MULTIPLE-MARKETS

Nancy M. Morris
Secretary
Securities & Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Ref: File Number S7-04-07

Dear Ms. Morris:

We welcome this opportunity to provide comments on the Proposed Final Rules for the Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations (NRSROs).

We commend the SEC Commissioners and staff for their long and thoughtful work creating the new framework for NRSROs. We also applaud members of Congress who worked to address this issue and to grant the Commission the additional authority required to craft this new regulatory structure.

This multi-year process has generated comment from many market participants, rating agencies, academics, trade associations and individuals. It has been useful for us to read the varying points of view. We appreciate the Commission including us and other market participants in this comment process.

The Proposed Rules represent an excellent approach to regulating ratings agencies. The Rules include a new NRSRO registration process, enhanced transparency of NRSRO operations, the use of quantitative and qualitative analytic methods, broadened competition and annual disclosure of certain metrics to the Commission and the public.

The financial markets will benefit from the codification of the requirements to achieve NRSRO status. And all sectors of the financial markets will benefit from an abundant, competitive market for NRSRO rating services.

Retail investors will particularly benefit from ready access to information about the analytic methodologies employed to rate securities and issuers, default statistics, NRSRO organizational structure and size, staff experience, and disclosure of compliance and conflict of interest procedures. Mandating the disclosure of these metrics is very beneficial to users of ratings.

Also the segmentation of NRSROs into categories for specific types of securities should make applying for designation as NRSROs more achievable. It may also support the development of ratings methodologies that are more useful and predictive for specific fixed income classes. The methods used for rating corporate issuers, for example, could be different than those used to rate financial institutions or structured finance given the high levels of leverage used within those entities.

The Proposed Rules, which implement the Credit Rating Agency Reform Act of 2006 (CRARA-06), primarily supports the framework of federal, state and SRO rules that utilize credit ratings issued by NRSROs. It is clear that the Commission additionally intends to shape the rules in a manner that protects retail investors. We appreciate this focus and believe that the Proposed Rules exemplify this extension in numerous ways.

The Commission has requested comments on the regulatory uses of ratings from NRSROs. Within the non-institutional market there is a regulatory requirement for credit ratings for:

- ◊ Best execution
- ◊ Markup policy
- ◊ Suitability
- ◊ Confirmations

>>> Best execution –

The use of credit ratings from NRSROs is required in the evaluation of best execution by broker-dealers. This use was addressed in the recently approved amendments to NASD 2320-a. Within the new interpretative rules, ratings from NRSROs figure prominently in the determination of "similar securities" for the comparison of pricing for best execution. (SR-NASD-2003-141, Page 9)

>>> Markup policy for transactions in debt securities **-**

NASD Rule 2440 "Fair Prices and Commissions" requires the use of credit ratings from NRSROs for the determination of "similar securities" when contemporaneous sales or purchases are not available for determining mark-ups. (34–51338 SR-NASD 2003-141)

>>> Suitability -

The use of credit ratings is of primary importance when determining the suitability of specific fixed income securities for individual investors. The NASD requires registered representatives to know the specific qualities of securities which they are recommending to their clients. The use of credit ratings for suitability is required prior to recommending a security and is important in the ongoing oversight of customer assets.

>>> Confirmations –

Proposed Rule NASD 2231, (Confirmations of Transactions in Debt Securities), includes the requirement to provide a credit rating on the retail 10-B-10 form. The current proposed language (page 39) requires providing the credit rating if the debt security is rated by any NRSRO to which the member subscribes.

Credit ratings issued by NRSROs are used by broker dealers throughout the trading, investment selection, and oversight of client assets processes. The following is a partial list:

- ◊ Security pricing
- ◊ Pre-trade analysis
- ◊ Trade reporting
- ◊ Portfolio reporting
- ◊ Compliance
- ◊ Market data purposes

Recommendations to the Commission

We believe that the clarification of two issues within the Proposed Rules will most particularly define the shape of the ratings industry for retail investors. These issues are the interpretation of "readily accessible means" and "reasonable fee". The definition of these issues will impact the ability of ratings firms to create profitable business models and will have an important effect on the competitiveness of the ratings business.

"Readily accessible"

The Proposed Rule requests comment on methods of distribution for rating symbols that would satisfy the definition of "available on the credit rating agency's website or another comparable, readily accessible means". For the retail market the following could satisfy this requirement:

"Another readily accessible means..."

- ◊ Licensed to market data vendors
- ◊ Licensed to clearing firms for distribution to correspondents
- ◊ Licensed to trading platforms (ATS, ECN or exchange)
- ◊ Licensed to financial portals (Google, Yahoo!, MSN Money, etc.)
- ◊ Licensed to broker dealers
- ◊ Distributed through RSS feeds
- ◊ Available as an email subscription from the NRSRO
- ◊ Mailed to libraries
- ◊ Faxed to libraries
- ◊ Distributed through wire services
- ◊ Distributed to directly to newspapers (general readership & business)

"Free or a reasonable fee"

The CRARA-06 directs the Commission to require the distribution of rating symbols for "free or a reasonable fee". This requirement differs from the 2005 Proposed Rule which required NRSROs to distribute the rating symbol for free "on the Internet".

We anticipate that "reasonable fee" would vary by fixed income classification. For example due to the complexity of structured finance, and their exclusive use by institutional investors, a “reasonable fee” for those ratings could be considerably more expensive than ratings for corporate issuers.

The Commission could suggest a base for a “reasonable fee” to be the fees that the current, dominant NRSROs charge to license the distribution of their rating symbols.

If new NRSROs want to charge more than the current NRSROs, ratings subscribers would be in the best position to determine if the bundle of services offered (number and quality of ratings, distribution method, and syndication opportunities, etc.) offers better value.

We certainly do not encourage the Commission to adopt an approach that could be viewed as “rate setting” for access to ratings published by the NRSROs.

We believe that the fee issue is best addressed by creating a regulatory environment where the highest quality and most competitive NRSROs are able to create the best analytic methods and tools. Further, we encourage the Commission to be flexible and allow NRSROs to distribute their ratings in unique, low cost ways that best fits their business model and the varied sectors of the investment community.

If the Commission attempts to proscribe a set of specific distribution methods and pricing models for firms applying for NRSRO status it is likely that the Commission could push firms towards business models and analytic methods that already exist and do not leverage new streams of information and distribution.

NRSROs should be able to develop various approaches to their fee models. For example, NRSROs could provide ratings to large financial portals for distribution into the retail market and share advertising revenue with the portal. Alternatively NRSROs could distribute ratings for a fixed fee, fee per rating, a fee based on the number of trades within a platform, or by sharing market data revenues with a vendor. Ratings are information and their use and packaging should evolve as information processes and platforms develop.

Since the retail fixed income market is currently very small we anticipate many new partnerships and channels of information distribution to develop. The launch of the New York Stock Exchange Bonds platform should generate significant new demand for information from NRSROs.

We believe that NRSROs that want to create increasing market share will compete against other NRSROs by increasing the quality of their analysis and reducing the cost to users of this information.

For some NRSROs the distribution of their ratings to the retail community will be of value to demonstrate to issuers that the fees they are paying are being used to broadly inform the market of the creditworthiness of the issuer’s securities. Other NRSROs may believe that restricted distribution of their ratings is beneficial for their business model. We believe that NRSROs will have various views on the value of distributing ratings into the retail investing community.

<u>Default Statistics</u>

It would be most useful for retail investors if all NRSROs reported default statistics (performance statistics) in a standardized manner. But since Congress has permitted the designation of quantitative ratings firms as NRSROs we anticipate that the reporting of their performance statistics will vary from the manner in which the current dominant agencies report default statistics.

We recommend that the Commission allow some flexibility in this area and encourage NRSROs to solicit feedback from their users concerning the most appropriate framework to use when reporting the predicative value of their ratings for probability of default and/or loss given default.

Organizational Structure

General information related to the relative size of an NRSRO and the experience of the staff is all that is necessary for retail investors. Detailed organizational plans would probably not be examined very broadly.

Feedback Process

The new regulatory framework should be very successful in creating abundant, high quality ratings. We do believe though that market participants and others may find issues where the rulemaking is not fully in synch with market practices.

We recommend that the Commission consider creating a feedback system for comments from the marketplace. In a sense, the SEC will become the SRO for NRSROs. To ensure vital oversight the Commission could benefit from feedback that highlights issues or conflicts. Also the feedback received through the comment process could be utilized when making the Commission's annual report to Congress on NRSROs.

We again thank the Commission for the opportunity to participate in this comment process. And we appreciate the efforts of the many parties involved. We look forward to the implementation of the new rating agency framework.

Very truly yours,

Cate Long

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