
A.M. BEST

Matthew C. Mosher, FCAS, MAAA, CERA
Executive Vice President & Chief Operating Officer - Rating Services
Ambest Road, Oldwick, NJ, 08858, USA
Tel: +1 (908) 439-2200 ext.5708 | Mobile: +1 (908) 268-0552
E-mail: Matthew.Mosher@ambest.com

December 6, 2017

Thomas B. Considine
National Council of Insurance Legislators
Atlantic Corporate Center
2317 Route 34, Suite 2B
Manasquan, NJ 08736

Dear Commissioner Considine,

A.M. Best would like to reiterate our concerns with the Model Act to Support State Regulation of Insurance by Requiring Competition Among Rating Agencies which was approved by the NCOIL Executive Committee at the recent NCOIL Annual Meeting.

While the basis for the Model Act is sound and A.M. Best supports the Findings and Purpose of the Model Act, we contend that the final outcome of the process was a Model Act that does not reflect current legislative and regulatory standards and was not provided the appropriate time to be properly vetted. As a result, there are several contradictions in the Model Act as it currently stands:

1) Listing Specific Credit Rating Agencies - The Findings and Purpose section finds there should not be a single insurer rating requirement in laws, statutes, bulletins, or other public material. To correct this in the Definitions section, the Model Act lists six different rating agencies as "Competent Rating Agencies", but leaves out five other rating agencies that are Nationally Recognized Statistical Rating Organizations (NRSRO) who are registered with the Securities and Exchange Commission (SEC) and meeting the requirements of Dodd Frank listed in the Definition section. While we applaud the removal of any one organization being listed or recommended in laws and statutes, by listing only certain rating agencies in the Model Act and not all properly vetted rating agencies, NCOIL has merely changed the problem, not addressed it.



2) Including the requirements for an NRSRO from Dodd Frank, without applying them – The amendment to the Definitions section of the proposed Model Act included the list of requirements from Dodd Frank, to which all NRSRO registered rating agencies are held. This list of requirements shall be part of the process for any public agency's "approval" of a rating agency to meet the standard for a "Competent Rating Agency". A.M. Best suggested this change and applauds the inclusion of standards for rating agencies to be considered a "Competent Rating Agency". However, the Model Act, as approved, left in the list of rating agencies considered "Competent Rating Agencies". Five of the six rating agencies listed in the Model Act, and six other rating agencies not included in the Model Act, submit themselves to rigorous regulatory requirements and regulatory scrutiny to officially demonstrate they meet the requirements listed in the Model Act. One rating agency, Demotech, is included on the list in the Model Act, with no evidence of any regulatory authority reviewing this rating agency to ensure they have met the standards added to the Model Act to be considered a "Competent Rating Agency". If the Model Act lists standards, there should be no need to name specific rating agencies. However, if there is a strong desire to list specific rating agencies, that list should only include rating agencies that can demonstrate a regulatory authority holds them to the standards listed.

One additional point of clarification A.M. Best would like to make sure NCOIL and its members are aware of relates to a point made in testimony at the Financial Services Committee related to the role of the NRSRO registration. The NRSRO process is not solely focused on the ratings of debt securities. The SEC, in its final rules, explicitly separates the rating of Insurance Companies and ratings of Corporate securities into two distinct classifications that an NRSRO can register. There are five classes of credit ratings for which a credit rating agency can register as an NRSRO:

- 1) Financial institutions, brokers, dealers
- 2) Insurance companies
- 3) Corporate issuers
- 4) Asset-backed securities
- 5) Issuers of government securities, municipal securities, or foreign government securities

The NAIC in their use of the NRSRO as their standard for acceptable rating agencies for certified reinsurer purposes, only accepts rating agencies who are registered with the SEC to issue ratings on Insurance Companies.



As stated in the SEC's final rules, "In implementing the mandate [of Dodd Frank], the amendments and new rules being adopted today are designed to further enhance the governance of NRSROs in their roles as 'gatekeepers' and increase the transparency of the credit rating process as a whole." The NRSRO registration process is about standards for rating agencies. A.M. Best continues to urge NCOIL to adopt current standards already in place at state and federal levels.

NCOIL plays a very important role in the development of Model Acts. For that reason, A.M. Best is surprised by the rush to approve this Model Act. At the first public reading in the Financial Services Committee meeting, it was agreed that amendments were needed. Additionally, there were concerns raised as to the appropriateness of the list of "Competent Rating Agencies". Rather than amend the Act, and re-present it to the Financial Services Committee for further discussion, the committee approved the Act with the understanding changes would be made and allowed the Model Act to move forward to the Executive meeting without seeing the re-draft.

A.M. Best believes the Findings and Purpose of the Model Act are appropriate, but are not well served by the Definition section of the Model Act. Had more time been provided for the discussion and understanding of the current standards applied to most rating agencies, a better Model Act would have resulted.

A.M. Best looks forward to working with you and your members in the future and continuing to discuss ways to improve the Model Act.

Sincerely Yours,



Matthew C. Mosher, FCAS, MAAA, CERA
Executive Vice President & Chief Operating Officer
A.M. Best – Rating Services
(908) 439-2200 Ext. 5708

Cc: Senator Jason Rapert, President, NCOIL

