *administering* the fund's or adviser's compliance policies and procedures, not for "ensuring" adherence to those policies and procedures. In contrast, because the certification required by proposed rule 17g-3 would require the NRSRO's DCO to certify his or her own actions toward "ensuring compliance" with securities laws and rules and regulations thereunder, this certification would seem to place the DCO in the impracticable position of having to certify absolute compliance with a complex and fluid regulatory regime.

In two prior instances, one involving a National Association of Securities Dealers, Inc. ("NASD") proposed rule and one involving a New York Stock Exchange ("NYSE") proposed rule, these self-regulatory bodies, with Commission approval, backed away from requirements that would have required certification as to the adequacy of compliance programs.

In the first of these, NASD in 2003 proposed a rule that would have required a broker-dealer's chief compliance and chief executive officers to certify annually that the broker-dealer "has in place adequate compliance and supervisory policies and procedures reasonably designed to comport with applicable . . . laws and rules." (NASD Special Notice to Members 03-29 (June 2003), p. 284.) In response to criticisms of the potential breadth of the certification, NASD "acknowledged the difficulty in certifying to absolute compliance at any given moment in the face of dynamic regulatory and business environments" and filed with the Commission a rule proposal with a revised certification requirement. (*Order Approving Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. Relating to Chief Executive Officer Certification and Designation of Chief Compliance Officer*, Exchange Act Rel. No. 50347 (Sept. 10, 2004), p. 3.) (the "NASD Approval Order"). In the NASD Approval Order, the Commission noted that the focus of NASD's proposed certification had shifted with the revision from whether the member had "adequate" compliance policies to whether the member had in place processes to establish, maintain, review, test and modify its written compliance policies. (NASD Approval Order at p. 3). As the NASD Approval Order notes, NASD, following discussions with Commission staff, ultimately eliminated the chief compliance officer certification requirement altogether. (NASD Approval Order at p. 7.)

Similar opposition to inclusion of the word "adequacy" in a proposed chief executive officer compliance certification requirement under a proposed NYSE rule resulted in its removal from the proposed rule. As noted in the Commission's approval of the NYSE rule, NYSE removed the "adequacy" language in response to commenters' concerns that this language "created obligations inconsistent with the goals behind the certification" and their unease with "the subjectivity of certification as to the 'adequacy' of the compliance processes and procedures." (*Order Approving Proposed Rule Change and Amendments Nos. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to the Proposed Rule Change relating to Exchange Rule 342*, Exchange Act Rel. No. 52780 (Nov. 16, 2005), p. 9.)

Because proposed section (a)(7)(i)(B) of rule 17g-3 raises the same concerns that were raised in these prior instances, we submit that the Commission should adopt a similar stance with respect to the certification required by each NRSRO's DCO to that taken in these prior instances. We believe that, as in these other contexts, compliance programs can be strengthened and enhanced without requiring an NRSRO's DCO to "ensure compliance" with securities laws and rules and regulations thereunder.

B. Proposed New Rule 17g-7

Proposed new rule 17g-7 would require an NRSRO to annually make publicly available on its website information regarding *each person* that paid the NRSRO to issue or maintain a credit rating that was outstanding as of the end of the fiscal year. The NRSRO would be required to provide information about the percent of the net revenue attributable to each such person earned by the NRSRO from providing non-ratings services, the relative standing of the person in terms of contribution to the NRSRO's net revenue for the fiscal year, and all outstanding credit ratings paid for by the person. The proposed rule would provide an exemption for NRSROs that, as of the end of the fiscal year, had no credit ratings outstanding that the NRSRO issued or maintained as a result of "a person" paying the NRSRO for the issuance or maintenance of the credit ratings.

1. *The proposed rule is not narrowly tailored to meet the Exchange Act's requirements.*

Section 15E(c)(2) of the Exchange Act mandates that the Commission's rules, as they apply to NRSROs, must be narrowly tailored to meet the Exchange Act's requirements. We believe that the exceedingly broad disclosure that would be required by proposed new rule 17g-7 would be contrary to this mandate. The Commission states that the proposed new rule is designed to enable market participants to assess the risk that a credit rating may be affected by the "undue influence" of the person that paid for the credit rating. (Proposing Release at pp. 49, 52.) We believe that the public disclosure of revenue information with respect to *every* customer that has paid for the issuance or maintenance of a credit rating does not bear a reasonable relationship to the Commission's stated goal of assessing customers' ability to exert undue influence.

Vast amounts of additional information disclosure should not be required absent an appropriate justification. The Commission's Proposing Release does not articulate what probative value might be derived from the disclosure of revenue information with respect to a customer that provides an insignificant contribution to an NRSRO's overall revenue. Rather, in several instances the Commission recognizes that any potentially "undue influence" would come from an NRSRO's largest customers. For example, the Commission notes that "the proposed rule could assist users of credit ratings, market participants, and others in evaluating how credit ratings solicited by *large* revenue providers are handled by the NRSRO." (Proposing Release at p. 44 [emphasis supplied].) While the Commission asserts that the proposed disclosure requirements "are designed to provide . . . information to assess the degree of risk that a credit rating may be compromised by the undue influence of the person that paid for the issuance or maintenance of the credit rating" (Proposing Release at p. 52), it does not provide the necessary explanation of how information regarding an NRSRO's less significant revenue sources would meaningfully relate to this assessment.

While the disclosure of information relating to an NRSRO's largest customers by revenue may be of interest to some market participants, we believe that the level of detail and the sheer volume of disclosure that would be required under the rule as proposed would render such disclosure overwhelming and meaningless. For some NRSROs, this report could potentially include tens of thousands of entities and relate to hundreds of thousands of ratings. The vast majority of this information will relate to entities that provide an insignificant amount of revenue to the NRSRO. This is information that does not "provide insight into customers that – given the level of revenues they provide to the firm – may be able to exercise greater undue influence." (Proposing Release at p. 49.)

Because the Commission can achieve its stated goals through significantly less burdensome disclosure, we believe that a requirement to provide information about all customers does not comply with the Exchange Act's narrow tailoring requirement. We believe that information relating to an NRSRO's largest revenue-generating customers (*e.g.*, those customers generating 5% or more of the NRSRO's total revenue) may be of interest to market participants. However, in our view, the provision of information relating to other customers would have no meaningful probative value. The Proposing Release fails to explain how information about an NRSRO's customers that generate relatively small amounts of revenue would be of any reasonable relevance to users of credit ratings.

2. *Any public disclosure requirement, if adopted, should apply equally to all NRSROs regardless of business model.*

Paragraph (a)(2) of proposed rule 17g-7 exempts an NRSRO from the onerous information disclosure requirements of paragraph (a)(1) if "as of the end of the fiscal year, there are no credit ratings outstanding that the nationally recognized statistical rating organization issued or maintained as a result of a person paying the nationally recognized statistical rating organization for the issuance or maintenance of such credit ratings." While the language appears to exempt only those NRSROs that do not charge for their services, the Proposing Release nonetheless indicates that subscribers are not "persons" within the meaning of proposed rule 17g-7. (See Proposing Release at p. 50.) Therefore, the proposed rule, as designed, discriminates among NRSRO business models.

As we have noted before, the Credit Rating Agency Reform Act of 2006 (the "Reform Act") does not authorize the Commission to discriminate between NRSRO business models. To the contrary, one of Congress's express purposes in enacting the Reform Act was to eliminate regulatory favoritism for one business model over another. As the accompanying Senate report noted:

> "Most importantly, the Act replaces the artificial barriers to entry created by the current SEC staff approval system with *a transparent and voluntary registration system that favors no particular business model*, thus encouraging purely statistical models to compete with the qualitative models of the dominant rating agencies and investor subscription-based models to compete with fee-based models." (Senate Report at p. 7 [emphasis supplied].)

The exemption contained in paragraph (a)(2) of proposed new rule 17g-7 violates this principle and discriminates without justification against NRSROs operating on the issuer-pays business model. The proposed exemption for subscriber-pays NRSROs that have no outstanding issuer-paid ratings entirely disregards the fact that potential conflicts of interest exist in all NRSRO business models, including the subscriber-pays business model. For an NRSRO operating on the subscriber-pays model, its larger subscribers or groups of subscribers can have as much of an interest in regard to a particular ratings outcome, and as much potential influence resulting from their payments to the NRSRO, as any issuer seeking a rating from an NRSRO operating under an issuer-pays model. Thus, if greater public disclosure of revenue information will help market participants assess the potential risk to the integrity of a credit rating that results from the potential conflict of interest under the issuer-pays business model, then public disclosure of similar information would have the same beneficial effect in the context of ratings issued under a subscriber-pays model.

We also believe the exemption provided specifically to subscriber-pays NRSROs through proposed paragraph (a)(2) runs the risk of creating the appearance that the Commission has, in effect, given an official seal of approval to ratings generated by NRSROs employing the subscriber-pays business model. We believe that the Commission should be careful to adopt rules that alert investors and other market participants to the potential limitations to which all credit ratings, regardless of the business model under which they were issued, are subject. As proposed, we believe that paragraph (a)(2) may risk fostering over-reliance on subscriber-pays credit ratings and promote the false belief that such ratings are viewed by the Commission as devoid of the risks associated with potential conflicts of interest.

3. *The disclosure under proposed rule 17g-7 may expose analysts to potential conflicts of interest and threaten competitive harm to NRSROs.*

Proposed rule 17g-7 would result in the public disclosure of a significant amount of revenue-related information, the disclosure of which might result in unintended consequences. For example, a rating analyst who otherwise would not have access to such information would be exposed to the "relative standing" of the NRSRO's customers in terms of contribution to total net revenue. Thus, while the Commission has adopted rules (*e.g.*, rule 17g-5(c)(6)) designed to ensure that rating analysts are removed from commercial aspects of the ratings business, proposed rule 17g-7 would instead broadly disseminate to the public, including rating analysts, a roadmap of the significance of each of the NRSRO's customers. It is incongruous that the Commission should on the one hand facilitate open access to this information while on the other urge that steps be taken to separate the commercial and analytical aspects of the ratings business so that analytical decisions cannot be seen as having been influenced by commercial considerations.

In addition, from a competitive standpoint, the disclosure required by proposed rule 17g-7 of information regarding *each person* that paid the NRSRO to issue or maintain a credit rating that was outstanding as of the end of the fiscal year would be unnecessarily intrusive. We are not aware of any other industry where the Commission compels a market participant to make public to its competitors all of its customers' names and their relative standing in terms of revenue received.

4. *If adopted, expanding rule 17g-7 disclosure by attributing revenue from multiple entities would impose significant costs on NRSROs.*

In requesting comment on proposed rule 17g-7, the Commission asked whether it would be "useful for investors or other users of credit ratings to require an NRSRO to calculate and disclose revenue information with respect to other persons in addition to persons that paid the NRSRO for services." (Proposing Release at p. 54.) In asking this question, the Commission raised the possibility of attributing underwriter-paid ratings to issuers and even potentially attributing revenue to both underwriters and issuers with respect to a single rating. Such an expansion of the proposed rule would exponentially increase the administrative burden placed on NRSROs. With respect to every rating issued under the issuer-pays model, the NRSRO would be responsible for identifying parties with a potential interest in that rating and maintaining multiple records reflecting hypothetical, and quite possibly speculative, revenue allocations. NRSROs cannot be expected to know the details of expense-reimbursement agreements among issuers, underwriters or other third parties.

The extraordinary costs that would be borne by NRSROs in developing processes to gather and maintain such information would not result in a proportionate benefit, if any at all, to users of credit ratings. This expansive disclosure would further overload users of credit ratings with extraneous information. Rather than making it easier for users of credit ratings to understand potential conflicts of interest, this disclosure would provide convoluted revenue information from which no clear conclusions could be drawn. Further, this disclosure could lead market participants to draw erroneous conclusions about the existence and scope of potential conflicts of interest. In such circumstances, where the disclosure to market participants is not meaningful and potentially misleading, market participants may consequently discount all disclosures regarding potential conflicts of interest, including relevant and meaningful disclosures. Such a result would be counterproductive to the Commission's goals.

Ratings Services believes that users of credit ratings ought to be aware of the potential conflicts of interest that face all NRSROs. However, we believe that disclosure should realistically reflect the nature and magnitude of these potential conflicts. It is our view that this information will be most realistically reflected when revenue-related disclosure, to the extent such disclosure is required, is accurately tied to the entity that contributed such revenue. We believe that including entities other than the person that paid for the rating (*e.g.*, affiliates of that person or other third parties) in the calculation of revenue information will potentially distort revenue information and obscure, rather than clarify, the nature and magnitude of potential conflicts.

We believe that any expansion of proposed rule 17g-7 as described above would not give users of credit ratings a fair and clear understanding of potential conflicts of interest, while imposing significant administrative costs on NRSROs.

5. *If adopted, the Commission should not require NRSROs to include revenue earned by affiliates in the determination of revenue figures.*

Although not part of proposed rule 17g-7, the Proposing Release asks whether "including revenue earned by persons directly or indirectly controlling, controlled by, or under common control with, the NRSRO" would result in disclosure that would be more useful for investors and other users of credit ratings. (Proposing Release at p. 54.) We believe that it would not be helpful to include revenue earned by an NRSRO's affiliates in the calculations of revenue under the proposed new rule.

If proposed rule 17g-7 were expanded to include revenue earned by an NRSRO's affiliates, the administrative cost of gathering and computing such information would be significant, while this information would not provide useful data to the users of credit ratings. This is particularly true where an NRSRO has affiliates that conduct business unrelated to the NRSRO's ratings business and that operationally are not only entirely separate, but also quite remote, from the NRSRO. We believe that including customer revenues that have nothing to do with the ratings business would give investors a misleading picture of the customers who may have influence over that business.

We also suggest that the Commission consider whether NRSROs – particularly those whose affiliates are operationally remote from the NRSRO – currently receive customer-specific revenue information from their affiliates. If NRSROs do not currently receive such information, it seems that it would be contrary to the Commission's goals to require NRSROs to receive and incorporate such information into the NRSRO's disclosure. Such a requirement would have the unintended effect of mandating that NRSROs make themselves aware of the very information that the Commission suggests may give rise to undue influence. In addition, the expansion of proposed rule 17g-7 to include revenue earned by an NRSRO's affiliates may have a distorting effect on competition. Under proposed rule 17g-7, if an issuer does a significant amount of business with an NRSRO's affiliate, that issuer may choose not to hire the NRSRO out of a concern that the mandated disclosure would make it appear as if the issuer were in a position to exert control over the NRSRO, even if that is not realistically the case.

C. Proposed Amendments to the Instructions to Exhibit 6 of Form NRSRO

The proposed amendment to the instructions to Exhibit 6 to Form NRSRO would require an NRSRO that is providing its annual update on Form NRSRO (and a credit rating agency applying to become an NRSRO) to disclose the percentage of its total net revenue attributable to its 20 largest users of credit rating services as well as the percentage of the NRSRO's total net revenue attributable to services and products other than credit rating services. Although not part of the proposed amendments to Exhibit 6, the Proposing Release requested comment on whether including revenue earned by an NRSRO's affiliates in calculating revenues attributable to an NRSRO's 20 largest clients would be useful to investors and other users of credit ratings. For the reasons noted in Section B.5 above, we believe that including an NRSRO's affiliates' revenues in such calculations would not be useful to investors and would produce negative effects on competition.

D. Credit Ratings for Existing Structured Finance Products

At the end of the Proposing Release, the Commission solicited comment as to whether measures should be taken by the Commission to enhance the ability of non-hired NRSROs to determine credit ratings for structured finance products issued before June 2, 2010. Specifically, the Commission apparently intends to encourage the availability of non-issuer-paid credit ratings for structured finance products of the 2004-2007 vintage. (Proposing Release at pp. 2, 84.) If the Commission intends to require disclosure of information currently being provided to a hired NRSRO by an issuer or arranger of a structured finance product for ongoing surveillance purposes, the Commission could follow the template in recently adopted rule 17g-5(a)(3), and require the hired NRSRO to obtain a certification from the issuer or arranger that it will make such information available on a password-protected website to other NRSROs who are able to make certifications similar to those required under rule 17g-5(a)(3)(iii)(B). We note that this requirement would result in an enormous volume of information to be funneled through the recently adopted rule 17g-5(a)(3) mechanism and believe that the Commission should consider whether, in light of the associated cost, such voluminous information will result in the production of timely and meaningful unsolicited credit ratings.

If, however, the Commission is seeking to cause the disclosure of information provided to the hired NRSRO during the initial rating process, we note that the structured finance products of the 2004-2007 vintage were largely created and rated prior to the time NRSROs were subject to the record retention rules prescribed by rule 17g-2, and such information may no longer be available. Moreover, given the well-publicized ratings downgrades that have affected many of these structured finance products, we question the utility of facilitating a non-hired NRSRO's review of this historical data when the likely outcome of its review, in hindsight after recent market events, would unsurprisingly be ratings generally lower than ratings initially assigned by the hired NRSRO.

* * *

We at Ratings Services appreciate the opportunity to comment on the proposals and look forward to working with the Commission in moving towards final rulemaking. Please feel free to contact me or Rita Bolger, Senior Vice President and Associate General Counsel, Global Regulatory Affairs, at (212) 438-6602, with any questions regarding our comments.

Sincerely yours,

Deven Sharma
President
Standard & Poor's

cc: Hon. Mary L. Schapiro, Chairman
Hon. Kathleen L. Casey, Commissioner
Hon. Elisse B. Walter, Commissioner
Hon. Luis A. Aguilar, Commissioner
Hon. Troy A. Paredes, Commissioner
U.S. Securities and Exchange Commission

Mr. Robert W. Cook, Director
Mr. James A. Brigagliano, Deputy Director
Mr. Michael A. Macchiaroli, Associate Director
Mr. Thomas K. McGowan, Assistant Director
Mr. Randall W. Roy, Assistant Director
Division of Trading and Markets
U.S. Securities and Exchange Commission