U.S. Securities and Exchange Commission

Office of Credit Ratings

Staff Report

ON

NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS

FEBRUARY | 2023

As Required by Section 6 of the Credit Rating Agency Reform Act of 2006
and Section 15E(p)(3)(C) of the Securities Exchange Act of 1934

CONTENTS

CHARTS . . . ii

I. INTRODUCTION . . . 1

II. STATUS OF REGISTRANTS AND APPLICANTS . . . 3

III. EXAMINATIONS AND MONITORING . . . 7

A. Overview . . . 7

B. Risk Assessment . . . 7

C. Monitoring . . . 9

D. 2022 Section 15E(p)(3) Examinations . . . 10

1. Overview . . . 10

2. Terms Used in This Report . . . 10

3. Summary of Essential Findings and Responses to Material Regulatory Deficiencies . . . 11

4. Responses to Recommendations from the 2021 Section 15E Examinations . . . 17

IV. STATE OF COMPETITION, TRANSPARENCY, AND CONFLICTS OF INTEREST . . . 19

A. Competition . . . 19

1. Select NRSRO Statistics . . . 19

2. Market Share Observations in the Asset-Backed Securities Rating Category . . . 29

3. Barriers to Entry . . . 35

B. Transparency . . . 37

C. Conflicts of Interest . . . 38

V. ACTIVITIES RELATING TO NRSROs . . . 41

A. Commission Orders and Releases . . . 41

B. Court Judgment . . . 42

C. Staff Publication . . . 42

VI. APPENDIX: SUMMARY OF STATUTORY FRAMEWORK AND RULES . . . 43

CHARTS

Chart 1. Table of NRSROs . . . 4

Chart 2. Number of Outstanding Credit Ratings as of December 31, 2021 by Rating Category . . . 21

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, 2021 . . . 21

Chart 4. Breakdown of Ratings Reported Outstanding by Rating Category as of December 31, 2021 . . . 22

Chart 5. Breakdown of Ratings Reported Outstanding by NRSRO as of December 31, 2021 . . . 23

Chart 6. Breakdown of Non-Government Securities Ratings Reported Outstanding by NRSRO as of December 31, 2021 . . . 23

Chart 7. Breakdown of Government Securities Ratings Reported Outstanding on December 31, 2021 . . . 24

Chart 8. Total Non-Government Ratings Issued by All NRSROs as of December 31, 2021 . . . 25

Chart 9. Total Non-Government Ratings Issued by Medium and Small NRSROs as of December 31, 2021 . . . 25

Chart 10. Total ABS Ratings Issued by All NRSROs as of December 31, 2021 . . . 26

Chart 11. NRSRO Credit Analysts and Credit Analyst Supervisors . . . 26

Chart 12. NRSRO Fiscal Year Revenue as a Percentage of Aggregate Reported Revenue . . . 27

Chart 13. Rating Agency Market Shares for Total Non-Agency U.S. CMBS Issued in 2020, 2021, and First Half of 2022 . . . 30

Chart 14. Rating Agency Market Shares for U.S. Conduit CMBS Issued in 2020, 2021, and First Half of 2022 . . . 30

Chart 15. Rating Agency Market Shares for U.S. Single-Borrower CMBS Issued in 2020, 2021, and First Half of 2022 . . . 31

Chart 16. Rating Agency Market Shares for Agency CMBS Issued in 2020, 2021, and First Half of 2022 . . . 31

Chart 17. Rating Agency Market Shares for U.S. ABS Issued in 2020, 2021, and First Half of 2022 . . . 32

Chart 18. Rating Agency Market Shares for U.S. MBS Issued in 2020, 2021, and First Half of 2022 . . . 33

Chart 19. Rating Agency Market Shares for U.S. CLOs Issued in 2020, 2021, and First Half of 2022 . . . 34

I. INTRODUCTION

The Staff of the U.S. Securities and Exchange Commission (Commission) provides this 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] and Section 15E(p)(3)(C) of the Securities Exchange Act of 1934 (Exchange Act).[2]

Section 6 of the Rating Agency Act requires the Commission to submit an 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 that, with respect to the year to which the report relates:

- Identifies applicants for registration as NRSROs under Section 15E;
- 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.

Section 15E(p)(3)(C) requires the Commission to make available to the public an annual report summarizing:

- Essential findings of all Section 15E examinations, as deemed appropriate by the Commission;
- NRSROs' responses to any material regulatory deficiencies identified by the Commission; and
- Whether the NRSROs have appropriately addressed the recommendations of the Commission contained in previous annual reports.

This Report addresses the items specified in Section 6 of the Rating Agency Act and Section 15E(p)(3). This is a report of the Staff and, as such, reflects solely the Staff's views.

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.[3]

1 Pub. L. No. 109-291, 120 Stat. 1327 (Sept. 29, 2006).

2 Unless otherwise noted, all section and rule references in this report are to the Exchange Act and rules under the Exchange Act.

3 See "Reports and Studies" section of the OCR webpage, available at https://www.sec.gov/ocr/ocr-reports-and-studies.html. Prior to 2021, OCR published two separate annual reports: an Annual Report to Congress pursuant to Section 6 of the Rating Agency Act and a Summary Examination Report pursuant to Section 15E(p)(3)(C) of the Exchange Act. The 2021 Staff Report on NRSROs was the first to present in a single report the requirements under both Section 6 of the Rating Agency Act and Section 15E(p)(3) of the Exchange Act.

II. STATUS OF REGISTRANTS AND APPLICANTS

In 2007, the Commission began granting registrations to credit rating agencies that applied to be registered as an NRSRO. 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;[4]
(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.[5]

As of December 31, 2022, there were ten credit rating agencies registered as NRSROs.[6] Chart 1 below lists each NRSRO registered with the Commission as of such date, the categories of credit ratings described in clauses (i) through (v) of Section 3(a)(62)(A) in which each NRSRO is registered, and the location of each NRSRO's principal office.[7]

4 "Asset-backed securities" has the meaning set forth in 17 CFR 229.1101(c), as in effect on September 29, 2006 (the date of enactment of the Rating Agency Act).
5 Section 3(a)(62)(A).
6 Section 15E(a) sets out registration procedures for a credit rating agency to voluntarily apply to be registered with the Commission as an NRSRO.
7 See each NRSRO's current Form NRSRO 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 paragraphs (e) and (f) of Rule 17g-1, and each NRSRO must make its current Form NRSRO publicly and freely available on its website pursuant to paragraph (i) of Rule 17g-1. Form NRSRO filings are available on the EDGAR system at https://www.sec.gov/edgar/searchedgar/companysearch.html. 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.

Chart 1. Table 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.
Demotech, Inc. (Demotech)	(ii)	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, LLC (KBRA)	(i) through (v)	U.S.
Moody's Investors Service, Inc. (Moody's)	(i) through (v)	U.S.
S&P Global Ratings (S&P)	(i) through (v)	U.S.

Solely for purposes of this Report: Fitch, Moody's, and S&P are categorized as "large NRSROs;" AMB, DBRS, and KBRA are categorized as "medium NRSROs;" and EJR, HR, and JCR are categorized as "small NRSROs." These categorizations are based on revenue.[8]

In accordance with the Exchange Act, the Commission grants registration as an NRSRO if it finds the requirements of Section 15E are satisfied and so long as it does not find: (1) that the applicant does not have adequate financial and managerial resources to produce credit ratings with integrity, to materially comply with its procedures and methodologies for determining credit ratings disclosed on Form NRSRO, and to materially comply with provisions of Section 15E related to the prevention of the misuse of non-public information, management of conflicts of interest, prohibited conduct, and designation of a compliance officer; or (2) that if the applicant were to be registered, its registration would be subject to suspension or revocation.[9]

Applications for initial registration by a credit rating agency and for registration by a current NRSRO in additional rating categories are filed on Form NRSRO.[10] A credit rating agency may choose not to apply for registration as an NRSRO, in which case it may issue credit ratings as a credit

8 Collectively, the three large NRSROs account for approximately 93.2% of the aggregate revenue reported by all NRSROs for the 2021 fiscal year in accordance with Rule 17g-3(a)(3); the three medium NRSROs collectively account for approximately 5.6% of such aggregate revenue; and the three small NRSROs collectively account for approximately 1.1% of such aggregate revenue. *See infra* Section IV.A.1.c, Chart 12. Based on information provided in its application for registration, Demotech would be characterized as a small NRSRO for purposes of this Report. However, because Demotech was not registered as an NRSRO for the entirety of calendar year 2022, it is generally not discussed in the portions of this Report that use this term. References to small NRSROs in this Report do not include Demotech.

9 Section 15E(a)(2)(C).

10 *See* Section 15E(a) and Rule 17g-1; *see also* Form NRSRO, available at https://www.sec.gov/about/forms/formnrsro.pdf. In addition, Section 15E(b) requires NRSROs to promptly amend Form NRSRO if any information or document provided therein becomes materially inaccurate.

rating agency, but it may not issue credit ratings as an NRSRO.[11] In addition, a credit rating agency may choose to apply for registration as an NRSRO in one or more rating categories.[12] As noted in Chart 1 above, certain NRSROs are registered in all of the rating categories, and certain NRSROs are registered in fewer than all of the rating categories.

In calendar year 2022, one application for initial registration as an NRSRO in the insurance companies ratings class was filed with the Commission by Demotech. The Commission granted Demotech's registration as an NRSRO in such ratings class on July 11, 2022.[13] No applications for registration by a current NRSRO in additional rating categories were filed with the Commission in calendar year 2022.

The SEC oversees and, as discussed below, examines NRSROs. The Commission is prohibited by statute, however, from regulating the substance of credit ratings or the procedures and methodologies the NRSROs use to determine credit ratings.[14] Methodologies include, among other things, the quantitative and qualitative models used to determine credit ratings.

11 Section 3(a)(60) defines the term "credit rating," Section 3(a)(61) defines the term "credit rating agency," and Section 3(a)(62) defines the term "nationally recognized statistical rating organization." For additional information about credit ratings, see *Updated Investor Bulletin: The ABCs of Credit Ratings* (Oct. 12, 2017), available at https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib_creditratings.

12 *See* Section 3(a)(62)(A)(i) – (vi).

13 *See Order Granting Registration of Demotech, Inc. as a Nationally Recognized Statistical Rating Organization*, SEC Rel. No. 34-95243 (July 11, 2022), available at: https://www.sec.gov/rules/other/2022/34-95243.pdf.

14 *See* Section 15E(c)(2).

III. EXAMINATIONS AND MONITORING

A. OVERVIEW

In accordance with Section 15E(p)(3), the Staff conducts examinations of each NRSRO at least annually.[15] Generally, the purpose of these annual examinations is to promote compliance with applicable federal securities laws and rules by identifying potential instances of non-compliance by NRSROs with their statutory and regulatory obligations and recommending remedial action. Information obtained during an examination can also inform Staff of noteworthy industry developments.

To facilitate and promote compliance by NRSROs with their statutory and regulatory obligations, the Staff sends each NRSRO an examination summary letter that discusses its findings related to that NRSRO and recommends remedial measures. When appropriate, Staff may refer findings to the Commission's Division of Enforcement for investigation.

Section 15E(p)(3)(B) provides that each NRSRO examination (Section 15E examinations) shall include a review conducted of the following eight topic areas (Section 15E Review Areas):

- Whether the NRSRO conducts business in accordance with its policies, procedures, and rating methodologies;
- Management of conflicts of interest by the NRSRO;
- Implementation of ethics policies by the NRSRO;
- Internal supervisory controls of the NRSRO;
- Governance of the NRSRO;
- Activities of the Designated Compliance Officer (DCO) of the NRSRO;
- Processing of complaints by the NRSRO; and
- Policies of the NRSRO governing the post-employment activities of its former staff.

This Section III discusses the annual examinations pursuant to Section 15E(p)(3) that commenced in late 2021 and concluded in late September 2022 (2022 Section 15E examinations).

B. RISK ASSESSMENT

The 2022 Section 15E examinations encompassed all of the statutorily required Section 15E Review Areas. The Staff also determined areas of emphasis and issues of focus for each examination based upon an NRSRO-specific risk assessment performed by the Staff, while also considering how to limit the amount of personal data collected in the examination process. The NRSRO-specific risk assessments considered a number of factors, including, but not limited to:

- NRSROs' rating activities and operations;
- Staff's findings, recommendations, and other observations from prior examinations;

15 Pursuant to Section 17, the Staff can conduct examinations of NRSROs that supplement the Section 15E examinations.

- Impact of a potential or actual internal control or compliance failure by the NRSRO;
- Recent industry developments affecting NRSROs and the asset classes in which the NRSRO is registered;
- NRSROs' filings with the Commission and public disclosures;
- NRSROs' self-identified weaknesses;
- Relevant Tips, Complaints, and Referrals (TCRs) received by the Commission; and
- Risks identified in a risk assessment process.

Through its risk assessment process in connection with the 2022 Section 15E examinations, which focuses primarily on new and emerging issues, OCR staff identified a number of potential risks for consideration in the NRSRO-specific risk assessments and incorporation into the examinations, as appropriate. The risks identified include:

- **Surveillance Practices in Times of Stress:** Rating surveillance processes came under stress during COVID-19 due to rapidly changing information and declining performance in some sectors, which may have required additional surveillance reviews. The Staff identified as potential risks: the possibility that increased analyst workloads could result in failures to adhere to applicable surveillance policies and procedures; and the possibility that NRSROs may have adjusted assumptions or streamlined surveillance processes without sufficient controls to ensure appropriate documentation and disclosure.
- **Impact of Pandemic on Commercial Real Estate:** After being adversely affected by COVID-19, the single borrower CMBS sector experienced an uneven recovery during the first half of 2021 as compared to the first half of 2020, with properties such as lodging and retail lagging. The Staff identified potential risks relating to commercial real estate ratings with significant exposure to sectors negatively impacted by COVID-19, and potential non-adherence to methodologies and rating processes with respect to: (1) qualitative adjustments made to model implied ratings, model implied subordination levels, and inputs to models used in the ratings process; (2) property valuations; and, (3) default frequency and severity assumptions or projections.
- **Changing Methods of Communication/ Technology:** The Staff identified as a potential risk, given the increased use of text messaging applications as a means of communication, an increased likelihood that business communications are conducted through unapproved means and/or that appropriate records are not retained.
- **Securities Ownership:** In light of specific findings and recommendations in the 2021 Section 15E examinations, the Staff identified as a potential risk for consideration by all examination teams that NRSROs may have weaknesses in their policies and procedures to manage conflicts of interest or prevent inappropriate use of material non-public information with respect to securities ownership by employees.
- **ESG Factors and Products:** NRSROs have developed ESG methodologies applicable to the determination of credit ratings. In addition, NRSROs and their affiliates continue to develop and offer an increasing number of ESG-related products and services that are not credit ratings and therefore are not directly regulated by the Commission.[16] Potential risks identified by the Staff include the possibility that the marketing and development of stand-alone ESG products

16 Examples of such ESG products and services include: evaluations of the environmental benefits of a project financed with the proceeds of a "green" bond issuance; ESG scores based on the expected impact of ESG factors on a company's growth, profitability, capital efficiency, and risk exposure; and assessments of a company's risk from climate-related scenarios.

may result in conflicts of interest that could affect credit ratings.

- **Ratings on Firms Based in China:** The Staff identified a number of recent developments in China that could potentially have significant economic consequences. Such developments include: a heightened level of concern regarding the creditworthiness of large Chinese real estate development firms; regional power reductions and rationing resulting from fuel shortages, high demand, and regulatory imperatives, leading to production slowdowns; and substantial losses reported at a majority state-owned financial company focused on debt management. The Staff identified concerns that these developments potentially could result in adverse effects on the ratings of firms based in China.

C. MONITORING

To help inform its risk assessment process and examination program, the Staff in 2022 monitored credit rating activity, industry trends and developments, NRSRO operational developments and plans, and relevant capital market, economic, and financial news and events. The Staff's monitoring activities consisted primarily of communications with NRSROs and users of credit ratings and reviewing sources such as NRSRO publications, news reports, trade publications, academic papers, industry conference information, and government reports.

For example, the Staff's discussions covered the scope and nature of rating actions that the NRSROs attributed to the Russia-Ukraine conflict. This included numerous rating actions on entities in Russia, Ukraine, and other countries affected by the conflict due to rising prices of commodities and energy, disruption of business activity within Russia and Ukraine, and increased cyber and other security risks. It also included the withdrawal of ratings subject to sanctions.[17] In addition, NRSROs reported suspending operations in Russia and transferring analytical responsibilities, rating information, and network access to offices outside of the country.

Another topic of the Staff's monitoring efforts was consideration of the effect of rising interest rates and inflation. These developments led some NRSROs to lower their global and U.S. economic growth forecasts and consider the impact on their credit ratings.

The Staff's monitoring efforts also covered NRSRO rating activity related to decentralized finance (DeFi), such as distributed ledger technologies, crypto assets, and smart contracts. This rating activity, although limited, included assessments of entities directly engaged in DeFi or crypto assets, evaluation of crypto asset holdings by rated entities, and ratings of structured finance transactions utilizing blockchain.

In 2022, the Staff also 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

17 On March 15, 2022, the European Union (EU) announced a ban, effective April 15, 2022, on the provision of credit rating services by EU credit rating agencies, or the provision of access to any subscription services in relation to credit rating activities by EU credit rating agencies, to any Russian national or natural person residing in Russia or any legal person, entity or body established in Russia. *See Ukraine: EU agrees fourth package of restrictive measures against Russia, European Commission*, March 15, 2022, available at https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1761.

agencies.[18] Each college engaged in periodic discussions during 2022 regarding supervisory activities related to the credit rating agencies. The Staff also conducted additional discussions with foreign regulators, as appropriate.

D. 2022 SECTION 15E(p)(3) EXAMINATIONS

1. Overview

The 2022 Section 15E examinations generally focused on the NRSROs' activities for the period covering January 1, 2021 through December 31, 2021 (the Review Period).[19] The examinations also reviewed certain activities or credit rating actions from outside the Review Period, as appropriate.[20]

The 2022 Section 15E examinations included a review of the Section 15E Review Areas and examination of each NRSRO's compliance with Section 15E and Rules 17g-1 through 17g-10. For example, the Staff reviewed a sample of rating actions of each NRSRO in certain asset classes for which it is registered and for certain issuers and obligors to determine whether the NRSRO operated in accordance with its policies, procedures, and rating methodologies. The Staff also reviewed rating files and documentation to evaluate whether each NRSRO adhered to recordkeeping requirements.[21]

2. Terms Used in This Report

This Report contains a summary of, respectively, the essential findings of the Staff's annual examinations, the NRSROs' responses to any material regulatory deficiencies, and whether the NRSROs have appropriately addressed the recommendations contained in previous reports.[22]

For purposes of this Report, the Staff considers an "essential finding" to be any instance identified by the Staff of apparent non-compliance by an NRSRO with the federal securities laws or related Commission rules applicable to NRSROs, except those instances attributable to a non-recurring and non-significant clerical or ministerial error or omission.

For purposes of this Report, the Staff considers "material regulatory deficiencies" to be essential findings that involve:

- Conduct or a deficiency that could undermine the quality of a credit rating or impair the objectivity of an NRSRO's credit rating process; or
- Conduct that may be inconsistent with the anti-fraud provisions of the federal securities laws.

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18 *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 college for S&P and OCR Staff represents the SEC in this regard. The European Securities and Markets Authority serves as chair of the college for Fitch and the Financial Conduct Authority serves as chair of the college for Moody's.

19 Demotech was not registered as an NRSRO during the Review Period and was therefore not the subject of a 2022 Section 15E examination.

20 For example, the Staff may review information relating to TCRs in a current examination, even if the referenced activities occurred outside of the Review Period.

21 To select rating actions and rating files to review, the Staff used a risk-based sampling process that is consistent with its overall risk assessment approach described in this Report. The Staff also considered factors including, but not limited to, the size of the rated asset class in the financial markets and the NRSRO's business, the NRSRO's activity in the rated asset class, the likelihood of impact on investors if a rating was not determined in accordance with the NRSRO's methodologies and procedures, news reports and developments concerning the NRSROs or particular asset classes, TCRs, and information the Staff learned during examinations.

22 *See* Section 15E(p)(3)(C)(i)-(iii). In this Report, essential findings are organized by NRSRO within the applicable large, medium, and small groups.

The Staff's determination that an NRSRO appropriately addressed a recommendation does not constitute its endorsement of that NRSRO or its policies, procedures, internal controls, or operations. In a future examination, the Staff may reevaluate the NRSRO's response to recommendations that it previously deemed to be appropriately addressed by, for example, assessing whether the NRSRO fully implemented remedial measures and whether those remedial measures appear to be effective. The Staff may also review and make recommendations concerning the NRSRO's policies, procedures, internal controls, or operations related to the general subject matter of a recommendation that it previously deemed to be appropriately addressed.

The Staff's assessment of whether an NRSRO has appropriately addressed a recommendation depends on the specific facts and circumstances, including, but not limited to, the promptness of the NRSRO's response, the severity of the conduct at issue, and whether the remedial action undertaken by the NRSRO is expected to fully resolve the Staff's concerns. In addition, the determination of whether an NRSRO appropriately addressed a recommendation reflects solely the Staff's view and does not necessarily reflect the views of the Commission.

3. Summary of Essential Findings and Responses to Material Regulatory Deficiencies

For purposes of the Report, the Staff grouped the findings by each large NRSRO, medium NRSRO, and small NRSRO in a random ordering.

a. Large NRSRO #1

The NRSRO did not appear to comply with the Section 15E(g)(1) requirement to enforce policies and procedures reasonably designed to prevent the misuse of material, non-public information. Contrary to the NRSRO's policies and procedures, in several instances analysts used a personal messaging application that was not approved by the NRSRO to conduct analytical discussions pertaining to the determination of a credit rating. The Staff recommended that the NRSRO enforce its policies and procedures regarding approved communication methods and, to facilitate compliance, provide appropriate notice and training on those policies to NRSRO personnel and institute appropriate discipline with regard to personnel who do not follow such policies.

b. Large NRSRO #2

The NRSRO did not promptly provide complete records subject to a retention requirement and therefore did not appear to comply with Rule 17g-2(f). The NRSRO did not provide two records requested by the Staff in a timely manner, because the NRSRO did not conduct an adequate review for completeness prior to providing its response. The Staff recommended that the NRSRO promptly provide complete copies of all relevant documents in its productions to the Staff.

c. Large NRSRO #3

The NRSRO did not appear to establish, maintain, enforce, and document an effective internal control structure governing adherence to policies, procedures, and methodologies for determining credit ratings, as required by Section 15E(c)(3)(A). The NRSRO did not take a step required in its procedures designed to alert personnel responsible for reviewing and validating models that changes had been made to a model. As a result, such personnel were not aware of a particular change and did not conduct a review of that change as required by the NRSRO's procedures, and the NRSRO did not detect for approximately two years a model error that potentially affected several ratings. The Staff recommended that the NRSRO establish, maintain, enforce, and document an effective internal control structure governing adherence to its policies and procedures related to model changes.

d. Medium NRSRO #1

(1) The NRSRO did not appear to establish, maintain, enforce, and document policies and procedures reasonably designed to assess the probability that an issuer of a security will default, fail to make timely payment, or otherwise not make payments to investors in accordance with the terms of the security, as required by Rule 17g-8(b)(1). In determining a credit rating, the NRSRO excluded from the scope of the credit rating certain payment obligations under the terms of the security. Although disclosed in the accompanying rating letter, the exclusion resulted in the NRSRO not assessing the likelihood of payment in accordance with the terms of the security and, given the Staff's view that the excluded obligations were subject to credit risk, was inconsistent with the NRSRO's general ratings policy and ratings scale. The Staff recommended that the NRSRO establish, maintain, enforce, and document policies and procedures reasonably designed to assess the probability that an issuer of a security will default, fail to make timely payments, or otherwise not make payments to investors in accordance with the terms of the security.

The Staff identified such essential finding as a material regulatory deficiency.

In its response, the NRSRO stated that, based on its analysis of the underlying transaction documents and certain other considerations, the payment obligations that were excluded from the scope of the rating were not subject to credit risk. As a result, the NRSRO concluded that the approach to the rating was consistent with its policies and procedures, including its rating scale. The NRSRO indicated a belief that it would be inconsistent with the federal securities laws to require a credit rating agency to issue credit ratings that reflect something other than credit risk.

The NRSRO stated that, in response to the Staff's recommendation, it is developing an action plan to make enhancements to relevant aspects of its compliance program. The NRSRO indicated that it will conduct a comprehensive review of its relevant procedures and practices to identify potential areas of enhancement or clarification related to compliance with Rule 17g-8(b)(1). The NRSRO stated that it would enhance controls, procedures, or guidance to expressly reflect its current practices designed to identify relevant obligations with credit risk and confirm that all such obligations are addressed by a credit rating. It identified several specific processes and practices that may be enhanced. The NRSRO also indicated that it would expand training opportunities for analytical and business development personnel and evaluate whether further public disclosure would be appropriate and helpful.

(2) The NRSRO did not appear to comply with the Section 15E(g)(1) requirement to enforce policies and procedures reasonably designed to prevent the misuse of material, non-public information. The NRSRO did not give a required training covering, among other things, the acceptable use of electronic communications within the timeframe required under its policies. Certain NRSRO personnel that did not receive timely training sent emails containing confidential information to personal email accounts in contravention of the NRSRO's relevant communications policy, and the NRSRO did not identify this breach of its policy in a timely manner. The Staff recommended that the NRSRO enforce applicable

training policies and procedures in the use of non-approved email accounts to prevent the misuse of material non-public information and to consider whether its policies and procedures to prevent the misuse of material non-public information are reasonably designed to detect unauthorized dissemination of material non-public information.

(3) The NRSRO's policies and procedures did not appear to be reasonably designed to address a conflict of interest that could arise from its business, as required by Section 15E(h)(1). Specifically, the NRSRO did not appear to have reasonably designed policies and procedures to prevent it from issuing or maintaining credit ratings solicited by a person that provides it with net revenue equaling or exceeding 10% of its net revenue in a fiscal year, a prohibited conflict of interest set forth in Rule 17g-5(c)(1). The NRSRO's processes related to monitoring such a conflict of interest are retrospective in nature, and therefore would only serve to detect a violation after it occurred rather than prevent its occurrence. The Staff recommended that the NRSRO establish, maintain, and enforce written policies and procedures reasonably designed to prevent it from issuing or maintaining a credit rating solicited by a person who provided the NRSRO with net revenue equaling or exceeding 10% of its total net revenue in the prior fiscal year.

(4) The NRSRO published certain information disclosure forms that did not appear to be in a format that is easy to use and helpful for users of credit ratings to understand the information contained therein, as required by Rule 17g-7(a)(1)(i)(B). The Staff recommended that the NRSRO publish information disclosure forms in a format that is easy to use and helpful for users of credit ratings to understand the information contained in the information disclosure forms.

(5) The NRSRO published information disclosure forms that appeared not to adhere to the attestation requirements set forth in Rule 17g-7(a)(1)(iii). The Staff recommended that the NRSRO revise its existing procedures so that attestations attached to information disclosure forms comply with the requirements of the rule.

e. Medium NRSRO #2

(1) The NRSRO did not appear to enforce an internal control governing the implementation of and adherence to policies, procedures, and methodologies for determining credit ratings, as required by Section 15E(c)(3)(A). Contrary to its policies and procedures (which require documentation of the steps taken in the determination of a credit rating in order to permit an after-the-fact review of a credit rating), the NRSRO did not identify, on the relevant documentation forms, all of the methodologies used in the determination of a credit rating. Additionally, the NRSRO did not accurately record on such forms additional information regarding the determination of some credit ratings. The Staff recommended that the NRSRO prepare the relevant documentation forms as required by its policies and procedures.

(2) The NRSRO did not appear to comply with the requirement of Rule 17g-7(a)(2) to disclose Forms ABS Due Diligence-15E received by the NRSRO. In several instances, third-party due diligence forms were not attached to the corresponding information disclosure forms with regard to certain structured finance credit ratings. The NRSRO indicated that its normal practice for attaching the due diligence forms was not successful when the forms were password protected. The Staff recommended

that the NRSRO publish each due diligence form it receives in the same manner as the related credit rating and that the NRSRO establish policies and procedures for publishing due diligence forms.

(3) The NRSRO did not appear to disclose the versions of procedures and methodologies used to determine a credit rating, as required by Rule 17g-7(a)(1)(ii)(B). In two instances, the Staff observed that a methodology used to determine the credit rating was omitted from the information disclosure form. In one of those instances, an outdated version of another methodology was also disclosed. The Staff recommended that the NRSRO disclose all applicable methodologies used to determine a credit rating in the relevant information disclosure form.

f. Medium NRSRO #3

(1) The NRSRO did not appear to establish, maintain, and enforce written policies and procedures reasonable designed to address and manage conflicts of interest that can arise from its business, as required by Section 15E(h)(1). Under the NRSRO's policies, an analyst exposed to fee information may need to be recused from voting on credit rating actions for that entity for a period of time. In one instance, an analyst was directed to recuse himself in accordance with the policy, but did not do so and improperly participated in two rating committees during the time in which he was required to be recused. It appeared that the relevant policy did not include control elements sufficient to ensure that required recusals are implemented. The Staff recommended that the NRSRO establish procedures or controls as necessary to enforce its policy relating to analyst exposure to fee information.

(2) In certain circumstances, the NRSRO did not appear to provide information disclosure forms to the same persons that it provided credit ratings, as required by Rule 17g-7(a). In connection with privately issued credit ratings, the NRSRO created but did not distribute the accompanying information disclosure forms. The Staff recommended that the NRSRO, when taking a rating action, disclose the required information disclosure forms to the same persons who can receive or access the credit rating.

g. Small NRSRO #1

(1) The NRSRO published information disclosure forms that did not appear to include all the information required to be disclosed under Rule 17g-7(a). The Staff observed some information disclosure forms with missing information. Collectively, these forms omitted or included incomplete disclosures regarding payment for non-credit rating services, potential volatility of the credit rating, the sensitivity of the credit rating to assumptions, historical performance of the credit rating, and the expected probability of default and expected loss in the event of default. The Staff recommended that the NRSRO include in its information disclosure forms all disclosures required by Rule 17g-7(a).

(2) The NRSRO did not appear to comply with Rule 17g-3(a)(5) when filing a non-public financial report with the Commission under the rule. The NRSRO's report contained incomplete information that did not reflect the applicable rule requirements. The Staff recommended that the NRSRO include all required information in the Rule 17g-3(a)(5) reports it files with the Commission.

(3) The NRSRO did not appear to follow Form NRSRO instructions when filing certain information with the Commission, resulting in incomplete information being filed. The Staff recommended that the NRSRO's Form NRSRO filings adhere to the Form NRSRO instructions and include all required information.

h. Small NRSRO #2

(1) The NRSRO did not appear to establish, maintain, and enforce an effective internal control structure governing adherence to policies, procedures, and methodologies for determining credit ratings, as required by Section 15E(c)(3)(A). Specifically, the NRSRO did not appear to have effective controls for determining a metric specified in the NRSRO's methodology that can impact the rating outcome. In two instances observed by the Staff, a change made by the NRSRO to the metric resulted in a significant upward change to the credit rating assigned to the entity, notwithstanding that the same methodology was used to determine the credit ratings. The NRSRO's controls did not ensure that the proper metric was used when determining credit ratings. The Staff recommended that the NRSRO enhance its internal controls with respect to its policies, procedures, and methodologies pertaining to establishing this metric when determining credit ratings. The Staff also recommended that the NRSRO evaluate the effectiveness of its internal controls governing the implementation of and adherence to its methodologies for determining different types of credit ratings regarding the same entity.

The Staff identified such essential finding as a material regulatory deficiency.

In its response, the NRSRO stated that it plans to require rating committees to approve the established metric prior to the determination of a credit rating. The NRSRO plans to test the effectiveness of the control after it has been implemented and to conduct periodic reviews to ensure that the NRSRO's process for determining the metric to be used is appropriate. The NRSRO further indicated that it has enhanced certain controls pertaining to the determination of different types of credit ratings regarding the same entity and that it intends to make additional changes to its procedures and controls to address the findings of an independent consultant that it had hired to review and evaluate aspects of its credit rating process for the different types of ratings.

(2) The NRSRO did not appear to establish, maintain, and enforce an effective internal control structure governing implementation of and adherence to policies, procedures, and methodologies for determining credit ratings, as required by Section 15E(c)(3)(A). This finding specifically relates to controls regarding data quality, vetting process, and the acquisition of information that appeared to be ineffective. Although the NRSRO had a process intended to gain an understanding of the issuer and obligation to be rated, the NRSRO appeared not to have engaged in such process in this instance and did not appear to have adequate controls to ensure that such a process was undertaken when appropriate. Another control of the NRSRO requires a review to establish if data is consistent with analyst expectations. This control appeared to be ineffective in identifying apparent inconsistencies between certain financial information provided by the issuer and other representations made by the issuer. Finally, the control afforded by the NRSRO's rating committee appeared to be ineffective in ensuring that all material information was considered in determining the credit rating. Staff

recommended that the NRSRO enhance its internal controls governing implementation of and adherence to its policies, procedures, and methodologies for determining credit ratings as they pertain to the data quality, vetting process, and acquisition of information on issuers.

The Staff identified such essential finding as a material regulatory deficiency.

In its response, the NRSRO stated that it will review and enhance its procedures for reviewing and documenting the information it uses to determine credit ratings. Additionally, the NRSRO indicated that it will strengthen internal controls governing what constitutes a sufficient amount of high quality information for its ratings to help ensure that it does not issue or maintain a credit rating without sufficient access to such information.

(3) The NRSRO produced information disclosure forms that did not appear to include all the information required to be disclosed under Rule 17g-7(a). Specifically, the Staff observed some information disclosure forms containing a link purporting to provide the historical performance disclosure required by the rule. Clicking on the link displayed an error message rather than the required information. The Staff recommended that the NRSRO publish information disclosure forms containing the required information for all rating actions.

(4) The NRSRO did not appear to establish, maintain, enforce, and document an effective internal control structure governing adherence to policies, procedures, and methodologies for determining credit ratings, as required by Section 15E(c)(3)(A). More specifically, the NRSRO did not appear to have effective internal controls to ensure that audits of its rating files identify whether analysts have adhered to the NRSRO's procedures and methodologies for determining credit ratings. The controls that are in place may lack independence, given that the person performing the audits also acts as a primary rating analyst and in certain cases reviews their own work. The Staff recommended that the NRSRO ensure the independence of reviews and audits so that they function as an effective internal control governing adherence to the NRSRO's policies, procedures, and methodologies for determining credit ratings.

(5) The NRSRO's policies and procedures did not appear to be reasonably designed to address and manage conflicts of interest that could arise from its business and to prevent the misuse of material, non-public information as required by Section 15(h)(1) and Section 15E(g)(1), respectively. The apparent deficiencies in the NRSRO's policies and procedures relate to the use of shared email addresses. The NRSRO's existing policies and procedures do not address access to shared email addresses, even though such shared email addresses are used by the NRSRO. The Staff observed one shared email address accessed by both analytical and business personnel and another where the extent of access was unknown due to an inability of the NRSRO to audit such access. In certain instances, it appears that analytical personnel were exposed to fee information through a shared email address, and the use of such addresses without appropriate procedures or controls creates the possibility of inappropriate interaction between analytical and sales personnel or the unauthorized dissemination of material non-public information though such mailboxes. The Staff recommended that

the NRSRO establish, maintain, enforce, and document policies and procedures reasonably designed to address and manage conflicts of interest and prevent the misuse of material non-public information with respect to shared email addresses.

i. Small NRSRO #3

The NRSRO's policies and procedures did not appear to be reasonably designed to address and manage conflicts of interest that could arise from its business as required by Section 15E(h)(1). The policies and procedures in question relate to securities holdings of employees, and such policies and procedures appeared not to prevent the issuance and maintenance of a credit rating subject to the prohibited conflict of interest set forth in Rule 17g-5(c)(2). The NRSRO's policies and procedures required employees with an interest in a rated entity not to participate in determining credit ratings of that entity. However, the NRSRO discovered that an analyst had participated in two rating committees while holding securities of a rated entity. The Staff recommended that the NRSRO establish, maintain, and enforce written policies and procedures reasonably designed to address and manage conflicts of interest with respect to securities holdings.

Additionally, one of the NRSROs appeared not to comply with certain requirements in a Commission order. The Staff recommended that the NRSRO comply with these requirements.

In total the Staff communicated 23 essential findings to the NRSROs at the conclusion of the 2022 Section 15E examinations. Of these essential findings:

- nine related to disclosure or reporting issues, implicating Rule 17g-3, Rule 17g-7(a), and Form NRSRO;
- five related to internal control issues, implicating Section 15E(c)(3)(A);
- four related to issues addressing or managing conflicts of interest, implicating Section 15E(h)(1) and Rule 17g-5(c);[23]
- three related to issues regarding the prevention of misuse of material, non-public information, implicating Section 15E(g)(1);[24]
- one related to policies and procedures with respect to credit rating symbols, numbers, or scores, implicating Rule 17g-8(b)(1);
- one related to the production of records to examiners, implicating Rule 17g-2(f); and
- one related to compliance with a prior Commission order.

4. Responses to Recommendations from the 2021 Section 15E Examinations

To assess whether NRSROs appropriately addressed findings and recommendations from the 2021 Section 15E examinations, the Staff reviewed each NRSRO's written response describing its planned remedial measures, participated in calls with each NRSRO to discuss its written response, and requested additional documentation, as appropriate.

During the 2022 Section 15E examinations, the Staff assessed each NRSRO's progress in implementing remedial measures such as establishing new or enhancing existing policies or procedures or internal controls, or adding personnel and other resources in areas such as compliance, information technology, or analytics. The Staff takes into account that NRSROs may not be able to fully implement remedial measures and/or that the Staff

23 One of these findings also implicated material, non-public information. This finding is double counted within the list as a result.

24 One of these findings also implicated conflicts of interest. This finding is double counted within the list as a result.

may not be able to fully assess the effectiveness of these measures during the 2022 Section 15E examinations.

The Staff has determined all findings and recommendations from the 2021 Section 15E examinations have been appropriately addressed, except as noted below. NRSROs generally addressed the findings and recommendations from the 2021 Section 15E examinations by taking remedial measures such as adopting new or enhancing existing policies or procedures, internal controls, or systems and processes, and by adding personnel and other resources.

In one instance, the Staff determined that a small NRSRO had completed its remedial efforts but that such efforts did not appropriately address the corresponding finding and recommendation. In 2021, the Staff found that several information disclosure forms published by the small NRSRO did not appear to include required disclosures regarding the source of payment for the credit rating, potential volatility of the credit rating, and sensitivity of the credit rating to assumptions made by the NRSRO. The Staff recommended that the NRSRO ensure that its information disclosure forms contain all required disclosures. While the Staff observed in the 2022 examination that the NRSRO made efforts to address the previous finding, the Staff determined that the NRSRO did not appropriately address the 2021 finding because the NRSRO's remediation did not address the requirements to disclose the potential volatility of the credit rating and the sensitivity of the credit rating to assumptions made by the NRSRO.

In another instance, the Staff was unable to determine whether its finding and recommendation had been appropriately addressed because the NRSRO's remediation is ongoing and all information necessary to assess the remediation is not yet available. In 2021, the Staff found that a medium NRSRO did not appear to make certain disclosures required by Rule 17g-7(a)(1)(ii)(B), relating to the version of the NRSRO's rating methodology used for certain rating actions. The Staff recommended that the NRSRO ensure that it discloses in its information disclosure forms the version of the methodology it used to determine the credit ratings. The Staff was unable to assess remediation in the 2022 examination. The NRSRO has indicated it will update all relevant disclosure forms on its website to include expanded disclosure of methodologies used in determining the credit ratings. The NRSRO also indicated it would update policies and procedures that govern the disclosure of methodologies used in determining credit ratings. The NRSRO is developing a work plan to address relevant updates. The Staff will assess remediation in the 2023 Section 15E examination.

IV. STATE OF COMPETITION, TRANSPARENCY, AND CONFLICTS OF INTEREST

A. COMPETITION

1. Select NRSRO Statistics

Sections IV.A.1.a through 1.c 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 large NRSROs continue to account for the highest percentages of outstanding ratings, it also shows that the small and medium NRSROs continue to compete with the large NRSROs in certain rating categories. For instance, the information shows that AMB has the greatest number of ratings outstanding in the insurance category and that DBRS and KBRA have gained significant ratings share in the asset-backed securities category.[25]

a. NRSRO Credit Ratings Outstanding

Each NRSRO annually reports not later than March 31st the number of credit ratings outstanding, as of the end of the preceding calendar year, in each rating category for which it is registered.[26] This information, for the calendar year ending December 31, 2021, is summarized in Charts 2 through 10 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, 2021.
- Chart 3 depicts the percentage of each NRSRO's outstanding credit ratings of the total credit ratings outstanding in each category and overall.
- Chart 4 illustrates the relative size of each rating category based on the aggregate number of ratings reported outstanding by all NRSROs.
- Chart 5 illustrates the percentage of ratings each NRSRO had outstanding across all rating categories.

25 As discussed in Section IV.A.2 of this Report, information available on the websites of *Commercial Mortgage Alert* and *Asset-Backed Alert* also shows that DBRS and KBRA have achieved significant market shares in the asset-backed securities rating category over the past few years.

26 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.

- Chart 6 illustrates the percentage of ratings each NRSRO had outstanding across all rating categories other than the government securities category.
- Chart 7 depicts the percentage of ratings each NRSRO had outstanding in the government securities category.
- Chart 8 depicts the change in the number of non-government ratings outstanding for each NRSRO over the prior five years.
- Chart 9 depicts the change in the number of non-government ratings outstanding for each small and medium NRSRO over the prior five years.
- Chart 10 depicts the change in the number of asset-backed securities ratings outstanding for each NRSRO over the prior five years.

While comparing the number of ratings *outstanding* among NRSROs provides a cumulative view on the state of competition over time,[27] comparing the number of ratings *issued* by such NRSROs in a given period provides a more current picture of competition among NRSROs. Consequently, the information described in Charts 8 through 10 (which show changes in ratings outstanding over a five year period) may provide an indication of how NRSROs have been competing in recent years. Additionally, the information described in Section IV.A.2 of this Report (relating to recent market share developments in the asset-backed securities rating category), which provides information about ratings issued each year since 2020, may provide additional insight regarding the current competitive landscape among the NRSROs 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-categories.[28] 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.[29]

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.[30]

Chart 2 provides the number of outstanding credit ratings reported by each NRSRO in its annual certification for the calendar year ending December 31, 2021, in each of the five rating categories identified in Section 3(a)(62)(A) for which the NRSRO is registered, as applicable, as well as the percentage change in total ratings for each NRSRO from 2020 to 2021. 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

27 The ratings counts disclosed on Item 7A of Form NRSRO include outstanding credit ratings, regardless of when they were issued. As such, they reflect the rating activity of NRSROs over a period of years.

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

29 An NRSRO identifies its credit rating affiliates on Item 3 of Form NRSRO.

30 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 rating count disclosures are consistent across NRSROs. *See Nationally Recognized Statistical Rating Organizations*, Release No. 34-72936 (Aug. 27, 2014), 79 FR 55078, 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 with respect to Item 7 of Form NRSRO).

registered, as reported by each NRSRO in its annual certification for the calendar year ending December 31, 2021, as well as the percentage increase or decrease in total ratings from 2020 to 2021.[31]

Chart 2. Number of Outstanding Credit Ratings as of December 31, 2021 by Rating Category

NRSRO	Financial Institutions	Insurance Companies	Corporate Issuers	Asset-Backed Securities	Government Securities	Total Ratings	Year-Over-Year Change in Total Ratings (2020 to 2021)
AMB	N/R	7,286	977	5	N/R	8,268	0.33%
DBRS	9,704	232	3,254	25,535	22,856	61,581	-0.31%
EJR	5,503	474	8,110	N/R	N/R	14,087	-31.06%
Fitch	32,774	3,148	20,711	34,653	177,403	268,689	-0.01%
HR	789	N/R	558	N/R	455	1,802	8.49%
JCR	928	97	3,148	N/R	346	4,519	3.77%
KBRA	1,657	182	455	18,315	9,548	30,157	85.09%
Moody's	34,003	2,624	33,203	50,815	562,211	682,856	0.70%
S&P	52,947	6,919	56,745	37,593	935,801	1,090,005	1.17%
Total	**138,305**	**20,962**	**127,161**	**166,916**	**1,708,620**	**2,162,399**	**1.17%**

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-hundredth of one percent.
Sources: NRSRO annual certifications for the 2020 and 2021 calendar years, 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, 2021

NRSRO	Financial Institutions	Insurance Companies	Corporate Issuers	Asset-Backed Securities	Government Securities	Total Ratings	Change in % of Total Ratings from 2020 to 2021
AMB	N/R	34.8%	0.8%	<0.1%	N/R	0.4%	-0.02%
DBRS	7.0%	1.1%	2.6%	15.3%	1.3%	2.8%	-0.22%
EJR	4.0%	2.3%	6.4%	N/R	N/R	0.7%	-1.46%
Fitch	23.7%	15.0%	16.3%	20.8%	10.4%	12.4%	-0.20%
HR	0.6%	N/R	0.4%	N/R	<0.1%	0.1%	0.03%
JCR	0.7%	0.5%	2.5%	N/R	<0.1%	0.2%	0.03%
KBRA	1.2%	0.9%	0.4%	11.0%	0.6%	1.4%	0.94%
Moody's	24.6%	12.5%	26.1%	30.4%	32.9%	31.6%	0.43%
S&P	38.3%	33.0%	44.6%	22.5%	54.8%	50.4%	0.47%

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-hundredth of one percent.
Sources: NRSRO annual certifications for the 2020 and 2021 calendar years, Item 7A on Form NRSRO.

31 For example, according to Chart 2, AMB reported that it had 7,286 insurance company credit ratings, and the total of the credit ratings in that category reported by all NRSROs was 20,962. Therefore, the percentage of NRSRO insurance company ratings attributable to AMB was approximately 34.8% (i.e., 7,286 divided by 20,962, expressed as a percentage), as shown on Chart 3.

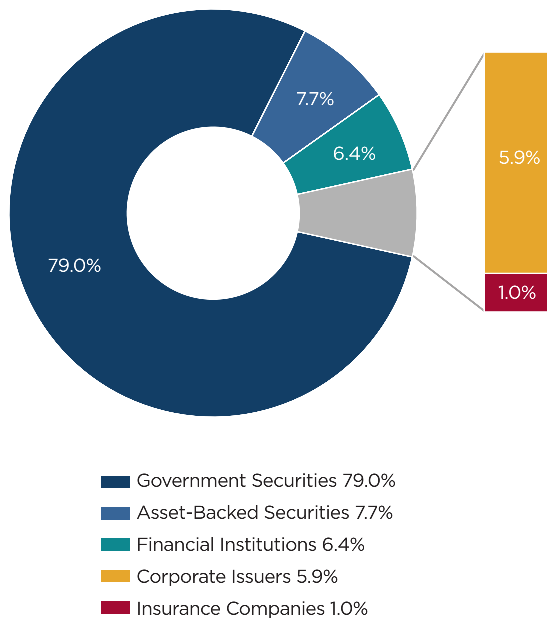
The large NRSROs accounted for 94.4% of all the ratings outstanding as of December 31, 2021—slightly lower than their 94.7% share as of December 31, 2020.[32] The aggregate share of outstanding credit ratings of the large NRSROs decreased in two of the five categories, most significantly in the asset-backed securities category, which decreased by about 2 percentage points. The large NRSROs as a group also lost a small amount of their aggregate share of outstanding credit ratings in the government securities category, which may be attributable, in part, to the significant increase in government ratings reported by KBRA. KBRA reported 9,548 government ratings outstanding as of December 31, 2021, compared to only 141 as of December 31, 2020. However, given the large number of government ratings outstanding in the aggregate, KBRA's government ratings outstanding reflect only 0.56% of the total government ratings.

Charts 2 and 3 also show that AMB, a medium NRSRO, had the most credit ratings outstanding in the insurance category. In each of the past eight years, AMB reported that it had the most credit ratings outstanding in the insurance category.[33]

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, 2021.

As illustrated by Chart 4, 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 (e.g., issuers of municipal securities) 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 and Chart 7, is also the most concentrated rating category, with the large NRSROs accounting for 98.1% of all outstanding government securities ratings.

Chart 4. Breakdown of Ratings Reported Outstanding by Rating Category as of December 31, 2021

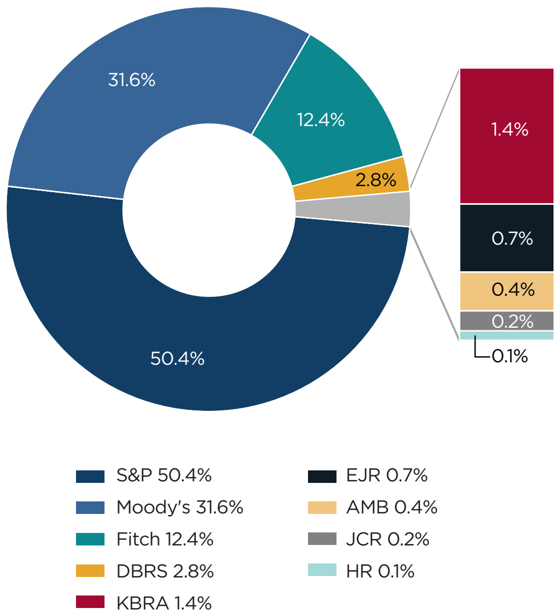


Percentages have been rounded to the nearest one-tenth of one percent.
Sources: NRSRO annual certifications for the 2021 calendar year, Item 7A on Form NRSRO.

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

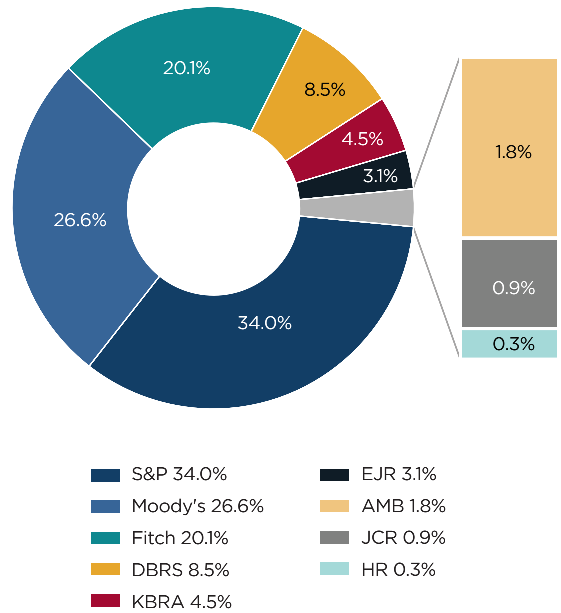
33 *See* 2021 Staff Report on NRSROs, which can be found under "Staff Reports on Nationally Recognized Statistical Rating Organizations" and the Annual Reports for prior years, which can be found under "Annual Reports to Congress" in the "Reports and Studies" section of the OCR webpage, available at https://www.sec.gov/ocr/ocr-reports-and-studies.html.

Chart 5. Breakdown of Ratings Reported Outstanding by NRSRO as of December 31, 2021



Percentages have been rounded to the nearest one-tenth of one percent.
Sources: NRSRO annual certifications for the 2021 calendar year, Item 7A on Form NRSRO.

Chart 6. Breakdown of Non-Government Securities Ratings Reported Outstanding by NRSRO as of December 31, 2021



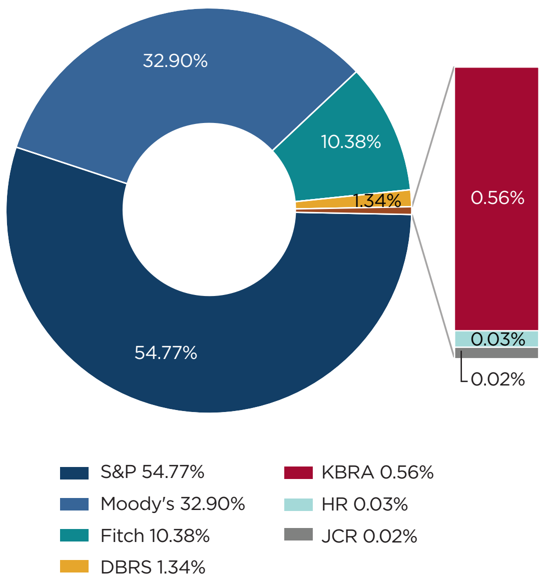
Percentages have been rounded to the nearest one-tenth of one percent.
Sources: NRSRO annual certifications for the 2021 calendar year, Item 7A on Form NRSRO.

Chart 5 depicts the percentages of the credit ratings outstanding that are attributable to each NRSRO over all the rating categories; Chart 6 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; and Chart 7 depicts the percentages of the credit ratings outstanding that are attributable to each applicable NRSRO in the government securities category, in each case, as reported by each NRSRO in its annual certification for the calendar year ending December 31, 2021.

A comparison of Chart 5 to Chart 6 illustrates that there is less concentration in the non-government securities rating categories. S&P's and Moody's percentage share of all outstanding ratings declines by 16.4 and 5.0 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 small and medium NRSROs, except for DBRS and KBRA, has 0.7% or less 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 small and medium NRSROs in

Chart 7. Breakdown of Government Securities Ratings Reported Outstanding on December 31, 2021



Percentages have been rounded to the nearest one-hundredth of one percent.
This chart only includes the NRSROs that are registered in the government securities category.
Sources: NRSRO annual certifications for the 2021 calendar year, Item 7A on Form NRSRO.

the categories in which they are active can be observed, as illustrated in Chart 6. The percentage share of most of the small and medium NRSROs for all rating categories other than government securities as of December 31, 2021 did not change significantly compared to its percentage share as of December 31, 2020.[34] The largest percentage share changes were KBRA, whose percentage share increased by 0.9%, and EJR whose percentage share declined by 1.5%.

Chart 8 depicts the change in ratings outstanding over a period of five years for all ratings other than ratings in the government securities category reported outstanding by NRSROs, as reported by each NRSRO in its annual certification for the calendar year ending December 31, 2017 through 2021.

As illustrated in Chart 8, reported ratings outstanding has remained mostly steady across all NRSROs over the past five years and, consistent with the information shown in Chart 3 for the year ending December 31, 2021, the larger NRSROs have significantly more ratings outstanding than the medium and small NRSROs. While modest on the scale of ratings outstanding by the large NRSROs, Chart 8 shows a steady increase in ratings outstanding for both DBRS and KBRA over the past five years. The extent of this increase for DBRS and KBRA is more apparent when viewing changes in ratings outstanding on a scale that includes only the medium and small NRSROs, as illustrated in Chart 9.

Chart 10 depicts the change in ratings outstanding over a period of five years for all ratings in the asset-backed securities rating class reported outstanding by NRSROs.

As discussed in more detail in Section IV.A.2, medium NRSROs have been able to make inroads in the asset-backed securities rating class. Chart 10 provides a graphic representation of the increased competition in this rating class since 2017. Both DBRS and KBRA have steadily increased the number of ratings reported outstanding over the

34 A comparison of Chart 6 in this Report with Chart 11 in Section IV.A.1 of the 2021 Staff Report on NRSROs (available at https://www.sec.gov/files/2022-ocr-staff-report.pdf) shows that each small and medium NRSRO's total non-government securities ratings share as of December 31, 2021 remained constant or increased modestly compared to the ratings shares as of December 31, 2020.

Chart 8. Total Non-Government Ratings Issued by All NRSROs as of December 31, 2021

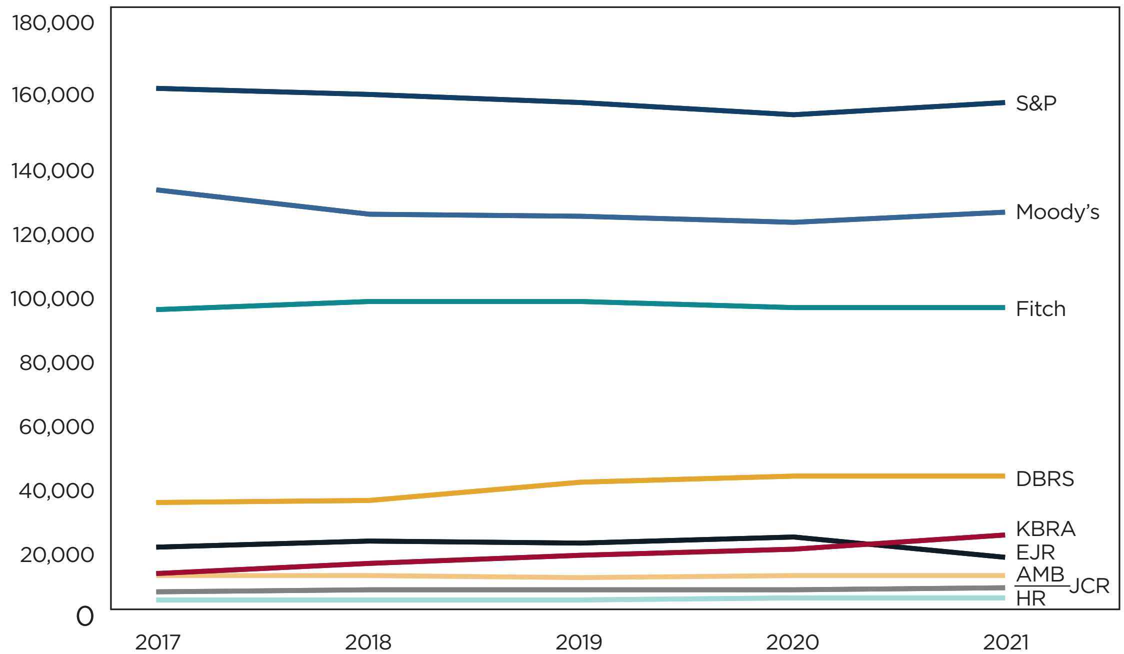
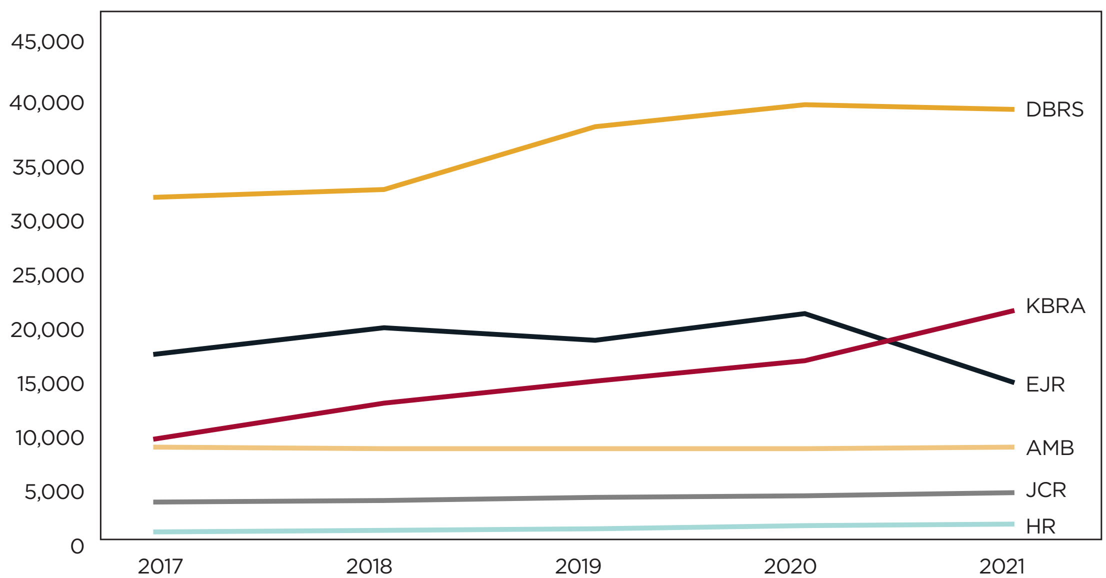


Chart 9. Total Non-Government Ratings Issued by Medium and Small NRSROs as of December 31, 2021



past five years. While Moody's and S&P continue to report the most ratings outstanding in this class, the number of outstanding ratings reported by these NRSROs is lower in 2021 as compared to 2017. Fitch's number of ratings has increased since 2017, and ratings counts for each of Fitch, Moody's, and S&P have remained fairly steady in recent years.

Chart 10. Total ABS Ratings Issued by All NRSROs as of December 31, 2021

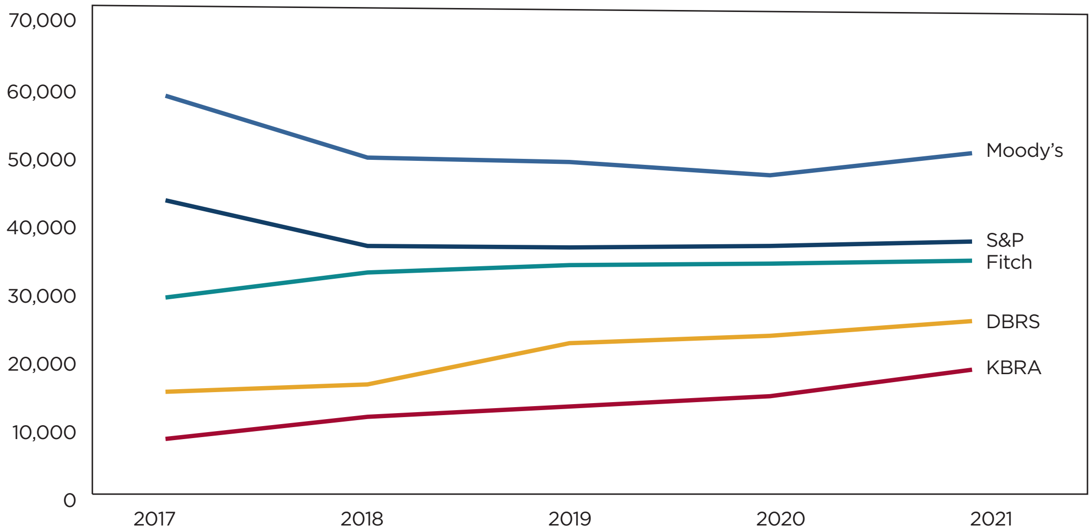


Chart 11. NRSRO Credit Analysts and Credit Analyst Supervisors

NRSRO	Credit Analysts (Including Credit Analyst Supervisors)	Credit Analyst Supervisors
AMB	155	62
DBRS	507	87
EJR	21	11
Fitch	1,288	330
HR	58	10
JCR	60	29
KBRA	214	59
Moody's	1,670	256
S&P	1,577	127
Total	**5,550**	**971**

Sources: Exhibit 8 to Form NRSRO, in effect as of each NRSRO's annual certification for the 2021 calendar year filed on or before March 31, 2022.

b. NRSRO Analytical Staffing Levels

Chart 11 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.[35]

The large NRSROs report employing 4,535 credit analysts (including supervisors), which is approximately 81.6% of the total number employed by all of the NRSROs. The small and medium NRSROs, in the aggregate, employ approximately 18.4% of all credit analysts employed by NRSROs.[36] Total NRSRO analytical staff declined by about 1% compared to the information reported in the prior year annual certifications.

35 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).

36 Based on reports by the NRSROs on their annual certifications for the applicable calendar year, the small and medium NRSROs, in the aggregate, 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, 15.4% of all NRSRO analysts in 2018, 17.0% of all NRSRO analysts in 2019, and 16.3% of all NRSRO analysts in 2020.

c. NRSRO Revenue

Chart 12 shows the percentage of total NRSRO revenues attributable to the large, medium, and small NRSROs since 2018.[37] Changes to the composition of certain registered NRSROs in recent years may limit the comparability of the revenue distribution across the years.[38] Nonetheless, observations of changes to the distribution of revenue may provide some insight into the overall competitive landscape. Following a small increase in fiscal year 2020, the percentage of aggregate NRSRO revenue reported by the large NRSROs has fallen below the level reported for fiscal year 2019. The revenue share of the medium NRSROs has generally remained steady since 2018. In fiscal year 2021, the medium NRSROs regained most of the share of revenue lost in 2020, a year impacted by the onset of and response to COVID-19. The small NRSROs' share of overall NRSRO revenue has also remained consistent over this time period, and increased by 0.3% in fiscal year 2021. Although this percentage increase is modest in terms of aggregate revenue across all NRSROs, it represents a 50% increase in revenue attributable to the small NRSROs compared to fiscal years 2020 and 2019.

Chart 12. NRSRO Fiscal Year Revenue as a Percentage of Aggregate Reported Revenue

	2021	2020	2019	2018
Large NRSROs	93.2%	94.1%	93.3%	93.5%
Medium NRSROs	5.6%	5.1%	5.9%	5.9%
Small NRSROs	1.1%	0.8%	0.8%	0.7%

Percentages have been rounded to the nearest one-tenth of one percent.
Sources: Financial reports filed with the Commission under Rule 17g-3(a)(3) for fiscal years ended 2019 through 2021. 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 2021 annual reports of public companies with an ownership interest in an NRSRO:

- Moody's Corporation, which is Moody's parent company, reported $3.8 billion in Moody's external revenue for 2021, a 16% increase from 2020. This increase, according to the report, was due to strong growth mainly driven by leveraged finance issuance, as issuers refinanced existing debt and funded merger and acquisition activity, and increased collateralized loan obligation and commercial mortgage-backed securities activity amid favorable market conditions. The corporate finance group, financial institutions group, public, project and infrastructure finance group, and structured finance group of Moody's had an increase in revenue compared to 2020 results.[39]
- S&P Global Inc. (S&P Global), which is S&P's parent company, reported $4.1 billion in S&P's revenue for 2021, a 14% increase from 2020. This increase, according to the report, was due to higher bank loan ratings revenue and

37 Pursuant to Rule 17g-3(a)(3), each NRSRO is required to file annually with the Commission an unaudited revenue report, which includes revenue received from determining and maintaining credit ratings, subscribers and subscription services, granting licenses or rights to publish credit ratings, and other services and products. NRSROs are not required to make these revenue reports publicly available.

38 Following its acquisition of DBRS in July 2019, Morningstar, Inc. began to integrate the businesses of DBRS and Morningstar Credit Ratings, LLC (MCR), which at the time was also registered as an NRSRO. Effective December 30, 2019, MCR withdrew its registration as an NRSRO. MCR continued to operate as a credit rating affiliate of DBRS until November 23, 2020.

39 *See* Moody's Corporation, Annual Report on Form 10-K for the year ended December 31, 2021, available at https://www.sec.gov/ix?doc=/Archives/edgar/data/0001059556/000105955622000012/mco-20211231.htm.

structured finance revenue. Non-transaction revenue increased primarily due to an increase in surveillance, entity credit ratings, subsidiary revenue, and higher revenue from S&P's Ratings Evaluation Service, an analytical tool for entities that are considering strategic or financial initiatives that could impact their creditworthiness.[40]

- Morningstar, Inc., which is DBRS's parent company, reported $271 million in revenue from DBRS, a 30.8% increase in revenue from 2020. This increase, according to the report, was due to robust commercial and residential mortgage-backed securities issuance, growth from fundamental ratings, expansion into U.S. and European corporate middle markets, and increased issuance in Canadian non-bank financials. Transaction-based revenue from one-time, transaction-based fees for ratings on newly-issued securities grew 31.2% in 2021, which represented 65.7% of the revenue generated by DBRS. The remainder is classified as transaction-related revenue or revenue generated by annual fees tied to surveillance, research, and other services.[41]

Recent regulatory filings show a decline in revenues at Moody's and S&P in the first half of 2022. Moody's Corporation reported $1.5 billion in Moody's external revenue for the first half of 2022, a 24% decrease compared with the same period in 2021. This decrease, according to the report, was due to declines in leveraged finance (high-yield corporate debt and bank loans) issuance resulting from market volatility relating to macroeconomic uncertainties, rising borrowing costs, and the Russia-Ukraine conflict.[42]

S&P Global reported $1.6 billion in revenue at S&P for the first half of 2022, a 20% decrease compared with the same period in 2021. This decrease, according to the report, was due to an unfavorable impact from foreign exchange rates, lower corporate bond ratings revenue driven by a decrease in high-yield and investment-grade issuance volumes, lower bank loan ratings revenue, decreased issuance of U.S. collateralized loan obligations, and reduced issuance volumes resulting from unfavorable macroeconomic conditions in 2022.[43]

Morningstar, Inc. reported $134.4 million in DBRS revenue for the first half of 2022, a 7.8% increase compared with the same period in 2021. This increase, according to the report, was achieved despite softer issuance across most geographies and asset classes. Additionally, while there was strong growth in commercial mortgage-backed securities issuance, this was partially offset by declines in asset-backed securities, residential mortgage-backed securities, and corporate and financial institution ratings. Finally, structured finance issuance slowed sharply due to the geopolitical environment and increased interest-rate volatility and liquidity premiums in Europe.[44]

40 *See* S&P Global Inc., Annual Report on Form 10-K for the year ended December 31, 2021, available at https://www.sec.gov/ix?doc=/Archives/edgar/data/0000064040/000006404022000055/spgi-20211231.htm.

41 *See* Morningstar, Inc., Annual Report on Form 10-K for the year ended December 31, 2021, available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1289419/000128941922000005/morn-20211231.htm.

42 *See* Moody's Corporation, Quarterly Report on Form 10-Q for the period ended June 30, 2022, available at https://www.sec.gov/ix?doc=/Archives/edgar/data/0001059556/000105955622000051/mco-20220630.htm.

43 *See* S&P Global Inc., Quarterly Report on Form 10-Q, for the period ended June 30, 2022, available at https://www.sec.gov/ix?doc=/Archives/edgar/data/0000064040/000006404022000143/spgi-20220630.htm.

44 *See* Morningstar, Inc., Quarterly Report on Form 10-Q for the period ended June 30, 2022, available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1289419/000128941922000014/morn-20220630.htm.

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

As noted in Section IV.A.1.a 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, 2021, DBRS and KBRA, the only medium or small NRSROs that actively rate asset-backed securities,[45] collectively had 26.3% of the ratings outstanding in the asset-backed securities rating category, which increased from 24.3% as of December 31, 2020. However, the market share data discussed in this Section IV.A.2[46] shows that even higher market share percentages have been obtained by DBRS and KBRA in recent years for ratings issuance with respect to certain types of asset-backed securities. This market share data continues the growth trend the Staff has observed since 2011 for some medium NRSROs[47] in the asset-backed securities rating category.

Section IV.A.2.a and 2.b below discuss NRSRO market share information with respect to certain asset-backed securities, based on information from the databases available on the *Commercial Mortgage Alert* and *Asset-Backed Alert* websites.[48]

a. CMBS

Charts 13 through 16 provide information concerning U.S.[49] CMBS[50] ratings by NRSROs, based on information from the *Commercial Mortgage Alert* database. NRSRO market share varies between the conduit CMBS and single-borrower CMBS segments,[51] the two segments

45 EJR, HR, and JCR are not registered with the Commission in the asset-backed securities category. *See* Chart 1. While AMB is registered to rate asset-backed securities, as shown in Chart 2, it only has five outstanding asset-backed securities ratings as of December 31, 2021, all of which were issued before 2019. For these reasons, this section only discusses observations related to DBRS, Fitch, KBRA, Moody's, and S&P, which are the five NRSROs registered in the asset-backed securities category with current asset-backed securities rating activity.

46 Unless noted otherwise, all market share percentages in this Section IV.A.2 are based on dollar amounts of issuance.

47 Prior to being integrated with DBRS, MCR also actively rated asset-backed securities.

48 *See Commercial Mortgage Alert* website, available at https://www.greenstreet.com/news/commercial-mortgage-alert and *Asset-Backed Alert* website, available at https://www.greenstreet.com/news/asset-backed-alert. The information in Charts 13 through 16 is based on information from the *Commercial Mortgage Alert's* CMBS database as of August 5, 2022, and the information in Charts 17 through 19 and the accompanying discussion is based on information from the *Asset-Backed Alert's* ABS database as of August 5, 2022. Although analysis of the information from the databases 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.

49 Based on information about the databases available on the *Asset-Backed Alert* and *Commercial Mortgage Alert* websites, references to "U.S." CMBS, MBS, ABS, and CLO issuance and market shares in this Section IV.A.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 (the Securities Act).

50 Based on information about the database available on the *Commercial Mortgage Alert* website, the "CMBS" category is comprised of transactions secured by a static pool of mortgages or leases on income producing properties, either commercial or multi-family.

51 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%20-Update.pdf. In contrast, a single-borrower transaction includes commercial mortgage loans made to a single borrower.

that account for most of the non-agency[52] U.S. CMBS transactions rated by NRSROs. The charts include reported market share information for total non-agency U.S. CMBS transactions,[53] U.S. conduit CMBS transactions, U.S. single-borrower CMBS transactions, and agency CMBS transactions[54] for the first half of calendar year 2022 and calendar years 2021 and 2020.[55]

Chart 13. Rating Agency Market Shares for Total Non-Agency U.S. CMBS Issued in 2020, 2021, and First Half of 2022

1H-2022 Rank	NRSRO	1H-2022 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2021 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2020 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)
1	Moody's	34,989	35	71.0/63.6	38,342	45	34.7/31.7	25,076	42	46.3/50.0
2	Fitch	23,485	23	47.7/41.8	57,361	60	51.9/42.3	38,037	46	70.2/54.8
3	DBRS	23,197	23	47.1/41.8	56,655	71	51.2/50.0	21,893	34	40.4/40.5
4	KBRA	16,614	16	33.7/29.1	46,466	47	42.0/33.1	25,825	32	47.7/38.1
5	S&P	11,485	14	23.3/25.5	45,885	55	41.5/38.7	18,176	23	33.6/27.4
Total Rated Market		**49,266**	**55**		**110,557**	**142**		**54,155**	**88**	

Chart 14. Rating Agency Market Shares for U.S. Conduit CMBS Issued in 2020, 2021, and First Half of 2022

1H-2022 Rank	NRSRO	1H-2022 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2021 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2020 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)
1	Fitch	16,105	16	100.0/100.0	31,428	32	100.0/100.0	26,953	30	100.0/100.0
2	KBRA	10,124	10	62.9/62.5	25,809	26	82.1/81.3	17,400	20	64.6/66.7
3	Moody's	8,258	8	51.3/50.0	6,771	7	21.5/21.9	11,457	15	42.5/50.0
4	DBRS	8,135	8	50.5/50.0	6,984	7	22.2/21.9	9,553	10	35.4/33.3
5	S&P	7,358	7	45.7/43.8	22,906	22	72.9/68.8	14,769	14	54.8/46.7
Total Rated Market		**16,105**	**16**		**31,428**	**32**		**26,953**	**30**	

52 "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.

53 Total U.S. CMBS transactions include single-borrower CMBS, conduit CMBS, and other types of CMBS, such as large loan and small-balance/legacy conduit CMBS transactions.

54 Only agency CMBS transactions with a rating from one or more NRSROs are included for determining NRSRO market share in the agency CMBS category.

55 The market share percentage for each NRSRO in Charts 13 through 16 reflects the total amount rated by the NRSRO as a percentage of the total amount rated by all the NRSROs that assigned ratings. Market share percentages are provided based on both dollar amounts of issuance and number of deals rated. The sum of the market share percentages exceeds 100% because it is typical for more than one NRSRO to rate a particular transaction. Likewise, the aggregate issuance volume and number of deals represented above exceed the Total Rated Market values for each time period. The source of the data for these charts is the *Commercial Mortgage Alert's* CMBS database as of August 5, 2022.

Chart 15. Rating Agency Market Shares for U.S. Single-Borrower CMBS Issued in 2020, 2021, and First Half of 2022

1H-2022 Rank	NRSRO	1H-2022 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2021 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2020 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)
1	Moody's	26,454	26	80.4/68.4	31,571	38	39.9/34.5	11,388	23	47.9/48.9
2	DBRS	15,062	15	45.8/39.5	49,671	64	62.8/58.2	10,108	20	42.5/42.6
3	Fitch	7,379	7	22.4/18.4	25,933	28	32.8/25.5	8,582	12	36.1/25.5
4	KBRA	6,213	5	18.9/13.2	20,657	21	26.1/19.1	7,231	9	30.4/19.1
5	S&P	4,127	7	12.6/18.4	22,979	33	29.9/30.0	3,154	8	13.3/17.0
Total Rated Market		**32,884**	**38**		**79,128**	**110**		**23,776**	**47**	

Chart 16. Rating Agency Market Shares for Agency CMBS Issued in 2020, 2021, and First Half of 2022

1H-2022 Rank	NRSRO	1H-2022 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2021 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2020 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)
1	Fitch	9,484	8	60.4/61.5	22,469	19	94.9/95.0	26,820	21	90.9/91.3
2	KBRA	8,406	7	53.6/53.8	7,538	7	31.8/35.0	14,480	11	49.1/47.8
3	DBRS	7,286	6	46.4/46.2	16,147	13	68.2/65.0	15,011	12	50.9/52.2
4	Moody's	6,208	5	39.6/38.5	1,216	1	5.1/5.0	2,671	2	9.1/8.7
Total Rated Market		**15,692**	**13**		**23,684**	**20**		**29,491**	**23**	

Charts 13 through 16 show that in 2020, 2021, and the first half of 2022 the large NRSROs generally held a large percentage of the market shares in rating non-agency U.S. CMBS transactions, but DBRS and KBRA have achieved significant market shares as well.

As illustrated in Chart 13, in the first half of 2022, DBRS and KBRA had the third- and fourth-highest market shares, respectively, in the non-agency U.S. CMBS segment. In 2021, DBRS was closely behind Fitch for the second-highest market share, significantly increasing its market share since 2020. KBRA has consistently attained a market share over 34% since 2020, and in 2021 KBRA obtained a higher market share than Moody's or S&P.

As of the first half of 2022, the U.S. conduit CMBS segment represented approximately 30% of the non-agency U.S. CMBS transactions. Since 2020, Fitch has maintained the highest market share in the U.S. conduit CMBS segment, rating all transactions. However, as illustrated in Chart 14, KBRA has maintained the second-highest market share, measured by both dollar value of issuance and number of deals rated, in the U.S. conduit CMBS segment since 2020. Additionally, as of the first half of 2022, DBRS has rated just over half of these transactions.

In 2021 and the first half of 2022, the relative size of the U.S. single-borrower segment was approximately two-thirds of all non-agency U.S. CMBS transactions. As illustrated in Chart 15, DBRS has achieved significant market share in this segment, achieving the highest market share in 2021 and the second-highest for 2020 and the first half of 2022.

As illustrated in Chart 16, Fitch had the highest market share in the agency CMBS segment during 2020 and 2021. However, over the same period, DBRS and KBRA had the second and third highest market shares, respectively, and KBRA and DBRS had the second and third highest market shares, respectively, for the first half of 2022.

b. ABS/MBS/CLO

Charts 17 through 19 provide information concerning U.S. ABS,[56] U.S. MBS,[57] and U.S. CLO[58] ratings by NRSROs, based on information from the *Asset-Backed Alert* database. The charts include reported market share information for these transactions for the first half of calendar year 2022 and calendar years 2021 and 2020.[59]

Chart 17 shows that DBRS and KBRA have gained and maintained significant U.S. ABS rating market shares. Since 2020, KBRA has grown its market share, and DBRS has consistently attained a market share of over 20%.

Chart 17. Rating Agency Market Shares for U.S. ABS Issued in 2020, 2021, and First Half of 2022

1H-2022 Rank	NRSRO	1H-2022 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2021 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2020 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)
1	S&P	111,577	142	52.0/39.0	192,962	291	49.2/43.0	159,660	240	58.3/47.9
2	Moody's	87,172	112	40.7/30.8	171,700	199	43.7/29.4	114,382	157	41.8/31.3
3	Fitch	79,980	115	37.3/31.6	135,558	177	34.5/26.1	109,286	151	39.9/30.1
4	KBRA	73,697	155	34.4/42.6	101,188	252	25.8/37.2	50,550	139	18.5/27.7
5	DBRS	43,541	99	20.3/27.2	123,106	233	31.4/34.4	76,125	168	27.8/33.5
Total Rated Market		**214,373**	**364**		**392,476**	**677**		**273,685**	**501**	

56 Based on information about the database available on the *Asset-Backed Alert* website, the "ABS" category is comprised of securities that are collateralized by assets other than the following: CMBS; MBS; CLOs; collateral debt obligations collateralized primarily by other securities; issuances by municipalities; tax exempt issues; issues that are fully retained by an affiliate of the deal sponsor or sold to a commercial paper-conduit operated by an affiliate of the sponsor; commercial paper and other continuously offered securities such as medium-term notes; and refinancing of previously offered securities.

57 Based on information about the database available on the *Asset-Backed Alert* website, the "MBS" category is comprised of registered securities backed by U.S. first-lien residential properties (typically jumbo mortgages that would otherwise meet the criteria of Fannie Mae and Freddie Mac) and Alt-A home loans.

58 Based on information about the database available on the *Asset-Backed Alert* website, the "CLO" category is comprised of deals that take the form of collateralized loan obligations (exclusive of collateralized debt obligations collateralized primarily by other securities). In the period reviewed, these consisted of deals involving corporate loan arbitrage, small business/SME loans, and commercial real estate loans.

59 The market share percentage for each NRSRO in Charts 17 through 19 reflects the total amount rated by the NRSRO as a percentage of the total amount rated by all the NRSROs that assigned ratings. Market share percentages are provided based on both dollar amounts of issuance and number of deals rated. The sum of the market share percentages exceeds 100% because it is typical for more than one NRSRO to rate a particular transaction. Likewise, the aggregate issuance volume and number of deals represented above exceed the Total Rated Market values for each time period. The source of the data for these charts is the *Asset-Backed Alert's* ABS database as of August 5, 2022.

Chart 18. Rating Agency Market Shares for U.S. MBS Issued in 2020, 2021, and First Half of 2022

1H-2022 Rank	NRSRO	1H-2022 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2021 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2020 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)
1	KBRA	23,065	41	75.9/69.5	41,100	86	47.5/47.8	10,311	24	34.5/30.4
2	Moody's	21,449	39	70.5/66.1	62,825	112	72.5/62.2	14,642	31	49.0/39.2
3	Fitch	15,488	27	50.9/45.8	32,996	75	38.1/41.7	14,755	46	49.4/58.2
4	DBRS	3,177	6	10.4/10.2	19,609	33	22.6/18.3	10,810	24	36.2/30.4
5	S&P	1,699	4	5.6/6.8	6,130	15	7.1/8.3	2,491	7	8.3/8.9
Total Rated Market		**30,407**	**59**		**86,599**	**180**		**29,883**	**79**	

DBRS and KBRA have been able to gain market share in rating more traditional types of ABS. For example, in 2021 and the first half of 2022, DBRS rated 90.2% and 92.2% of transactions backed by student loans, which represented the highest market share. Likewise, in 2021 and the first half of 2022, KBRA rated 78.7% and 85% of transactions backed by small business loans, which represented the highest market share.[60]

Both DBRS and KBRA have maintained a significant market share in certain auto-related asset-backed securities. In 2021, DBRS rated 47.6% of the auto-fleet lease transactions, 33.1% of the subprime auto loan transactions, and 17.8% of the auto lease transactions. KBRA also maintained a significant market share in the subprime auto loan transactions, rating 35.1% of such transactions during 2021. This has largely continued into the first half of 2022, as DBRS rated 6.9% of the auto-fleet lease transactions, 31.7% of the subprime auto loan transactions, and 11.1% of the auto lease transactions, and KBRA rated 42.7% of the subprime auto loan transactions.[61]

Chart 18 shows that the U.S. MBS segment remains competitive. KBRA's market share has increased from 34.5% in 2020 to 75.9% in the first half of 2022, although DBRS' market share has decreased from 36.2% in 2020 to 10.4% in the first half of 2022. DBRS and KBRA have, however, achieved notable market share in certain types of ABS related to the residential housing market, but not considered to be MBS under the *Asset-Backed Alert* database's criteria. For example, DBRS rated 76.9% of the re-performing mortgage transactions that priced in the first half of 2022. Additionally, KBRA and DBRS were active rating securities backed by subprime mortgages and risk transfer securities during the first half of 2022. For securities backed by subprime mortgages, KBRA rated 60.4% and DBRS rated 19.6% that priced during the first half of 2022; for risk transfer securities, KBRA

60 *Asset-Backed Alert's* ABS database indicates that 50 student loan transactions totaling $32.3 billion and eight small-business loan transactions totaling $1.2 billion were priced during 2021. Eight student loan transactions totaling $5.6 billion and eight small-business loan transactions totaling $1.8 billion were priced during the first half of 2022.

61 *Asset-Backed Alert's* ABS database indicates that the following transactions were priced during 2021: 13 auto-fleet lease transactions totaling $10.5 billion, 68 subprime auto loan transactions totaling $43.5 billion, and five auto lease transactions totaling $3.3 billion. The following transactions were priced during the first half of 2022: 15 auto-fleet lease transactions totaling $7.1 billion, 37 subprime auto loan transactions totaling $20.7 billion, and 18 auto lease transactions totaling $16.4 billion

Chart 19. Rating Agency Market Shares for U.S. CLOs Issued in 2020, 2021, and First Half of 2022

1H-2022 Rank	NRSRO	1H-2022 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2021 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)	2020 Issuance ($Mil.)	No. of deals	Market Share % ($)/(#)
1	Moody's	49,994	104	66.7/64.2	93,606	192	48.2/48.9	18,890	45	20.1/20.1
2	Fitch	35,416	72	47.3/44.4	39,195	76	20.2/19.3	32,815	72	35.0/32.1
3	S&P	28,877	62	38.5/38.3	101,931	207	52.5/52.7	81,589	193	87.0/86.2
4	KBRA	2,364	7	3.2/4.3	12,979	25	6.7/6.4	3,541	10	3.8/4.5
5	DBRS	151	3	0.2/1.9	3,227	4	1.7/1.0	330	1	0.4/0.4
Total Rated Market		**74,953**	**162**		**194,333**	**393**		**93,785**	**224**	

rated 78.2% and DBRS rated 21.8% that priced during the first half of 2022.[62]

As shown in Chart 19, DBRS and KBRA have attained a foothold in the U.S. CLO segment, although S&P, Moody's, and Fitch have had the highest market shares since 2020.

In addition to the more traditional categories of asset-backed securities classes discussed above, DBRS and KBRA have gained significant market share in some newer or more esoteric classes of asset-backed securities. For example, DBRS and KBRA are significant raters of securities backed by unsecured consumer loans, including consumer loans originated through marketplace lending platforms. DBRS and KBRA had the two highest market shares in this category in 2021 and the first half of 2022, both rating over 44% of the transactions priced during this period. Comparatively, Moody's, S&P, and Fitch each rated less than 30% of these transactions over the same time period.[63]

There are additional examples of market share gains achieved by a medium NRSRO in discrete asset classes. For instance, KBRA rated 85.0% and 100% of the aircraft-lease receivables transactions that priced during 2021 and the first half of 2022, respectively, while Moody's, S&P, and Fitch each rated less than 55% of these transactions over the same time period.[64] KBRA was also active rating whole-business securitizations during 2021 and the first half of 2022, rating 60.2% and 90.5%, respectively, of the issuance amount of such transactions. While S&P had a greater market share for 2021 (rating 75% of the transactions), KBRA had the highest market share for the first half of 2022.[65]

62 *Asset-Backed Alert's* ABS database indicates that 15 re-performing mortgage transactions totaling $7.6 billion, 61 subprime mortgage transactions totaling $24.1 billion, and 15 risk transfer transactions totaling $18.3 billion were priced during the first half of 2022.

63 *Asset-Backed Alert's* ABS database indicates that 73 unsecured consumer loan transactions totaling $26.8 billion were priced during 2021, and 44 unsecured consumer loan transactions totaling $13.2 billion were priced during the first half of 2022.

64 *Asset-Backed Alert's* ABS database indicates that 16 aircraft-lease receivable transactions totaling $9.1 billion were priced during 2021, and two aircraft-lease receivable transactions totaling $1.1 billion were priced during the first half of 2022.

65 *Asset-Backed Alert's* ABS database indicates that 19 whole-business securitization transactions totaling $13.9 billion were priced during 2021, and 11 whole business securitization transactions totaling $5.2 billion were priced during the first half of 2022.

3. Barriers to Entry

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

One such potential barrier that has been raised by certain small and medium 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.[66] The effect of these requirements can be to increase the demand for and liquidity of securities bearing the ratings of specified rating agencies, which may provide an incentive for issuers to obtain ratings from the specified agencies. Historically, many of these guidelines refer to the ratings from the large NRSROs by name (i.e., Fitch, Moody's, and S&P). Despite reports that investors are increasingly changing their guidelines to allow for investments in securities rated by a wider group of NRSROs,[67] investment guidelines continue to be identified as a factor impacting the selection of NRSROs to rate certain transactions.[68]

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 ("index funds"). Index funds have grown as a share of the fund market, and they can increase the demand for securities bearing the ratings of particular NRSROs.[69] 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.[70]

Market participants and academics have identified various other barriers to entry in the credit rating industry, including economic and regulatory barriers.[71] For instance, when the Commission

66 *See* Statement of Jim Nadler, President and CEO, Kroll Bond Rating Agency, ***Bond Rating Agencies: Examining the "Nationally Recognized" Statistical Rating Organizations Hearing Before the Subcommittee on Investor Protection, Entrepreneurship and Capital Markets of the House Committee on Financial Services***, 117th Congress (July 21, 2021), available at https://democrats-financialservices.house.gov/UploadedFiles/HHRG-117-BA16-Wstate-NadlerJ-20210721.pdf; *see also* Letter from KBRA to the Commission (Aug. 19, 2014), available at https://www.sec.gov/comments/s7-18-11/s71811-88.pdf.

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

68 *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.

69 *See*, *e.g.*, Rating Firms Seek Changes to Index, *Asset-Backed Alert*, May 26, 2017; *see also* Investment Company Institute, 2022 Investment Company Fact Book (2022), at 29, available at https://www.icifactbook.org/ (index funds made up 21% of assets in long-term funds at the end of 2011 and 43% at the end of 2021).

70 *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.

71 *See, e.g.*, Section IV.C of the March 2012 Annual Report, available at https://www.sec.gov/divisions/marketreg/ratingagency/nrsroannrep0312.pdf. As discussed in the March 2012 Report, economic barriers to entry include issuers and market participants favoring well-established NRSROs due to their reputation, and economies of scale which may allow larger NRSROs to offer advantageous services or pricing. Academic literature continues to identify these as barriers to entry. *See, e.g.*, Sangiorgi, F. and Spatt, C., The Economics of Credit Rating Agencies, Foundations and Trends in Finance, 12, 1-116 (2017), available at https://ssrn.com/abstract=3055889.

proposed new rules and rule amendments in accordance with the Dodd-Frank Act (the NRSRO Amendments), commenters expressed concerns that certain of the proposed requirements would be burdensome for small NRSROs to implement and could raise barriers to entry for credit rating agencies to seek to register as NRSROs.[72] In connection with the adoption of 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.[73]

At the same time, the Commission recognized substantial benefits associated with the NRSRO Amendments implementing Title IX, Subtitle C of the Dodd-Frank Act, which was designed to address the causes of certain market failures that may impair the integrity and transparency of NRSRO credit ratings.[74] For instance, certain provisions of the NRSRO Amendments were designed primarily to enhance the integrity of how NRSROs determine credit ratings by improving internal governance of NRSROs, managing potential principal-agent problems and conflicts of interest in the credit rating process, and promoting adherence to the procedures and methodologies for determining credit ratings.[75] Other provisions of the NRSRO Amendments were designed mainly to enhance the transparency of NRSRO credit ratings by increasing disclosure and reducing information asymmetries that may adversely affect users of credit ratings.[76]

The NRSRO Amendments as adopted by the Commission include various changes from the proposed amendments intended to address concerns regarding barriers to entry, including standards allowing NRSROs to tailor particular requirements to their business models, size, and rating methodologies.[77]

Additionally, there are provisions for exemptions built into several rules and statutory provisions, if the Commission deems that these requirements may impose an unreasonable burden on the NRSRO. NRSROs may also request exemptions under Section 36 to rules or Exchange Act provisions.[78]

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72 *See* 2014 Adopting Release, 79 FR 55078 (Sept. 15, 2014) at 55090, 55154, 55161, and 55254-55, available at https://www.govinfo.gov/content/pkg/FR-2014-09-15/pdf/2014-20890.pdf, *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.

73 *See* 2014 Adopting Release, 79 FR at 55254.

74 *See id.* at 55091; *see also* Section 931 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376, H.R. 4173 (July 21, 2010) (articulating the findings of Congress, including that the activities and performance of credit rating agencies are matters of national public interest and that certain market failures necessitate increased accountability on the part of credit rating agencies).

75 *See* 2014 Adopting Release, 79 FR at 55091.

76 *See id.*

77 *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.

78 For example, KBRA was granted a temporary conditional exemption from Rule 17g-5(c)(1), which prohibits an NRSRO from issuing or maintaining a credit rating solicited by a person that, in the most recently ended fiscal year, provided the NRSRO with net revenue equaling or exceeding 10% of the total net revenue of the NRSRO for the fiscal year. In another example, the Commission granted JCR a temporary conditional exemption from certain requirements of Section 15E(t), which include provisions regarding the composition and duties of the supervisory board of an NRSRO. The Commission's orders granting exemption requests can be found under "Exemption Orders" in the "Commission Orders" section of the OCR webpage, available at https://www.sec.gov/ocr/ocr-commission-orders.html.

B. 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."[79] 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;[80]
- Consolidated information about credit rating histories;[81]
- Information about material changes and significant errors in the procedures and methodologies used to determine credit ratings;[82]
- Information about specific rating actions;[83] and
- Clear definitions of each symbol, number, or score in the rating scale used by the NRSRO.[84]

NRSROs must also disclose certain information in connection with each rating action.[85] 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.[86]

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.[87] 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.

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.[88]

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79 *See* the preamble to the Rating Agency Act.
80 *See* Instructions for Exhibit 1 to Form NRSRO.
81 *See* Rule 17g-7(b).
82 *See* Rule 17g-8(a)(4).
83 *See* Rule 17g-7(a).
84 *See* Rule 17g-8(b)(2).
85 *See* Rule 17g-7(a).
86 *See* Rule 17g-7(a)(1)(ii).
87 The reports accompanying a rating action are frequently available on a paid subscription basis, although some NRSROs provide access to such reports for free.
88 Further transparency may be realized if NRSROs seek public comment for proposed new or changed methodologies. Rule 17g-8(d)(1)(ii) provides that NRSROs must consider implementing controls reasonably designed to ensure that new or updated methodologies are disclosed to the public for consultation prior to their being employed.

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.[89] These publications may be helpful to investors to understand industry trends and the NRSROs' credit views.

For example, following Russia's invasion of Ukraine, NRSROs began publishing commentaries and research that provide their perspectives on the potential credit and rating impacts of the conflict on issuers and debt obligations in different market sectors. They also began publishing Russia-Ukraine conflict-related commentaries on economic and market trends. KBRA published a report that said an estimated 3.7 million Ukrainian refugees from the Russia-Ukraine conflict are likely to settle more permanently in host countries and that Poland's spending on refugees has amounted to about 1% of its GDP through June 2022.[90] A DBRS report expressed the view that despite the negative impact on many existing transactions secured by affected aircraft, it believes the nationalization of aircraft by Russia will not have a material impact on the issuance of future transactions because of the rarity of such events.[91]

NRSROs have also continued to produce research in recent years regarding their views on ESG matters and how they incorporate ESG considerations in their credit rating actions. For example, AMB published research presenting its view that secondary perils, such as wildfires, tornados, and severe thunderstorms, are accounting for a larger share of losses from catastrophe events than primary perils, such as hurricanes and floods, and that the heightened number of significant storms and weather events is an indication that climate change is having a more drastic and far-reaching effect on global weather events.[92] KBRA wrote in its research that demand for electric vehicles will reduce gasoline taxes and related revenues and could pressure municipal bond issues that rely on them.[93]

A number of the Staff's findings and recommendations in connection with the 2022 Section 15E examinations related to transparency issues. These findings included disclosure and reporting issues implicating Rule 17g-3, Rule 17g-7(a), and Form NRSRO. A description of these findings can be found in Section III.D.3 of this report.

C. CONFLICTS OF INTEREST

NRSROs operate under one or more business models, each having conflicts of interest. The primary business model of the NRSROs is the "issuer-pay" model, which is subject to a conflict in that the credit rating agency may be influenced to determine more favorable (i.e., higher) ratings than warranted in order to retain the obligors or issuers as clients. Another business model is the

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

90 *See* KBRA, *Ukraine Refugee Crisis and Host Nation Fiscal Impacts* (Aug 23, 2022), available at https://www.kbra.com/documents/report/70214/esg-ukraine-refugee-crisis-and-host-nation-fiscal-impacts.

91 *See* DBRS, *Secured Aviation Transactions: Jurisdictional Analysis, Political Risks, and Russian Aircraft Nationalization Implications* (Aug 18, 2022), available at https://www.dbrsmorningstar.com/research/401563/secured-aviation-transactions-jurisdictional-analysis-political-risks-and-russian-aircraft-nationalization-implications.

92 *See* A.M. Best, *Secondary Perils Increasingly Responsible for Largest US Catastrophes* (Jan 14, 2022), available at https://www3.ambest.com/ambv/sales/bwpurchase.aspx?altsrc=108&record_code=316561&_ga=2.34478628.405875056.1663286055-1130994754.1614722857.

93 *See* KBRA, *EVs' Popularity Could Diminish State Gasoline Taxes for Transportation Funds* (Jul 18, 2022), available at https://www.kbra.com/documents/report/68864/ev-s-popularity-could-diminish-state-gasoline-taxes-for-transportation-funds.

"subscriber-pay" model, under which investors pay a subscription fee to access an NRSRO's ratings. This model is also subject to 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 investing in newly issued bonds and may obtain higher yields if the bonds were to have lower ratings.

In addition to being paid by issuers and subscribers, some NRSROs are paid to determine ratings by investors. Frequently these engagements contemplate the issuance of the credit rating on a private basis. In these cases, the NRSRO provides the credit rating directly to its client but does not publish (or make available to all its subscribers) the credit rating or a report detailing its credit analysis (although such a report may be provided to the client with the rating). This business model is subject to conflicts of interest, which are dependent on the objectives of the client for obtaining the rating.

Section 15E and the related Commission rules address conflicts of interest.[94] For example, Rule 17g-5 identifies certain conflicts of interest that are prohibited under all circumstances[95] 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.[96]

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 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.[97]

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 (i) participates in sales or marketing activities of the NRSRO or its affiliate, or (ii) is influenced by sales or marketing considerations.[98] In June 2022, the Commission instituted settled administrative and cease-and-desist proceedings against EJR and its founder and chief executive officer, Sean Egan, for, among other things, issuing or maintaining credit ratings where EJR employees, including Mr. Egan, who participated in determining the credit ratings also participated in the sales and marketing of a product or service of EJR and were also influenced by sales or marketing considerations in violation of Rule 17g-5(c)(8).[99] In addition, in November 2022, the Commission instituted settled administrative and cease-and-desist proceedings against S&P for issuing and maintaining credit ratings where commercial employees, who participated in sales

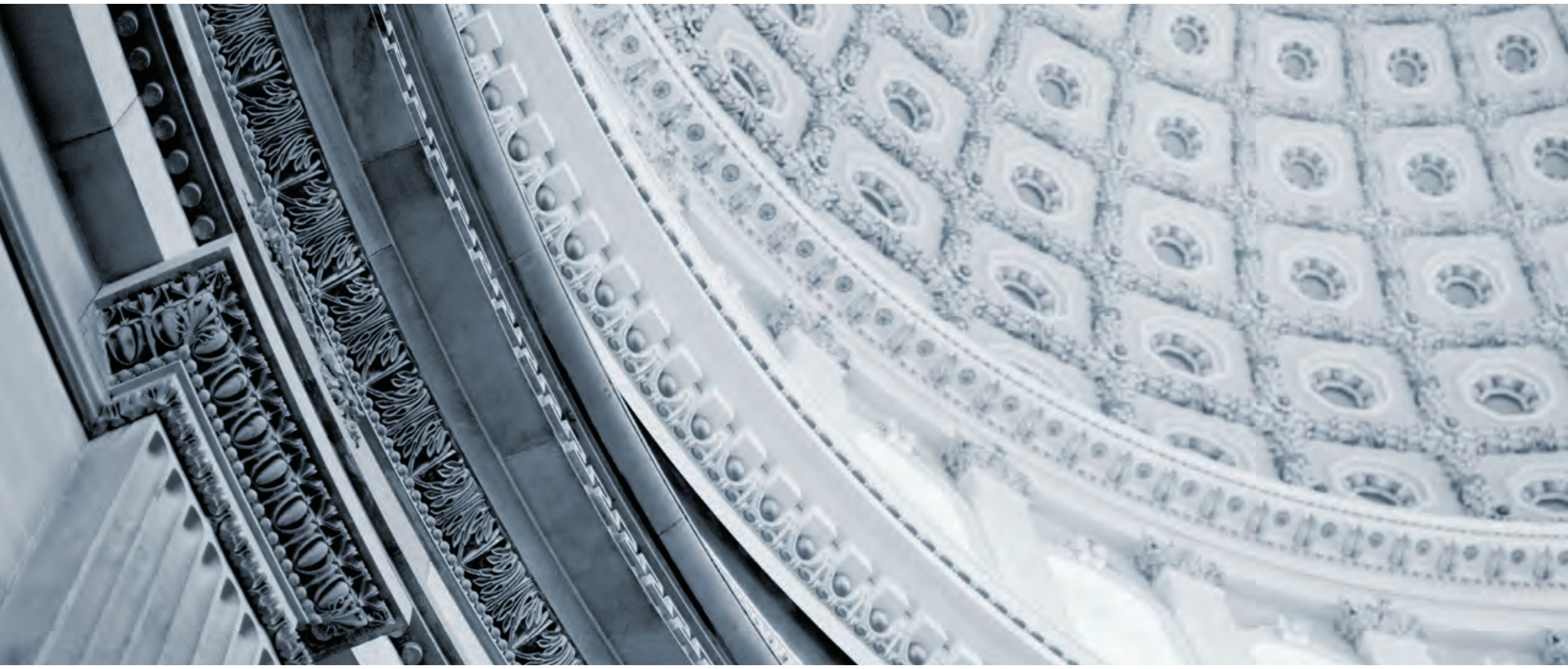
94 *See*, *e.g.*, Section 15E(h) and Rule 17g-5.
95 *See* Rule 17g-5(c).
96 *See* Rule 17g-5(a)(1)-(2) and Rule 17g-5(b); Instructions for Exhibits 6 and 7 to Form NRSRO. In addition, Section 15E(t)(3)(B) requires an NRSRO's board of directors to oversee the establishment, maintenance, and enforcement of policies and procedures to address, manage, and disclose any conflicts of interest.
97 *See* Rule 17g-5(c)(2) and Rule 17g-5(c)(4).
98 *See* Rule 17g-5(c)(8).
99 Available at https://www.sec.gov/litigation/admin/2022/34-95127.pdf.

and marketing activity and were influenced by sales and marketing considerations, also participated in the determination of credit ratings in violation of Rule 17g-5(c)(8) by engaging in numerous communications with analytical staff.[100]

Other statutory provisions and Commission rules address 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 instances.[101] 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.[102]

Several of the Staff's findings and recommendations in connection with the 2022 Section 15E examinations related to conflict of interest issues. Among other things, these findings addressed apparent issues with policies and procedures to address and manage conflicts of interest. A description of these findings can be found in Section III.D.3 of this report.

100 *See* In re S&P Global Ratings, Exch. Act Rel. No. 96308 (Nov. 14, 2022), available at https://www.sec.gov/litigation/admin/2022/34-96308.pdf.
101 *See* Section 15E(h)(4)(A).
102 *See* Rule 17g-8(c).



V. ACTIVITIES RELATING TO NRSROs

A. COMMISSION ORDERS AND RELEASES

The Commission issued the following orders and releases relating to NRSROs or credit ratings in general in calendar year 2022:

- *In re S&P Global Ratings*, Exch. Act Rel. No. 96308 (Nov. 14, 2022).[103] The Commission instituted settled administrative and cease-and-desist proceedings against S&P concerning violations of Section 15E(h)(1) and Rules 17g-5(c)(8)(i) and (ii). The violations were in connection with S&P commercial employees communicating with analytical staff and thereby becoming participants in the rating process for purposes of Rule 17g-5(c)(8). The SEC's order also finds that S&P failed to establish, maintain, and enforce written policies and procedures designed to ensure compliance with Rules 17g-5(c)(8)(i) and (ii).
- *Order Granting Registration of Demotech, Inc. as a Nationally Recognized Statistical Rating Organization*, SEC Rel. No. 34-95243 (July 11, 2022).[104] The Commission granted the registration of Demotech, Inc. with the Commission as a nationally recognized statistical rating organization under Section 15E for the insurance companies class of credit ratings.
- *In re Egan-Jones Ratings Company and Sean Egan*, Exch. Act Rel. No. 95127 (June 21, 2022).[105] The Commission instituted settled administrative and cease-and-desist proceedings against EJR and Sean Egan concerning EJR's violations of Sections 15E(h)(1) and 15E(f)(2) and Rules 17g-5(c)(8)(i) and (ii) and 17g-5(c)(1) and Egan's causing the Rule 17g-5(c)(8)(i) and (ii) violations. The violations were in connection with failures to separate sales and marketing activities and considerations from the determination of credit ratings, the issuance and maintenance of credit ratings solicited by a person that, in the most recently ended fiscal year, provided the NRSRO with net revenue equaling or exceeding ten percent of the total net revenue of the NRSRO for the fiscal year, and the issuance and maintenance of ratings in certain classes of securities without prominently disclosing that such ratings were not issued or maintained by an NRSRO that was registered to issue ratings in such classes.
- *Removal of References to Credit Ratings From Regulation M*, Release No. 34-94499 (Mar. 23,

103 Available at https://www.sec.gov/litigation/admin/2022/34-96308.pdf.
104 Available at https://www.sec.gov/rules/other/2022/34-95243.pdf.
105 Available at https://www.sec.gov/litigation/admin/2022/34-95127.pdf.

2022), 87 FR 18312 (Mar. 30, 2022).[106] The Commission re-proposed amendments to remove the references to credit ratings included in Rules 101 and 102 of Regulation M.

B. COURT JUDGMENT

The following judgment relating to litigation brought against a former NRSRO by the Commission was entered in calendar year 2022:

- *Securities and Exchange Commission v. Morningstar Credit Ratings,* No. 1:21-cv-1359 (S.D.N.Y. June 7, 2022*)*.[107] The U.S. District Court for the Southern District of New York entered a final judgment against MCR. The Commission's complaint alleged that MCR violated certain disclosure and internal control provisions of Section 15E and certain related rules. MCR consented to the entry of the final judgment, which ordered it to pay a civil money penalty.

C. STAFF PUBLICATION

The Staff issued the following publication relating to NRSROs or credit ratings in general in calendar year 2022:

- *Staff Report on Nationally Recognized Statistical Rating Organizations*, dated January 2022 (the 2021 Staff Report), as required by Section 6 of the Rating Agency Act and Section 15E(p)(3)(C).[108] The 2021 Staff Report addresses the matters described in the second paragraph under Section II of this Report for the period June 26, 2020 through December 31, 2021, and summarizes the essential findings of the examinations conducted by the Staff under Section 15E(p)(3)(C) for the review period January 1, 2020 to December 31, 2020.

106 Available at https://www.federalregister.gov/documents/2022/03/30/2022-06583/removal-of-references-to-credit-ratings-from-regulation-m.
107 Available at https://www.sec.gov/litigation/litreleases/2022/judgment25409.pdf.
108 Available at https://www.sec.gov/files/2022-ocr-staff-report.pdf.

VI. APPENDIX: SUMMARY OF STATUTORY FRAMEWORK AND RULES

Section 15E and Rules 17g-1 through 17g-10 govern the registration and oversight program for credit rating agencies that are registered with the Commission as NRSROs. This regulatory regime was established by the Rating Agency Act[109] and amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[110]

The Dodd-Frank Act mandated the creation of the Office of Credit Ratings (OCR), which is responsible for 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.[111]

Pursuant to the Commission's regulatory regime for NRSROs, an NRSRO is required to, among other things:

- File with the Commission an annual certification of its Form NRSRO registration,[112] promptly update its filing in certain circumstances,[113] and make its current Form NRSRO filing and most of its current Form NRSRO Exhibits available on its public website.[114]
- Disclose certain information, including information concerning the NRSRO's performance measurement statistics and its procedures and methodologies to determine ratings.[115]
- Establish, maintain, enforce, and document an effective internal control structure governing the implementation of and adherence to policies, procedures, and methodologies for determining credit ratings,[116] and retain records of its internal control structure.[117]
- Consider certain factors with respect to its establishment, maintenance, enforcement, and documentation of an effective internal control structure.[118]

109 Pub. L. No. 109-291, 120 Stat. 1327 (2006).
110 Pub. L. No. 111-203, § 932, 124 Stat. 1376, 1872-83 (2010).
111 *See* Section 15E(p)(2) for a description of OCR staffing requirements.
112 Section 15E(b)(2) and Rule 17g-1(f).
113 Section 15E(b)(1) and Rule 17g-1(e).
114 Section 15E(a)(3) and Rule 17g-1(i).
115 Section 15E(a)(1)(B)(i) and Section 15E(a)(1)(B)(ii).
116 Section 15E(c)(3)(A).
117 Rule 17g-2(b)(12).
118 *See*, *e.g.*, Rule 17g-8(d)(1)–(4).

- Establish, maintain, enforce, and document policies and procedures reasonably designed to achieve certain objectives concerning its development and application of, and disclosures related to, methodologies and models.[119]
- File an unaudited report containing an assessment by management of the effectiveness during the fiscal year of the NRSRO's internal control structure governing the implementation of and adherence to policies, procedures, and methodologies for determining credit ratings.[120] The report must be accompanied by a signed statement by the NRSRO's chief executive officer or an individual performing similar functions.[121]
- Establish, maintain, enforce, and document policies and procedures that are reasonably designed to: assess the probability that an issuer of a security or money market instrument will default or fail to make required payments to investors,[122] and ensure that it applies any rating symbol, number, or score in a manner that is consistent for all types of obligors, securities, and money market instruments for which the symbol, number, or score is used.[123]
- Publish an information disclosure form when taking a rating action with respect to a rating assigned to an obligor, security, or money-market instrument in a class for which it is registered as an NRSRO.[124] The information form must disclose certain information with respect to the particular rating action.[125] In addition, the NRSRO must attach to the information disclosure form a signed

119 *See*, *e.g.*, Rule 17g-8(a)(2)–(5).
120 Rule 17g-3(a)(7)(i).
121 Rule 17g-3(b)(2).
122 Rule 17g-8(b)(1).
123 Rule 17g-8(b)(3).
124 Rule 17g-7(a).
125 Rule 17g-7(a)(1)(ii)(A)-(N) specifies the information that must be disclosed in the information disclosure form.

statement by a person within the NRSRO with responsibility for the rating action.[126]

- Make and retain, or retain, certain records, including a record documenting its established procedures and methodologies used to determine credit ratings[127] and records related to its ratings.[128] An NRSRO must promptly furnish to the Commission or its representatives copies of required records, including English translations of those records, upon request.[129]
- Establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material non-public information (MNPI), including the inappropriate dissemination of MNPI both within and outside the NRSRO, the inappropriate trading of securities using MNPI by a person within the NRSRO, and the inappropriate dissemination of pending credit rating actions within and outside the NRSRO before issuing the rating on the Internet or through another readily accessible means.[130]
- Establish, maintain, and enforce written policies and procedures reasonably designed to address and manage conflicts of interest.[131] Certain conflicts of interest are expressly prohibited,[132] and for other types of conflicts of interest, the NRSRO must disclose the conflicts and have policies and procedures in place to manage them.[133]
- Refrain from engaging in specified unfair, coercive, or abusive practices.[134]
- Provide information on whether it has in effect a code of ethics, and if not, the reasons it does not have a code of ethics.[135]
- Establish procedures for the receipt, retention, and treatment of complaints regarding credit ratings, models, methodologies, and compliance with the securities laws and its policies and procedures developed under this regulatory regime, and of confidential, anonymous complaints.[136]
- Designate a compliance officer (the DCO) responsible for administering policies and procedures related to MNPI and conflicts of interest, ensuring compliance with the securities laws and regulations, and establishing procedures for handling complaints by employees or users of credit ratings.[137] The DCO must submit an annual report to the NRSRO on the compliance of the NRSRO with the securities laws and the NRSRO's policies and procedures, and the NRSRO must file the report with the Commission.[138]

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126 Rule 17g-7(a)(1)(iii).
127 Rule 17g-2(a)(6).
128 The records that an NRSRO must make and retain, or retain, with respect to its ratings include the identity of certain persons who participated in determining or approving the rating, records used to form the basis of a rating, external and internal communications received or sent by the NRSRO and its employees related to a rating, and for ABS ratings, a record of the rationale for any material difference between the final rating assigned and the rating implied by a quantitative model that was a substantial component in determining the rating. Rule 17g-2(a)(2)(i), (ii), and (iii); Rule 17g-2(b)(2) and (b)(7).
129 Section 15E(a) and (b) and Rule 17g-2(f).
130 Section 15E(g) and Rule 17g-4.
131 Section 15E(h) and Rule 17g-5. *See also* Section IV.C of this Report.
132 Rule 17g-5(c). *See also* Section IV.C of this Report.
133 Rule 17g-5(a)(1) and (a)(2); Rule 17g-5(b).
134 Rule 17g-6.
135 Section 15E(a)(1)(B)(v).
136 Section 15E(j)(3).
137 Section 15E(j)(1) and (3).
138 Section 15E(j)(5).

- Have a board of directors or similar governing body (collectively, the Board), certain of whose members must be independent from the NRSRO.[139] An NRSRO's Board, or members thereof, are responsible for exercising oversight of specified subjects related to the NRSRO's rating business and for approving the procedures and methodologies, including qualitative and quantitative data and models that the NRSRO uses to determine ratings.[140]
- Establish, maintain, enforce, and document standards of training, experience, and competence for the individuals it employs to participate in the determination of credit ratings that are reasonably designed to achieve the objective that the NRSRO produces accurate credit ratings, and retain a record of these standards.[141]
- Establish policies and procedures regarding post-employment activities of certain former personnel.[142]

139 Section 15E(t)(2).
140 Section 15E(t)(3) and Rule 17g-8(a)(1).
141 Rule 17g-9.
142 Section 15E(h)(4) and (5); Rule 17g-8(c).

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