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April 28, 2022

S&P Global Ratings
55 Water Street
New York, NY, 10041

Submitted via e-mail to CriteriaComments@spglobal.com and via S&P's Online Comment Submission Portal

On behalf of the National Council of Insurance Legislators (NCOIL)¹, thank you for the opportunity to comment on S&P Global's (S&P) proposal to revise its methodology for assessing insurers' financial strength: "Insurer Risk-Based Capital Adequacy – Methodology and Assumptions." NCOIL's comments focus on the aspect of S&P's proposal known as "notching", which states that when examining the bonds held by insurance companies, S&P will lower ("notch") the rating of that insurer if the bonds were rated by anyone other than S&P.

The S&P proposal does not stop at simply "notching" ratings of securities that other firms issue, but rather sets up two separate levels in addition to the premier level it saves for itself. On one level, the second tier, will be securities rated by either Moody's or Fitch, which will indeed be "notched" downward by two to three ratings, depending on whether the security is rated by one or both of Moody's and Fitch. For the third tier, however, S&P simply relegates the securities rated by all other rating agencies to junk status by assigning them an arbitrary CCC rating.

In 2017, NCOIL adopted a [Model Act to Support State Regulation of Insurance by Requiring Competition Among Rating Agencies](#). That Model sought to address the concern raised by many regarding the designation of a single, exclusive insurer rating requirement in laws, statutes,

¹ NCOIL is a national legislative organization with the nation's 50 states as members, represented principally by legislators serving on their states' insurance and financial institutions committees. NCOIL writes Model Laws in insurance and financial services, works to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act over seventy years ago, and to serve as an educational forum for public policymakers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to insurance and educate State legislators on current and longstanding insurance issues.



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bulletins or other public material by instead embracing insurer rating requirements in laws and regulations that incorporate the enumeration of multiple, competent insurer rating agencies.

The Model promotes competition among rating agencies in recognition of the reality that companies make choices about rating agencies based on management's evaluation of the perceived strengths of each rating agency as it relates to their markets and business models. In adopting the Model, NCOIL felt strongly that no company should be required to obtain a rating from a specific rating agency – the company should be free to choose so long as that rating agency is competent and, on the whole, has a consistent record of accurately gauging the ability of the companies to pay claims and service their customers.

In light of our organization's background with insurance rating agencies, we, the Officers of NCOIL, believe that in absence of a simple "just the facts" explanation for S&P's proposal and why it is deemed necessary, the "notching" aspect of said proposal comes across as anti-competitive, contrary to the spirit and intent of our aforementioned Model, and, if implemented, would create a caste system among rating agencies, particularly given S&P's market share. Additionally, it would have a massive impact on insurers' capital requirements as the capital needed to be held for a given security could increase by over 20x if S&P's proposal were to take root. Lastly, the proposal, if adopted, could result in S&P being in the proverbial "glass house" having thrown stones at its fellow rating agencies. This would put issuers and investors alike in a position where their confidence in the rating agency system generally would be understandably shaken.

NCOIL will be discussing this issue during an interim virtual meeting of our Life Insurance & Financial Planning Committee on Friday, June 3 from 11:00 a.m. – 12:45 p.m. (EST), and during our Summer National Meeting scheduled for July 13-16 in Jersey City, NJ. We invite and encourage a representative from S&P to participate during one or both of those meetings so that we can better understand S&P's reasoning behind this proposal. For any questions regarding those meetings, please contact Will Melofchik, Esq., NCOIL General Counsel, at wmelofchik@ncoil.org or at 732-201-4133.

Thank you again for the opportunity to offer our comments. We look forward to working with you on this issue.

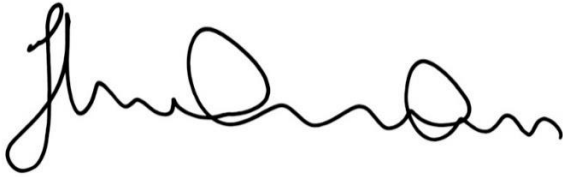
Very truly yours,



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