

## Scope Ratings: The Viability of a Response

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*In this next instalment of the series examining the responses to the ‘status quo’ of the credit rating sector, the focus of this article will be on the ever-increasing option being offered by Scope Ratings, a European firm that is aiming to represent a viable alternative by way of merging most, if not all of the small and niche credit rating agencies that exist within the European Union. The agency is advertising itself as one that is concerned with increasing the qualitative research that is undertaken when developing a credit rating, whilst also basing its approach on the incorporation of ‘stress testing’ issuances, in order to ensure the highest levels of accuracy. However, the composition of the firm and its leaders alludes to a potential of a continuation of the business practices that are now, rightly, seen as part and parcel of the credit rating industry – this article will therefore examine the viability of Scope Ratings in terms of its potential for offering a real alternative to the hegemony of the Big Three.*

### **Introduction: ‘The Challenger’**

Scope Ratings is a German-based firm that started life in 2002, with its initial mandate being to rate asset-based funds. Since then, the firm has grown to encompass the ability to rate corporate, structured finance, financial institutions’, and also sub-sovereign authorities’ ratings. The firm’s stated aim is to become a ‘European alternative to the “status quo” for institutional investors and issuers’<sup>1</sup> and this article will assess the chances of Scope Ratings meeting this aim, as the underlying sentiment for any challenger to the hegemony of the ‘Big Three’ rating agencies – Standard & Poor’s, Moody’s, and Fitch Ratings – is that one must provide something different than what is offered by the Big Three. In order to assess the chances of Scope Ratings, it will be important to understand the mission of the firm in more detail, but also to examine whether what is being offered is actually different at all, and in

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<sup>1</sup> Scope Ratings *Our Mission* [2017] [https://www.scoperatings.com/about/at-a-glance/our\\_mission](https://www.scoperatings.com/about/at-a-glance/our_mission).

order to do that the focus will be upon the composition of the firm, together with the environment within which it hopes to grow.

The modest firm, which began life in 2002 with the launch of its Asset Based Fund Rating division, was set up by Florian Schoeller, a member of the Schoeller business dynasty<sup>2</sup>. Although it was initially interested in providing Real Estate analysis, the business began to grow rapidly once it became accredited by the European Securities and Markets Authority in May of 2011<sup>3</sup>, with the ability to offer ratings in the fields of Corporate Bonds, Structured Finance offerings, Financial Institutions and Sub-Sovereign Ratings following year after year. In order to increase its offerings, the firm has undertaken an aggressive Mergers & Acquisitions strategy – demonstrated by Scope’s CEO Torsten Hinrich’s announcement in 2015 that ‘Acquisitions are indispensable to create a European champion’<sup>4</sup> - which recently saw the firm acquire Feri EuroRating Services in January of 2017<sup>5</sup>; the relatively rapid rate of growth now sees the firm service illustrious clients like BMW, Santander, and UBS<sup>6</sup>. The acquisition of Feri is significant, as it provides Scope with the ability to extend its services by adding additional prowess in the fields of sovereign credit ratings, investment fund analysis and real estate research<sup>7</sup>, which as will be discussed at the end of the article positions the firm nicely with respect to taking advantage of the ever-changing environment within Europe. However, the firm is making a conscious effort to develop its bank-rating abilities, and as such is currently developing a rating branch in London, under the control of former Moody’s head of European Bank Ratings Sam Theodore. The move is designed to make the firm centrally placed to commit to its ambitions to incorporate a new rating mentality, based upon increased qualitative research and a ‘regulator-style stress-testing of loan portfolios and capital strength’<sup>8</sup>, a move which Theodore envisions will set the agency apart from its competitors who all focus upon Bank defaults as their theoretical basis for research and who

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<sup>2</sup> Patrick Jenkins ‘Scope Ratings Aims to Shake-up Hegemony’ [2013] Financial Times (Apr. 15) <https://www.ft.com/content/643daa98-a5eb-11e2-9b77-00144feabdc0>. For more on the family see Peter Mathias and Michael M Postan *The Cambridge Economic History of Europe* (CUP 1978) 510.

<sup>3</sup> European Securities and Markets Authority *CRA Authorisation* (2017) <https://www.esma.europa.eu/supervision/credit-rating-agencies/risk>.

<sup>4</sup> Andreas Kröner and Andreas Framke ‘Credit Rating Agency Scope Eyes European Takeovers’ [2015] Reuters (Sep 30) <http://uk.reuters.com/article/scope-mergers-idUKL5N12023M20150930>.

<sup>5</sup> Feri EuroRating Services ESMA Registration was withdrawn as part of the acquisition, see ESMA *Feri EuroRating Services AG CRA Registration Withdrawn Following Acquisition* (2017) <https://www.esma.europa.eu/press-news/esma-news/feri-eurorating-services-ag-cra-registration-withdrawn-following-acquisition>.

<sup>6</sup> Kröner and Framke (n 4).

<sup>7</sup> Scope Ratings *Scope Acquires FERi EuroRating* (June 2016) <https://www.scoperatings.com/research/details?id=152550&IC=EN>.

<sup>8</sup> Jenkins (n 2).

fulfil ‘investor demand for forward-looking rating opinions without strongly empirical pretensions’<sup>9</sup>. So, before we discuss the chances of the firm succeeding in its mission to offer a viable alternative to the dominance of the Big Three, it will be useful to understand that dominance, as well as the reason for this move to provide an alternative in the first place.

### ‘The Champion’

The ‘Big Three’, as a unit owing to their oligopolistic structure, can be viewed as the ‘Champion’ with respects to Scope Rating’s status the ‘Challenger’ for a number of reasons. The first point to note is that the Big Three are not in the position that they are by chance; their dominance is a direct result of a number of factors which can be identified by reviewing their historical progression. Whilst it is beyond the scope or desire of this article to provide an in-depth analysis of each crucial stage of development, of which there are arguably six – the emergence of the commercialised agency in the 1840s<sup>10</sup>; the emergence of new competition in the late 1800s/early 1900s<sup>11</sup>; the incorporation into Depression-era regulations<sup>12</sup>; the near-failure of *rating* agencies in the ‘Quiet Period’<sup>13</sup>; the re-inventing of the agencies’ role and purpose in the mid-1970s<sup>14</sup>; and then the centralised involvement of the agencies in the Financial Crisis of 2007/08<sup>15</sup> - picking the story up from the 1970s onwards will be useful to

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<sup>9</sup> Sid Verma ‘Scope Ratings Agency appears on European Bank-Ratings Landscape Amid Too-Big-To-Fail Mess’ [2013] *EuroMoney* (July 3) <http://www.euromoney.com/Article/3226659/Scope-Ratings-agency-appears-on-European-bank-ratings-landscape-amid-too-big-to-fail-mess.html?p=2>.

<sup>10</sup> Though there were rating ‘organisations’ before the 1840s, they were not ‘commercialised’; for a review of the non-commercial entities see Rowena Olegario *A Culture of Credit: Embedded Trust and Transparency in American Business* (Harvard University Press 2006) 229. For more on the first commercialised agency – the Mercantile Agency – see Marc Flandreau and Gabriel G Mesevage ‘The Separation of Information and Lending and the Rise of the Rating Agencies in the USA (1841-1907)’ [2014] 61 *Scandinavian Economic History Review* 3.

<sup>11</sup> Flandreau and Mesevage (n 10).

<sup>12</sup> For the argument that the incorporation of the agencies into formal regulations began in the 1930s see Frank Partnoy ‘The Siskel and Ebert of Financial Markets: Two Thumbs Down for the Credit Rating Agencies’ [1999] 77 *Washington University Law Quarterly*. For the opposing argument that is started before that period, see Marc Flandreau and Joanna K Sławatyniec ‘Understanding Rating Addiction: US Courts and the Origins of Rating Agencies’ *Regulatory License (1900-1940)* 20 *Financial History Review* 3.

<sup>13</sup> Frank Partnoy ‘The Paradox of Credit Ratings’ in Richard M Levich, Giovanni Majnoni, and Carmen Reinhart *Ratings, Rating Agencies, and the Global Financial System* (Kluwer 2002) 70.

<sup>14</sup> John (Xuefeng) Jiang, Mary H Stanford, and Yuan Xie ‘Does it matter who pays for bond ratings? Historical Evidence’ [2012] 105 *Journal of Financial Economics* 3 2.

<sup>15</sup> United States Senate, Permanent Subcommittee on Investigations *Wall Street and the Financial Crisis: Anatomy of a Financial Collapse* (GPO 2011) 27.

understand why Scope Ratings a. exists and b. why its aims are, in theory, extremely important.

Up until the end of the 1960s in the United States, the continued existence of the credit *rating* agencies was considered doubtful; this may seem remarkable given that the Big Three are worth billions of dollars today, but the dynamic at that time meant that competition, aligned to the structural dynamics of the financial marketplace, was effectively killing the leading credit *rating* agencies. As you will have noticed, in the preceding sentence the word ‘rating’ has been emphasised and this is for good reason. If one takes a particular view of the literature, the problems faced by the leading agencies in the lead-up to the late 1960s were due to there just being no need for the agencies’ products, as the marketplace ‘trusted’<sup>16</sup> in the perceived creditworthiness of leading financial institutions. However, this view is erroneous, because in reality the leading agencies’ products were being viciously undercut by their credit *reporting* brethren; Dun & Bradstreet (D&B)<sup>17</sup>. Dun & Bradstreet are, essentially, the amalgamation of two of the earliest commercialised credit agencies, but in declaring such we need to digress to understand the differing terminologies. Briefly, the first ‘rating’ agency belonged to John Moody and was established in the early 1900s<sup>18</sup> – what had gone before were, technically, credit *reporting* firms, due to the actual nature of their products; credit *reporting* firms would assign a viewpoint, or an opinion, on an entity’s creditworthiness, whilst John Moody’s company (the ancestor of modern-day Moody’s) developed a systematic rating system which sees it, and its main competitors Standard Statistics<sup>19</sup> and Poor’s Railroad Manual Company<sup>20</sup>, technically categorised as credit *rating* agencies. This division still exists today, but whilst the power balance is wholly in the favour of the rating agencies today, in the lead-up to the 1970s it was quite the opposite.

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<sup>16</sup> One scholar reviews the period by way of discussing the scenario whereby because no firms were defaulting, there was no need for the agencies’ products, see Rawi Abdelal *Capital Rules: The Construction of Global Finance* (Harvard University Press 2007) 167.

<sup>17</sup> For a review of the agencies’ competitor in this period – Dun & Bradstreet and their ‘National Credit Office’ - see Andrew Fight *Understanding International Bank Risk* (John Wiley & Sons 2004) 48.

<sup>18</sup> John Moody *Moody’s Manual of Industrial and Miscellaneous Securities* (The O.C. Lewis Company 1900).

<sup>19</sup> For a review of the progression of S&P see Richard S Wilson and Frank J Fabozzi *Corporate Bonds: Structures & Analysis* (Frank J Fabozzi Associates 1996) 211.

<sup>20</sup> *ibid.*

When Arthur D. Whiteside joined Dun & Bradstreet in 1931<sup>21</sup>, he brought his rating business with him – the National Credit Office (NCO) – and D&B thus developed both strands of ‘rating’ business (both ‘reporting’ and then ‘rating’). The reason why all of this historical information is important is because, in 1970, a large rail-road conglomerate – Penn Central Railroad – defaulted on \$82 million of commercial paper, which was a dominant investment vehicle in that period. Now, a number of onlookers suggest that this caused such a shock to the American financial system because investors had relied upon brand-recognition and sharply found that to be an inappropriate method of investing<sup>22</sup>, although in reality the investors *had* been using the products of a specialist rating organisation – *The National Credit Office*. The NCO, the SEC found after a large-scale investigation, had been issuing ‘Prime’ rating after ‘Prime’ rating – the equivalent to the modern-day ‘AAA’ rating we are used to - almost irrespective of the underlying quality of Penn Central<sup>23</sup>; the similarities to the Financial Crisis of 2007/8 are almost laughable. So, the ‘rating’ agencies were suffering because their competitor was almost forcing them out of business<sup>24</sup>, but yet, as the investing public recoiled from the Penn Central crash, the commercial paper issuers were then faced with the desperate need to have their issuances validated by someone different than the NCO and here began the transformation of the withering rating agencies into the behemoths we are witness to today. The ‘how’ this took place is simple to articulate; the agencies played upon this new dynamic and started charging *the issuers* to have their issuances rated, rather than gather income via the *subscriptions* of investors i.e. the *issuer-pays* model that is the sole reason for the multi-billion dollar revenue streams today was born.

Whilst a step-by-step analysis of this progression is best saved for another study, it is worth noting that researchers have proven, directly, that the rating agencies’ ratings began to systematically rise once the issuers starting paying for their ratings<sup>25</sup>. This is stated here as the connecting element between the development of this strategy in the 1970s and the explosion of the financial marketplace in 2007, which had the rating agencies peddling their

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<sup>21</sup> ‘Your Credit Good? Dun & Bradstreet Knows’ [1947] Kiplinger’s Magazine September edition 28.

<sup>22</sup> Robert Hudson, Alan Colley, and Mark Lorgan *The Capital Markets and Financial Management in Banking* (Routledge 2013) 175.

<sup>23</sup> Securities and Exchange Commission *The Financial Collapse of the Penn Central Company: Staff Report of the SEC to the Special Subcommittee on Investigations* (GPO 1972) 10.

<sup>24</sup> Andrew Fight *Understanding International Bank Risk* (John Wiley & Sons 2004) 48.

<sup>25</sup> Jiang et al (n 14).

products to the highest bidder directly at the heart of the chaos<sup>26</sup>. The agencies' growth on the back of this new income model can be charted almost exactly against the explosion in the issuance of structured finance products like Credit Default Swaps and the like i.e. this generation's commercial paper boom. This incisive inclusion of the agencies into the very heart of the financial system, a system that is systematically addicted to credit<sup>27</sup>, had the obvious effect of bringing the agencies to the attention of the world's leading regulatory authorities; owing to the nature of this article, it is worth focusing upon the European response, as the federalised bloc was to suffer in a unique way at the hands of the agencies.

Since the Financial Crisis, the credit rating agencies have had a fraught relationship with the European Union. In response to the Crisis, the EU established three defined pieces of legislation<sup>28</sup> which sought to constrain and regulate the activities of rating agencies performing rating services within its jurisdiction. Yet, the effects of the rating agencies' differing approaches would lead to a much more systemic issue with the Sovereign Debt Crisis, which saw countries like Ireland, Spain, and Greece suffer greatly because of the poor ratings that they attracted from the leading rating agencies. Quaglia discusses how the 'sovereign debt crisis renewed the political interest in the regulation of credit rating agencies in the E.U. [because] during the crisis, credit rating agencies downgraded to junk bonds the ratings of sovereign debts in the periphery of Europe, worsening the crisis and attracting blame from some politicians as well as regulators'<sup>29</sup>. This 'worsening' that Quaglia describes is a symptom that has long been the focus of scholars concerned with the output of the agencies, with some describing their output as 'procyclical, unreliable'<sup>30</sup>, and as having a low 'informational value'<sup>31</sup>. This has been understood as being demonstrative of the systemic

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<sup>26</sup> United States Senate (n 15).

<sup>27</sup> For more on this addiction see Richard Duncan *The New Depression: The Breakdown of the Paper Money Economy* (John Wiley and Sons 2012).

<sup>28</sup> *Regulation (EU) No 1060/2009* [2009] OJ L302/1; *Regulation (EU) No 513/2011* [2011] OJ L145/30; *Regulation (EU) No 462/2013* [2013] OJ L146/1.

<sup>29</sup> Lucia Quaglia *The European Union and Global Financial Regulation* (OUP 2014) 67.

<sup>30</sup> Eric Tymoigne and Larry Wray *The Rise and Fall of Money Manager Capitalism: Minsky's Half Century from World War Two to the Great Recession* (Routledge 2013) 142.

<sup>31</sup> Frank Partnoy 'The Paradox of Credit Ratings' in Richard M Levich, Giovanni Majnoni, and Carmen Reinhart *Ratings, Rating Agencies and the Global Financial System* (Kluwer 2002) 70.

effect that a lowering of rating can have upon an entity<sup>32</sup>, and in fact has been proven by the agencies' involvement in the East Asian Crisis in the late 1990s<sup>33</sup>.

In response to this systemic effect, the E.U. has endeavoured to promote competition in the sector as much as possible. Although this issue of artificially promoting competition within a sector that is commonly recognised as constituting a 'natural oligopoly'<sup>34</sup>, meaning that competition cannot be artificially promoted and in fact will result in negative consequences across the board<sup>35</sup>, is regarded to be a negative (usually resulting in a lower quality output from the established members<sup>36</sup>), the E.U. is insistent upon stimulating 'competition in the credit rating industry by encouraging issuers and related third parties to appoint a variety of credit rating agencies to rate their entities and financial instruments'<sup>37</sup>. According to the ESMA's official report, Standard & Poor's holds 45% of the market, Moody's 31% and Fitch 16%, with Scope Ratings holding just 0.39%. Yet, the E.U. is moving forward with the idea that where issuers intend to use two or more CRAs, they should consider appointing one CRA with less than a 10% market share<sup>38</sup>, which is clearly the market that Scope Ratings hopes to capitalise on.

### **Can Scope Ratings Succeed?: 'The Tale of the Tape'**

So, with this in mind, it will now be useful to examine the reasons why Scope will be best placed to take advantage of this push by the E.U. to artificially promote competition, but also

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<sup>32</sup> Stijn Claessens and Kirsten Forbes *International Financial Contagion* (Springer Science & Business Media 2013) 443.

<sup>33</sup> Giovanni Ferri, Li-Gang Liu, Joseph Stiglitz 'The Procyclical Role of Rating Agencies: Evidence from the East Asian Crisis' [1999] 28 *Economic Notes* by Banca Monte dei Paschi di Siena SpA 3 335-55.

<sup>34</sup> David F Tennant and Marlon R Tracey *Sovereign Debt and Credit Rating Bias* (Palgrave Macmillan 2015) 54.

<sup>35</sup> Daniel Cash 'The International Non-Profit Credit Rating Agency: The Viability of a Response' [2016] 37 *The Company Lawyer* 6.

<sup>36</sup> Bo Becker and Todd Milbourn 'How did increased competition affect credit ratings?' [2011] 101 *Journal of Financial Economics* 494.

<sup>37</sup> ESMA *Competition and Choice in the Credit Rating Industry: Market Share Calculation Required by Article 8d of Regulation 1060/2009 on Credit Rating Agencies as Amended* (2016)

[https://www.esma.europa.eu/sites/default/files/library/2016-1662\\_cra\\_market\\_share\\_calculation.pdf](https://www.esma.europa.eu/sites/default/files/library/2016-1662_cra_market_share_calculation.pdf); see also Daniel Cash 'Artificially Increasing Competition in the Credit Rating Industry: The ESMA Meets an

Immovable Object' [2017] 14 *European Company Law* 5.

<sup>38</sup> *ibid.*

why the firm may fall to the same fate that has besieged most, if not all other newcomers to this hostile marketplace. However, before we do so it is worth looking at some of the common dynamics that can be witnessed whenever a challenger emerges in this particularly inhospitable field. There are arguably three forms of challenge to the hegemony of the Big Three, and they are a non-profit alternative; a subscriber-pays alternative; or a collection of smaller agencies gathering together to protect themselves from the advances of the Big Three, who have ruthless M&A strategies to guard against their usurping. These differing approaches to challenging the Big Three have garnered very different forms of success, with the most successful so far being to group together and pool resources/experience/reputation to make one's own way in the marketplace that is essentially captured by a number of intertwined dynamics like historical regulatory support, investment strategies, and investment intricacies. Before we analyse how Scope Ratings may fare, assessing how each of these forms have developed will be useful.

In terms of non-profit approaches, the two key exemplars of this approach are the Bertelsmann Foundation's 'International Non-Profit Credit Rating Agency' (INCRA) project which aims to develop a qualitative-based approach to rating sovereign bonds with a much longer and socially-concerned lens than exists now<sup>39</sup>, and the National University of Singapore's 'Credit Rating Initiative' project, that aims to develop an organic database of firms that have systematically-developed ratings attached to them<sup>40</sup>. These two initiatives are incredibly fascinating and worthy of support, but they have not yet garnered that support, with both seeking funding which is, unfortunately, not forthcoming owing to the parameters of the field. The second approach to challenging the Big Three is to develop a subscriber-pays approach and market the agency upon that basis. The forerunner of that approach is the American firm Egan-Jones Rating, a firm that was established in 1995 and puts its subscriber-pays income method at the forefront of its marketing campaign. However, this approach was challenged by the hostile environment that is the credit rating arena, and the SEC no less sought (and eventually succeeded) in barring the firm from becoming 'nationally recognised' on the basis that it must 'disseminate publically' its ratings – something which it obviously cannot do if it exists on capturing income from subscribers who have to pay for exposure; Macey is clear in his condemnation of the SEC when he states that the SEC

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<sup>39</sup> Cash (n 35).

<sup>40</sup> *ibid.*

demonstrated its ‘pure maliciousness’<sup>41</sup> towards any competitor of the Big Three in this course of events. So, this is the environment that Scope Ratings is attempting to develop itself within, and for that reason Egan-Jones moved to the third form of challenging; grouping together. Arguably the most successful approach to date, but mostly in that it has not yet completely been dismissed, can be seen in the development of the Universal Credit Rating Group (UCRG), which is the partnership formed by Egan-Jones, Dagong, and RusRatings<sup>42</sup>. The UCRG is developing upon the need to both develop an alternative based upon shared experience and reputation, but also upon the need to develop a ratings initiative which is sensitive to both issuers and investors in places other than the West (it is for this reason that the BRICS nations are actively seeking to develop a BRICS-based agency<sup>43</sup>). Whilst the Group is still developing and garnering its support, is it at least developing at a rate worthy of mentioning, and for that reason alone we can say that developing a shared-endeavour is probably the most appropriate and potentially-successful method of challenging the hegemony of the Big Three. On that basis, we can return to Scope who are, by way of an M&A strategy being developed across the European continent, creating their own unique version of the ‘safety in numbers’ method.

However, to be realistic, we shall begin with the reasons why Scope Ratings may not succeed in its mission to offer a viable alternative, with the obvious point to be made is that Scope’s market capitalisation is incredibly low in comparison to the Big Three. 0.39% is so low, that it is difficult to imagine how the firm may grow enough to become a viable player in the marketplace, irrespective of the aims of the E.U. to artificially produce competition. Also, the risk of growth, if the firm was fortunate enough to experience any significant growth, is that it would bring the firm within the eye-line of the Big Three, which usually results in the firm being incorporated into one of the Big Three, which is how the oligopoly is maintained. The counterbalance to this is to form alliances amongst other small agencies, like that seen with the forming of the Universal Credit Rating Group, but whether Scope Ratings would be willing to do this and whether it falls into their operating mission cannot be known. The other impediment is the fear regarding its composition. Its head of its nascent and organisationally important Bank rating division, Sam Theodore, has extensive links to Moody’s which, as we

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<sup>41</sup> Jonathan R Macey *The Death of Corporate Reputation: How Integrity Has Been Destroyed on Wall Street* (FT Press 2013) 232-5.

<sup>42</sup> Daniel Cash ‘The Universal Credit Rating Group: Rating Debt Ethically’ [2016] 17 *World Economics* 4.

<sup>43</sup> Daniel Cash ‘Can investors trust Russian and BRICS ratings agencies?’ [2017] *Investment Week* (May 31).

now know, has admitted to having a specific culture which is based upon defrauding investors and transgressing in the name of profit<sup>44</sup> - the presence of someone who was moulded in that culture, arguably, raises concerns as to the culture that would be present if Scope Ratings were to grow to any significant size. One final technical issue would be that if, and it is a big 'if', Scope were to grow to have over 10% of the market share, then it would no longer satisfy the E.U.'s designation for the enforced competition rule, which would create its own problems for Scope.

However, as with all endeavours that are aiming to challenge the hegemony of the Big Three, it is important not to be too negative. Whilst there are a number of concerns and impediments to the agency becoming a viable alternative, there are a number of aspects which *may* go in the favour of the firm. The first, and perhaps most important, is the E.U.'s insistence on challenging the hegemony itself. The creation of an enforced procedure whereby issuers would have to consult a smaller agency is already paying dividends for Scope, which for a small firm to have clients such as BMW and UBS is mightily impressive at this nascent stage of its development. Also, the changing landscape within the E.U., as the U.K. begins its secession from the Union and many constituent parts of the Union vote in what could be defining moments for the E.U., mean that there *should* be an increasing emphasis upon promoting internal business, a sentiment which should see firms like Scope, who are embarking upon becoming the premier European-sourced rating agency, be promoted and supported by the E.U. more than ever before. Lastly, the composition of the agency, based upon the amalgamation of specialist firms that have an intimate knowledge of Europe's business and culture, should see Scope represent the very essence of the E.U., which should distinguish it from its American competitors and represent a viable alternative to business looking to do business within a European Union that *may* become protectionist in outlook once the U.K. secedes – protectionism, as the U.S. and the U.K. have demonstrated, is apparently the order of the day, so it may be the case that the E.U. seeks to encourage the prosperity of its own first, before supporting the business of 'outsider' firms who have their *base* in non-E.U. countries. At the time of writing, the development of the firm reads like the typical trajectory of a new entrant into this specific market place, with positive elements

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<sup>44</sup> Daniel Cash 'The Conclusion of the Department of Justice's Investigation into Moody's: Financial Penalties but no Deterrent' [2017] 38 Business Law Review 3.

including the establishment of an ancillary service division<sup>45</sup> – positive in terms of extra revenue streams for the company – although the negative describes a common factor; the Big Three have an extremely large legal capability based upon resources and experience, whilst new entrants do not, and the news earlier this year that Scope is being sued for inaccurate ratings in Germany<sup>46</sup> provides a dose of realism for the company – that the Big Three are highly competent in facing off legal threats often goes under the radar.

## **Conclusion**

Ultimately, in this article, we were introduced to a firm that is endeavouring to provide an alternative to the Big Three by utilising a tactic that allowed the Big Three to dominate the market place. By acquiring smaller competitors, Scope Ratings now has an array of capabilities that are all underpinned by an intimate knowledge of European business. However, the official reports show that there is still an awfully long way to go before this firm can be considered an alternative. There are question marks over the composition of the agency, specifically in reference to the careers of some of the leading figures within the organisationally important sectors of the firm, but the changing landscape within Europe, when coupled to the sentiment of enforced competition, mean that there is a *potential* for the firm to at least grow its market share. There have been a number of analyses into the potential of entities to challenge the hegemony of the Big Three, many of which have concluded that there is little chance of change any time soon. Unfortunately, Scope Ratings arguably falls into this category, but what is encouraging is both the endeavour to supply an alternative, which must be the first step, but also the institutional encouragement to do so being offered by the E.U. – that fact alone should inspire other alternatives to be introduced and supported, as it is vitally important that the hegemony of the Big Three agencies is challenged for the good of society; we are now living the consequences of when it is allowed to prevail.

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<sup>45</sup> Institutional Asset Manager ‘Scope expands services for institutional investors’ [2017] IAM (Nov. 6) <https://www.institutionalassetmanager.co.uk/2017/11/06/257969/scope-expands-services-institutional-investors>.

<sup>46</sup> Frank Drost ‘A Challenge for the Challenger’ [2017] Handelsblatt (Jan. 9) <https://global.handelsblatt.com/finance/a-challenge-for-the-challenger-673834>.