



**RIKER
DANZIG
SCHERER
HYLAND
PERRETTI^{LLP}**

ATTORNEYS AT LAW

William G. Connolly
Partner

Direct:
t: 973.451.8415
f: 973.451.8633
wconnolly@riker.com
Reply to: Morristown

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Via E-mail with PDF Attachment

Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File No. S7-04-07

Dear Ms. Morris:

We represent A.M. Best Company, Inc. (the "Company") and are writing on its behalf to comment on the proposed rules (the "Rules") of the Securities and Exchange Commission (the "Commission") to implement provisions of the Credit Rating Agency Reform Act of 2006 (the "Act"). The Rules were issued in Release Number 34-55231, Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations (the "Release").

Three global principals guide these comments:

1. In the Act, Congress found that additional competition among credit rating agencies is in the public interest;
2. The Act requires that the Commission's rules under the Act should be narrowly tailored to meet the requirements of the Act; and
3. The Act prohibits the Commission from regulating the substance of credit ratings or the procedures and methodologies by which credit rating agencies determine credit ratings.

The comments are arranged to follow the organization of the Release.

A. Proposed Rule 17g-1 – Registration Requirements.

Description of Proposed Registration Rule (Rule 17g-1). The Release states that "[w]hile Section 15E(a)(3) of the Exchange Act does not require an applicant to make the public

information in its application publicly available until after registration, this information typically would be made available by the Commission to members of the public before the application is acted on by the Commission.”

We request that the Commission consider changing its position on the public availability of an applicant’s submissions prior to the effectiveness of its registration. Such disclosure could discourage new applicants without any appreciable public benefit. New agencies or agencies expanding to rate new classes will not want their competitors to know their plans any earlier than necessary. In addition, such agencies will be damaged if it is publicly disclosed that they made an application which was later denied by the Commission.

These agency costs could be avoided without any detriment to the public. Once the agency is registered, most of this information will be made public. The applying agency, before being registered, cannot be relied upon by those customers required to use registered agencies. There is no benefit to the public receiving information that the Commission later determines to be incomplete or otherwise deficient.

Amendments to Application. Section 15E(b)(1) of the Securities Exchange Act of 1934 requires a nationally recognized statistical rating organization (“NRSRO”) to “promptly” amend its application for registration if, after registration, any information or document provided as part of the application becomes materially inaccurate. The Commission seeks comment on whether it should define the term “promptly” to mean a specific time period such as two (2), five (5) or ten (10) business days, or some other period.

It would help ensure compliance if the term “promptly” is defined as a certain number of days. Of the choices suggested by the Commission, the Company believes promptly but no later than ten (10) business days is the appropriate option. Mandating a specific number of days for amendments will enable agencies to ensure they comply and enable them to set up protocols with specific time frames for internal committees and officers to vet any application amendments.

Agencies, particularly smaller ones, need sufficient time to review updates and make sure they are accurate. Ten (10) business days should be sufficient for key executives otherwise unavailable to complete the amendment process.

B. Proposed Form NRSRO.

Items 6 (Categories of Credit Ratings – Registration) and 7 (Categories of Credit Ratings – Amendment). Items 6 and 7 of Form NRSRO require that the applicant or NRSRO, respectively, disclose for each rating class the approximate number of ratings currently outstanding and the number of consecutive years such ratings have been issued.

One of the purposes of the Act is to eliminate barriers to “entry for credit rating agencies seeking wider recognition and market share.” This disclosure requirement will have the opposite effect. The requirement to disclose the number of ratings and consecutive years of ratings goes beyond what is required by the Act and will make it significantly more difficult for new agencies to enter the market and existing agencies to expand their classes of ratings. It may lead users of ratings to incorrectly conclude that an agency with less experience will produce unreliable ratings. It also may give existing agencies an unfair and potentially insurmountable advantage. Users of ratings should focus on an agency’s published methodologies, independence, employee qualifications, performance history and independent certifications (when required) in assessing an agency’s ability to produce reliable ratings. The Act already addresses an agency’s experience by requiring that an NRSRO designated on or after August 2, 2006 furnish certifications from qualified institutional buyers. The Act requires that the credit rating agency must be a rating agency for at least three years prior to its application and, if required, furnish certifications. Such a requirement may further entrench existing rating agencies and stifle competition.

Item 8 (Potential Statutory Disqualifications). Under Item 8 of the application form (Form NRSRO), the applicant or NRSRO must disclose certain prior acts or convictions of the credit rating agency or any person associated with the agency. If an applicant or NRSRO must disclose such an act or conviction, it is also required to file a Disclosure Reporting Page (DRP). Among the items required to be disclosed on the DRP is the full name of the associated person prompting the filing.

The Company believes that the disclosure of employee names is an unnecessary invasion of privacy. The title of the associated person along with a brief job description may be relevant to the public, but the name of the individual is not. The requirement to disclose the person’s name will make it more difficult for agencies to gather this information from their employees. In addition, there may be jurisdictions that prohibit employers from disclosing this information. The Commission could assist agencies by clearly describing how agencies can comply with these requirements to gather and disclose employee information, including how to handle an existing employee’s objection to disclosure of certain information.

Certification. Rule 17g-3(c)(2) provides that a signed statement by a duly authorized person responsible for the financial statements must be attached to the agency’s audited financial statements certifying that to the best knowledge of such person the financial statements fairly present, in all material respects, the financial condition, results of operations and cash flows of the rating organization for the period presented.

The Company believes that the rating agency's exposure for filing inaccurate financial statements should be sufficient. The Commission does not need to reach beyond the Act and require an individual to certify the financials. The Rules already require that the financial statements be audited (also not required by the Act) by "an accountant who is qualified and independent." Since, to the knowledge of the Company, the Commission has never collected this information from rating agencies before, there does not seem to be a basis for the Commission to be concerned that rating agencies manipulate their financial statements or mislead their auditors. Is the Commission suggesting that an individual at a privately held company should be personally liable should an independently audited financial statement prove to be inaccurate? This requirement goes well beyond the Act, does not provide a public benefit and will make private companies reluctant to register as an NRSRO. As a consequence, it will discourage competition in this field.

It should also be noted that the directions for Form NRSRO do not describe this certification as required for all financial statements. The directions only describe such certification being required for non-audited financial statements.

Exhibit I (Public). This Exhibit requires that an applicant include credit rating performance measurements in the application. The Commission has requested comment on whether the performance measurements should use, among other things, standardized inputs to ease comparing agencies.

The Company agrees with the Commission that, in addition to an agency's historical default and downgrade rates, an agency should provide definitions of its credit ratings categories and explanations of its performance measurement statistics, including the methodologies and metrics used to derive the statistics in the application. However, the underlying definitions and methodologies used in determining credit ratings will differ between rating agencies. Therefore, an attempt to define "standardized inputs" applicable to all agencies will not be meaningful. The Company believes that the most relevant information for a user of ratings is a clear understanding of how a particular agency derived its ratings and the methodology used in its performance measurement statistics.

The Commission also requests comment on whether credit rating agencies currently use other performance measurements or whether such alternative performance measurements would be an appropriate way to measure the effectiveness of ratings instead of historical default and downgrade rates. By way of example, the Commission requests comment on whether Exhibit I should require measurement of the performance of a given credit rating by comparing or mapping it to the market value of the rated security or to extreme declines in the market value of the security after the rating.

Not all rating agencies issue credit ratings for specific securities or money market instruments. It would be inconsistent for the Rules to require an agency that rates securities to measure the performance of such ratings by comparing or mapping the ratings to the market performance of such securities if there could be no comparable requirement for an agency that issues only "obligor" ratings. Additionally, if the Commission were to require agencies that issue securities ratings to compare or map securities ratings to market value, the Commission would come dangerously close to "regulating the substance of credit ratings" by implying that such information should be included in an agency's rating process.

Exhibit 8 (Public). In the Release, the Commission states that requiring an applicant and an NRSRO to disclose information about the responsibility, experience and employment history of its credit analysts and supervisors is in the public interest. The Commission requests comment as to (i) whether the information would be helpful to users of credit ratings in comparing one NRSRO to another, and (ii) whether some of the proposed disclosures should be eliminated or modified.

Much of the information required to be disclosed (e.g., name, employment history, post-secondary education) will have a marginal benefit to the investing public at best but could cause harm to the employing rating agency and intrude on an employee's privacy. At the Company, credit ratings are performed by teams of people. Individual credit analysts create credit reports that are edited by supervisors, and credit ratings are assigned by a rating committee, not a specific individual. Requiring these details to be disclosed will not be much help to an investor. However, this type of detailed information will prove beneficial to employment recruiters and competing rating agencies who will be able to raid the talent of a registered rating agency.

We suggest that in lieu of providing information with respect to each employee, a description of the average employment experience (in terms of years and types of responsibilities) of all credit analysts and supervisors working for that rating agency, a list of the types of professional degrees held by all such persons and a brief description of the credit rating company's requirements for individuals to gain employment in such positions be provided. Finally, the Company is not aware of any other business sectors that are required to publicly disclose this type of detailed employee information.

Exhibit 9 (Public). The Commission is requesting comment as to whether information about the experience and employment history of the designated compliance officer and persons assisting such officer should be required.

Unlike information on individual credit analysts and their supervisors, the Company believes that a user of ratings might find it helpful to have access to information about the

person responsible to prevent the misuse of non-public information, manage conflicts of interests and ensure compliance. However, the Company does not believe it necessary to provide detailed information with respect to persons who assist the designated compliance officer. If data on these assistants must be disclosed at all, it would be helpful if "assist" could be defined and such disclosure should be limited to a compilation of information relating to the assistants.

Exhibit II (Confidential). This Exhibit requires the applicant and an NRSRO to furnish audited financial statements for certain time periods, prepared in accordance with GAAP. In the Release, the Commission states that disclosure of such information is necessary for the protection of investors, since it would assist the Commission in making certain findings. The Commission requests comment on whether the furnishing of audited financial statements would achieve the stated purpose of the requirement.

The Company requests clarification on the Commission's position regarding departures from GAAP on audited financial statements, assuming such departures are explained in the auditor's opinion. Since the purpose of this disclosure is to assure that economic pressures do not affect the integrity of ratings (not to provide financial data to investors), the Company assumes that an auditor's opinion could be qualified by matters that would not indicate financial distress (e.g., a qualification relating to the scope of the examination) and would not affect the Commission's ability to evaluate the agency's financial condition (e.g., reporting positions more conservative than those required by GAAP).

The Company further requests that the Commission confirm whether the supporting schedules to the audited financial statements will be required to be audited by the agency's independent audit firm.

C. Proposed Rule 17g-5 – Management of Conflicts of Interest.

Rule 17g-5 requires an NRSRO to disclose and manage certain conflicts of interests and implement policies and procedures to address them. A conflict of interest is defined to include a person associated with a rating organization "owning securities or money market instruments of a person that is subject to a pending or issued credit rating of the rating organization."

The Company strongly believes that an NRSRO and its associated persons should be permitted to indirectly own securities of rated entities, such as through a mutual fund. Such ownership should be permissible as long as the NRSRO or associated person does not have direct or indirect control, discretion or influence over any purchase, sale or trade of rated securities within a mutual fund. Therefore, diversified mutual funds and such funds included in 401(k) plans and pension plans should be permissible.

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D. Proposed Rule 17g-6 – Prohibited Unfair, Coercive or Abusive Practices.

Rule 17(g)-6(5) prohibits “issuing an unsolicited credit rating and communicating with the rated person to induce or attempt to induce the rated person to pay for the credit rating or any other service or product of the rating organization or a person associated with the rating organization.” Rule 17g-2 also requires that every NRSRO maintain records of whether the credit rating was solicited or unsolicited.

The Commission notes in the Release that unsolicited credit ratings are those that are not initiated at the request of the issuer, obligor or underwriter. However, differentiating between a solicited and an unsolicited request for a credit rating is not always clear-cut. The Company believes the definition of “solicited” should be clarified with the realities of the business in mind. A credit rating agency may have interactively rated a particular company for decades. For these types of rating relationships, a credit rating agency often issues ratings on an annual basis without a formal request from the rated company, but that does not mean that the rating is unexpected by the rated company or should be categorized as “unsolicited.” The Company does not issue a rating without reviewing a substantial amount of data provided by the subject of the rating and meeting with its executives. A “solicited” rating should be any rating issued in connection with an interactive rating relationship and the knowledge of the rated entity.

The Company seeks confirmation that the Commission will not find it to be a violation of Rule 17g-6 if a formal contract has not been entered into between a customer and the rating agency, but the prior course of dealing between the parties and industry practice support a conclusion that the rating was solicited.

Thank you for the opportunity to comment on the proposed Rules. They could have a profound impact on the industry and the quality of its ratings.

Please feel free to contact us if you wish to further discuss the Company’s comments.

Very truly yours,

A handwritten signature in cursive script, appearing to read "William S. Grundy".