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VIA ELECTRONIC MAIL

June 9, 2005

Mr. Jonathan G. Katz
Secretary
U.S. Securities and Exchange Commission
450 Fifth Street, NW
Washington, D.C. 20549-0609

Re: File Number S7-04-05, Definition of Nationally Recognized Statistical Rating Organization

Dear Mr. Katz:

This letter is submitted by A.M. Best Company, Inc. ("A.M. Best") in response to the Securities and Exchange Commission's ("SEC" or "the Commission") request for comment on the Commission's proposed Exchange Act Rule 3b-10 (Release Nos. 33-8570; 34-51572; IC26834; File No S7-04-05), which would formally define the term "Nationally Recognized Statistical Rating Organization (NRSRO)."

A.M. Best welcomes the opportunity to comment on the Commission's proposed definition and supports its efforts to provide additional clarification to the term NRSRO. A.M. Best believes that the adoption of a formal definition will: 1) serve to increase transparency of the initial recognition process; 2) provide a sound basis to determine a credit rating agency's ongoing status as an NRSRO; and 3) lead to a considerable reduction in the amount of time needed for SEC staff to respond to a credit rating agency's request for no-action relief.

A.M. Best's responses to the Commission's request for comment on specific questions related to the proposed definition and the SEC staff's interpretation of certain sections thereof follow the outline of the proposed definition.



The Insurance Information Source

Definition

The Commission has proposed to define the term “NRSRO” as an entity that: 1) issues publicly available credit ratings that are current assessments of the creditworthiness of obligors with respect to specific securities or money market instruments; 2) is generally accepted in the financial markets as an issuer of credible and reliable ratings, including for a particular industry or geographic segment, by predominant users of securities ratings; and 3) uses systematic procedures designed to ensure credible and reliable ratings, manage potential conflicts of interest, prevent the misuse of nonpublic information, and has sufficient financial resources to ensure compliance with those procedures.

1) A.M. Best’s responses to the Commission’s questions related to the first component of the proposed definition, which the Commission has grouped into three sub-components: Publicly Available Credit Ratings, Issue-Specific Credit Opinions and Current Credit Opinions.

Publicly Available Credit Ratings

In order for a Credit Rating Agency (CRA) to meet the standards of “publicly available” under the Commission’s proposed rule, A.M. Best believes that at a minimum, a CRA’s ratings (except for private ratings provided only to the issuer and which therefore would not satisfy Commission rules for regulatory purposes) should be made available at no cost to the general public on its internet Web site. To ensure widespread dissemination of securities ratings, it has long been A.M. Best’s practice to forward press releases to national wire services simultaneous to the posting of ratings on its Web site.

Issue-Specific Credit Opinions

Since the SEC’s primary focus is investor related, the Commission is proposing to limit the concept of an NRSRO in its definition to CRAs which rate issue-specific credit opinions. Given this limited scope, A.M. Best agrees with the Commission that for current regulatory purposes, credit ratings assigned to an issuer—reflecting its general creditworthiness—cannot and should not be applied to all securities issued by the entity. The Commission notes that the risk of loss associated with different instruments of the same issuer can vary considerably and, therefore, would not satisfy the primary goal of Exchange Act Rule 15c3-1, the Commission’s “net capital rule.”

Current Credit Opinions

A.M. Best agrees with the Commission’s proposed rule definition that “current assessments” of securities ratings should be those that are actively monitored and updated as appropriate upon the occurrence of material events, including those that may be issue-specific, and believes that additional interpretation by the Commission would not be necessary. A.M. Best also believes that the rating process should be in accordance with policies and procedures publicly disclosed by the NRSRO and should not be mandated or interpreted by the Commission to specify that ratings should be reviewed within a given



time period. While A.M. Best ratings are continually monitored, A.M. Best's general practice has been to formally review its ratings at least annually and to provide those effective dates on its Web site at no cost. A.M. Best believes that such disclosures and the history of the NRSRO in providing timely ratings announcements should provide sufficient assurance to the markets that its ratings are current.

2) A.M. Best's responses to the Commission's questions related to the second component of the proposed definition, which the Commission has grouped into two sub-components: General Acceptance in the Financial Markets and Limited Coverage NRSROs.

General Acceptance in the Financial Markets

A.M. Best believes that the Commission's proposed definition and the criteria currently utilized by SEC staff (as outlined in Section II.B; History of the NRSRO Concept) in determining whether to issue no-action letter relief are sufficient and already take into consideration that ratings issued by a CRA are credible and reasonably relied upon by the marketplace. We also suggest that for newer entrants that operate under the traditional business model of established NRSROs as well as for those CRAs (which most likely would not qualify for NRSRO status under the first component of the proposed definition) that operate under a subscriber based model, that comments from authorized officers of the users of ratings attesting to the fact that ratings are actually relied on for relevant markets or issuers attesting to the CRA's credibility in assessing creditworthiness would be better indicators of market acceptance than statistical data that tracks market volatility in response to rating actions.

While such a CRA may be able to demonstrate through default studies or by other acceptable means that its ratings are reliable, it is unlikely that its rating actions would have a significant influence on the market value of securities given the power and entrenched nature of larger credit rating agencies.

Limited Coverage NRSROs

While A.M. Best has concentrated its rating activities in the insurance industry, we believe that there should be no differentiation in NRSRO status for CRAs that have gained national recognition as an issuer of credible and reliable ratings for a particular industry or geographic segment. Since a CRA's reputation, which led to its market acceptance, is principally built on its independence, integrity and credibility, we believe that a CRA that has gained national recognition would not jeopardize its greatest asset by issuing ratings that it did not deem credible and reliable. We also note that a CRA which expanded its scope of operations, either internally or by acquisition, beyond its traditional areas of expertise without first having published sound methodologies, built the appropriate infrastructure and had in place an experienced staff with sufficient expertise in developing ratings in new regions or industries, would be operating outside the principles and standards set by the International Organization of Securities Commissions (IOSCO) and the Commission's current assessment of the size and quality of the CRA's staff in determining to grant no-action relief. Because an NRSRO operating under these



guidelines would not issue credit ratings on securities other than those that could be used for regulatory purposes, there would be no need to separately identify ratings issued by a specific NRSRO, although we note that many NRSROs currently use rating symbols that are unique to that agency.

3) A.M. Best's responses to the Commission's questions related to the third component of the proposed definition, which the Commission has grouped into nine sub-components: Analyst Experience and Training, Number of Ratings per Analyst, Information Sources Used in the Ratings Process, Contacts with Management, Organizational Structure, Conflicts of Interest, Misuse of Information, Financial Resources and Standardized Rating Symbols.

Analyst Experience and Training

We agree with the Commission that it should not impose specified minimum experience and training standards for analysts in determining if a CRA meets the proposed NRSRO definition as we believe it would provide little, if any, benefit. It also may prove to be a hurdle that new entrants are unable to clear from a cost standpoint, particularly if proposed standards were artificially high. It has been A.M. Best's practice to make employment offers only to those individuals that it believes have the proper educational background and/or experience to successfully complete a probationary period. During this time, the analyst receives considerable training in A.M. Best's approach, systems and procedures to producing ratings. A.M. Best also provides its analysts continuing training and education to ensure the production of credible and reliable ratings. In addition, prior to employment, analysts must file with the compliance officer, among other items, whether they have been subject to disciplinary action by a financial or other regulatory body. We also note that it seems highly unlikely that a CRA could ever satisfy the second component of the proposed definition, "generally accepted in the financial markets as an issuer of credible and reliable ratings," if it did not historically employ a sufficiently trained and experienced staff. A CRA operating in a manner other than described would also not comply with the standards of IOSCO.

Number of Ratings per Analyst

The Commission also asks whether it should specify minimum standards for CRA analysts to continuously monitor and assess developments related to their ratings and to provide guidance on what a reasonable workload may be with respect to the number of securities ratings outstanding. We do not believe it would be appropriate for the Commission to set such guidelines for analysts and refer to our response in the first component above. It would be extremely difficult for the Commission to determine, or for a rating agency to provide the SEC with, meaningful data on what a reasonable average workload per analyst may be given the number of variables that need to be taken into consideration. For example, such analysis needs to incorporate the composition of an analyst's portfolio, the operational complexity of the issuers in the portfolio, the number and complexity of outstanding securities of the issuers in the portfolio and the quality and overall experience of the analyst. As a result, while we would have no objection to doing so, we do not believe that the disclosure of the number and average



issues rated, either in the aggregate or on an individual analyst basis, provides much benefit to users of ratings or in the Commission's decision on a CRA's no-action relief request. Ultimately, a CRA's business practices and procedures with respect to producing credible and reliable ratings are reflected in its market acceptance and performance history.

Information Sources Used in the Ratings Process

The Commission also asks whether non-traditional information sources, such as third-party vendors that compile statistics used by CRA's in the rating process, should be subject to some form of integrity tests by the CRA. We agree with the Commission that the CRA could test the integrity of these statistics by cross-checking a reasonable sampling of SEC or other regulatory filings and/or by contacting appropriate officers of the issuers it rates. A CRA also could assess the statistics' reliability by gaining an understanding of the vendor's history and practices in ensuring the accuracy of its data. Regardless, we believe that the CRA should be required to disclose the information sources, procedures and methodology generally utilized in its rating process. While we note that the Commission is not suggesting that CRA's audit or in any way ensure the accuracy of an issuer's financial condition, we do not believe the SEC should mandate processes by which a CRA produces its ratings.

Contacts with Management

A.M. Best's debt rating process involves considerable interaction with the issuer's management. We do not issue ratings on securities without such contact. Ratings are prospective in nature and we believe that the interactive process provides an opportunity to gain substantial insight into the company's future plans, the quality of management and operating fundamentals. While A.M. Best's debt rating procedure is an interactive process, we do not believe that the Commission should mandate that a CRA's policies and procedures require the CRA to request that an issuer's senior management participate in the process in order to meet the SEC's proposed definition.

Organizational Structure

The Commission requests comment on what information may be useful to users of ratings, if any, related to a CRA's organizational structure. The Commission's primary focus in this area is the concern that a CRA may provide other services that either present, or give the impression, that the CRA has a natural conflict of interest between its ratings services and other services or businesses the organization may be involved in. While we believe that we do not provide services that are subject to these concerns, such as offering advisory or underwriting services, all CRAs should erect firewalls that insulate its ratings services business from other areas of the organization, particularly in cases where a CRA provides ancillary services that in some way can be related to its securities ratings. The CRA's policies and procedures should be designed to protect against any other aspect of its business interfering with or influencing the CRA's ability to provide independent, objective and credible ratings opinions, and from confidential information used in its ratings business being disclosed to other areas of its business.



Conflicts of Interest/Misuse of Information

The Commission seeks comment on what specific conflicts of interest should be addressed in a CRA's procedures. With respect to conflicts related to the CRA's activities, as stated above, a CRA which offers consulting, advisory or other services should disclose the services that potentially raise a question of impropriety and how it effectively monitors and safeguards its ratings business from any influence of such activities. The CRA should also publicly disclose whether it receives fees from the companies that it rates. With regard to employees, the Commission has recently reviewed the strict policies and procedures A.M. Best has in place relating to the handling of confidential information, securities ownership and trading, and potential conflicts of interest related to business activities, family relationships, past employment and gifts. For instance, all rating associates (including immediate family members) as well as A.M. Best itself are prohibited from owning or trading any securities of companies (or affiliates of such companies) that A.M. Best rates. Additionally, analysts are prohibited from having or entering into any relationships with companies that A.M. Best rates and are also prohibited from committee voting if they have been employed by the subject company during the past ten years. Each quarter, all employees are required to report to the Compliance Officer all information related to the above mentioned items. The Commission also recently reviewed the committee procedures required in A.M. Best's rating process, which further ensures that its ratings are independent, objective and credible ratings opinions.

Financial Resources

A.M. Best is a privately held company and as such does not provide financial information to the public. We do not believe it should be a requirement that CRAs disclose financial information to users of ratings. In connection with the NRSRO recognition process, the Commission has recently reviewed A.M. Best's financial statements, and we will continue to provide the Commission such confidential information on an ongoing basis. We believe the Commission's recognition provides the market sufficient assurance that we are financially independent of the companies that we rate and that no particular issuer has influence or leverage during our rating process. We also do not believe that arbitrary limits should be imposed on the amount of revenue a CRA receives from issuers.

Standardized Rating Symbols

We agree with the Commission that there has been widespread acceptance of a market-based standard which utilizes the same number of rating categories. A.M. Best adopted this standard when it instituted its issuer credit and debt ratings scales.

Statistical Models

We believe that statistical models are an important component of the rating process. In fact, A.M. Best maintains the largest database of insurance information worldwide. However, since ratings are prospective in nature, we also believe that interaction with management is very important as it provides the opportunity to better understand the key drivers of "the numbers" and gain an insight with respect to an issuer's business and



capital management strategies and its performance expectations. Additionally, analysts must also take into consideration factors outside an issuer's control such as industry trends, the current and future expectations of the economic environment and regulatory or legislative considerations.

Provisional NRSRO Status

We would suggest that if a CRA meets the proposed definition of an NRSRO, there is no need for a provisional status. We also believe that such a status may be confusing in the market and that the likelihood of an institution using such a rating for regulatory purposes is minimal.

We note that a considerable amount of the material on which the Commission has requested interested parties to comment is included in the International Organization of Securities Commission's "Code of Conduct Fundamentals for Credit Rating Agencies." A.M. Best has agreed to comply with the standards set forth in the Code, which we will be forwarding to the Commission and will make available on our Web site shortly. We also respectfully suggest that the Commission not interpret an NRSRO's or other CRA's actions to meet the definition of NRSRO as providing a basis for claims by third party litigants seeking to hold the NRSRO or CRA liable for its credit opinions.

Very truly yours,

Larry G. Mayewski
Executive Vice President & Chief Rating Officer
A.M. Best Company, Inc.

