July 3, 2026

Via Electronic Submission

Mr. Jake Garn, Chair, Ms. Laura Clements, Vice Chair
Credit Rating Provider (E) Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, Missouri 64106

Re: Credit Rating Provider Due Diligence Framework Whitepaper – Request for Additional Analysis, Stakeholder Engagement, and Redesign Prior to Adoption

Dear Chair Garn and Vice Chair Clements:

Pinpoint Policy Institute is a nonpartisan, pro-growth 501(c)(4) nonprofit organization dedicated to promoting free markets, limited government, and the rule of law.[1] We appreciate the National Association of Insurance Commissioners ("NAIC") Credit Rating Provider (E) Working Group's ("Working Group") engagement on the important question of how NAIC Designations rely upon credit rating provider ("CRP") ratings, and we submit these comments in a constructive spirit. We recognize the Working Group's desire to assess how CRP ratings are used for insurance regulatory purposes.[2]

Our comments focus on the substance of the Credit Rating Provider ("CRP") Due Diligence Framework Whitepaper ("Framework Whitepaper," "Framework," or "Whitepaper") and on several underexamined consequences for the insurance marketplace, capital formation and capital markets, and the broader financial system. Our concern, as outlined in this letter, is that the proposed Framework appears to move beyond oversight of rating use in the NAIC designation process and toward de facto oversight of CRPs and rating methodologies, security-level rating judgments, and other NAIC actions that could materially affect insurance companies and policyholders.

That is a consequential shift – *one which we do not believe is warranted, but in any event should not be adopted without a clearer legal foundation, a more developed basis for acting, a cost-benefit analysis, and stronger confidentiality and process safeguards*. For this reason, we respectfully urge the Working Group to (i) defer adoption, (ii) re-examine the legal architecture in which the Framework must operate, (iii) address several technical and operational concerns identified below, (iv) conduct additional engagement with affected stakeholders and relevant

federal authorities, and (v) redesign and re-expose the Framework for further public comment prior to adoption.

The Framework rests on three independent defects, any one of which would justify withdrawal and re-proposal:

First, the Framework assumes authority Congress withheld from even the SEC. The NAIC is asking accepted CRPs to "confidentially share their annual SEC assessment findings with the NAIC,"[3] converting an anonymized federal examination regime into a non-anonymized NAIC channel with no basis in federal law and no clearly cited statutory authority in state law. In the Credit Rating Agency Reform Act of 2006, Congress charged the SEC with NRSRO oversight and expressly prohibited even that agency from regulating "the substance of the credit ratings or the procedures and methodologies by which any nationally recognized statistical rating organization determines credit ratings."[4] The NAIC now proposes to assume, without any statutory mandate, a function materially similar to the methodology-level oversight Congress withheld from the SEC. By proposing to distinguish, and potentially notch, rating agency ratings based on methodology, the NAIC would de facto be regulating the content of methodologies. This is inappropriate and contravenes federal law.

Second, the Framework lacks the procedural safeguards and accountability appropriate for decisions with market wide consequences. The NAIC is a private, tax-exempt organization that operates without the basic accountability structures Americans expect of any entity wielding regulatory power. Since 1955, it has been exempted from filing IRS Form 990, an exception the Government Accountability Office confirmed in a report published just days ago.[5] It is not subject to administrative due process protections nor are the national rules it establishes subject to appeal by affected stakeholders.

The NAIC's most consequential deliberations routinely occur in "regulator-only" sessions closed to the public, a practice that has drawn sustained criticism from industry, consumer representatives, and independent watchdogs alike.[6] Yet the Framework would permit the removal of filing-exempt status and de-admit CRPs without notice and comment, without a documented cost-benefit analysis, and without a stated legal basis.

Third, the Framework would expand confidential data transfers to the NAIC at the precise moment its data-steward role is under public scrutiny. On June 11, 2026, an unauthorized third party breached the NAIC's environment through an Oracle PeopleSoft zero-day vulnerability.[7] The NAIC did not disclose the incident publicly until June 17, a delay of roughly six days,[8] from an organization whose own Model Law #668 imposes a 72-hour notification standard on the licensees it oversees.[9] The NAIC has since confirmed that data taken during the incident was published online and included credit rating agency rating determinations of insurer investments, the precise category of information the Framework proposes to expand.[10] Independent forensic verification remains ongoing.[11]

Each one of these defects would independently justify withdrawal. Together, they make continued development indefensible. Pinpoint's comments below explain these considerations and recommended changes in greater detail.

NAIC Credit Rating Provider (CRP) Due Diligence Framework Whitepaper – Policy Analysis and Considerations

Defect One: The Framework assumes authority Congress withheld from even the SEC.

Section 15E(c)(2) of the Exchange Act contains an express statutory firewall prohibiting both the SEC and States from regulating the substance or methodologies of NRSRO credit ratings.

Congress has spoken twice, clearly, on federal credit rating oversight, providing a thoughtfully considered twenty-year-old framework for NRSRO oversight. In 2006, Congress enacted the Credit Rating Agency Reform Act, adding Section 15E to the Securities Exchange Act of 1934.[19] Section 15E vests examination authority over NRSROs in the SEC and requires the SEC's Office of Credit Ratings to conduct annual examinations of each registered NRSRO.[20] Section 15E(c)(2) contains an notable — and expressly clear — statutory limitation. It provides, in full:

"Notwithstanding any other provision of this section, or any other provision of law, neither the Commission nor any State (or political subdivision thereof) may regulate the substance of credit ratings or the procedures and methodologies by which any nationally recognized statistical rating organization determines credit ratings."

These words matter. Congress did not merely leave the substance of credit ratings unregulated; Congress affirmatively prohibited such regulation, and did so as against both the SEC and "any State (or political subdivision thereof)." Section 15E(c)(2) is a statutory firewall. It cannot fairly be evaded by relabeling substantive review as "due diligence." It cannot be evaded by routing that review through a private standards body funded by regulated entities through which states act – this constitutes state action in violation of federal law. Congress enacted this prohibition to protect diversity in credit opinions and prevent states, acting directly or through a body setting rules that are implemented in the states, from regulating the content of CRP methodologies.

To be specific, the Framework's Section 3.2.1 proposes precisely the type of activity that Section 15E(c)(2) forbids: (i) NAIC staff "Methodology Walkthrough[s] and Discussion[s]" with each accepted CRP; (ii) "Security-Specific Rating Review[s]" evaluating whether individual ratings meet NAIC-defined thresholds; and (iii) "Security-Specific Rating Methodology Review[s]" that judge "reasonableness of the methodology selected by the CRP."

- The Framework contemplates NAIC staff conducting "Methodology Walkthrough[s] and Discussion[s]," "Security-Specific Rating Review[s]," and "Security-Specific Rating Methodology Review[s]" of CRPs.[11] These functions closely resemble the substantive-review activities Congress placed beyond the SEC's reach.

- The Framework's "Remediation Actions" include translation-matrix adjustments, removal of filing-exempt status for an asset class, and CRP de-admittance.[12] While the NAIC does not directly de-register an NRSRO under federal law, the effect of removing a CRP from the NAIC Designation regime could be commercially significant and functionally analogous to de-certification, particularly for CRPs whose principal utility to the insurance market is Designation eligibility.
- The Framework relies on confidential SEC examination findings to inform NAIC scoping determinations,[13] a workflow that has no obvious parallel in federal-state financial regulation and that would benefit from formal coordination with the SEC before adoption.

These are, on any fair reading, actions to regulate ratings, rating agencies, and the methodology of ratings. That the review is characterized as internal, non-binding, or "due diligence" does not alter the substantive character of the activity. And if NAIC staff conclude a methodology is unsound, the "remediation" tools in Section 4.2.2 (e.g., asset removal from FE status; CRP de-admittance) create commercial consequences that a federal agency itself may not lawfully impose.

The NAIC may respond that the Framework does not regulate CRPs at all but merely determines whether particular CRP ratings should receive treatment within the state-based insurance system. That distinction does not cure the defect. The Framework's operative substance is methodology level review: it calls for methodology walkthroughs, security-specific methodology reviews, and NAIC staff judgments about the reasonableness of the methodology a CRP selected.[16] Its practical effect is to condition filing-exempt status, continued CRP acceptance, and market access on those judgments. A process with those consequences requires clear legal authority, transparent standards, procedural safeguards, and a demonstrated evidentiary basis. The exposed Framework supplies none of them.

We respectfully recommend that the Working Group engage withdraw the Framework until the NAIC conducts a thorough legal analysis, put out for public comment, as to how the Framework does not violate the federal statutory prohibition on regulating the content of methodology, including an analysis of how and why the Framework does not interfere with the SEC's role as the sole regulator of CRPs.

Defect Two: The Framework lacks procedural safeguards and accountability its market-wide consequences demand.

<u>The NAIC does not operate under sound principles of due process under well-established principles of Administrative law.</u>

The Framework was exposed for a 60-day informal comment period. It was not published in any Federal Register-equivalent, is not subject to APA notice-and-comment procedures under 5 U.S.C. §§ 551–559, and will not be subject to judicial review under APA "arbitrary and capricious" standards.43 Its "governance" section names the CRP Working Group as decisionmaker and identifies internal escalation paths (to the Financial Condition (E) Committee and, at the highest tier, to the Executive (EX) Committee), but no external appeal, no judicial review, and no formal

recordkeeping analog to APA § 706.44 As Pinpoint has previously observed, "unlike governmental regulatory bodies subject to checks and balances, the NAIC operates without direct oversight from elected officials." Similarly, The Framework does not contain and the NAIC is not required to perform a cost-benefit analysis, an economic impact assessment, a competition effects review, an assessment of pass-through effects on the availability and affordability of insurance.

This lack of transparent, consistent, and accountable rulemaking process is critical as there are also several technical and operational elements that would benefit from further refinement; under current NAIC operating standards, it's unclear such issues would receive commensurate attention and analysis. Illustrative examples include:

- The Quantitative Attribute Analysis thresholds for "Insurance Industry Exposure" and "Growth" (first quartile) are described as "preliminary and will require further discussion and refinement."
- The Historical Rating Change Analysis three-sub-notch threshold is a static rule applied uniformly across asset classes and CRPs, without empirical validation of its calibration to the underlying risk distributions.[24]
- The Risk Assessment section acknowledges that data limitations may force it to default certain Test Segments to "High Risk" – a conservative default with real consequences for which segments proceed to Detailed Testing.
- The Detailed Testing sampling approach explicitly notes that "final sample sizes are still to be determined" and that the approach "may leverage statistical or judgmental (nonstatistical) sampling techniques."[26]
- The Remediation Actions section – the enforcement mechanism of the Framework – leaves significant discretion in the hands of the CRP Working Group and its parent committees, without an articulated appeal mechanism or judicial-review analog.[27]

Each of these is refinable through additional stakeholder engagement and additional analysis. Taken together, they argue for a re-exposure and refinement cycle before adoption.

<u>The NAIC's most consequential deliberations occur in "regulator-only" sessions closed to the public.</u>

The Framework itself contemplates that "the results of Detailed Testing Procedures for each Test Segment" will be reported "to the appropriate NAIC parent group … in regulator-only sessions." This is not a theoretical concern. The Framework's remediation authority – the authority to remove asset classes from FE status and to de-admit CRPs – is exercised in sessions to which the affected CRPs and regulated insurers may not have direct access. The NAIC's own transparency practices have been the subject of sustained criticism, including by senior industry counsel who have recently observed "a growing perception that increasing amounts of deliberation are occurring in sessions that are not open to interested parties."

<u>The NAIC is overwhelmingly industry-funded, and subject to undue influence by one or a small number of states, a structure that presents durable regulatory-capture risk.</u>

The NAIC derives its revenue principally from fees paid by the regulated industry – including database filing fees, valuation office assessments, publication sales, and other industry-facing revenue streams. That the industry pays the very body that purports to regulate it is not itself dispositive of capture, but it is a structural feature that ordinary accountability mechanisms should mitigate. In the NAIC's case, they do not. There is no Form 990 disclosure, no APA notice-and-comment discipline, and no external audit of policy determinations. Pinpoint has previously observed that the NAIC's "funding structure creates potential conflicts of interest" and raises "concerns about whether it is acting in the public interest or primarily serving the industry it helps regulate."

Further, when taking action regarding the use of ratings for insurance regulatory purposes, the NAIC acts through groups that do not represent all states. This inherently lends itself to dominance by one or a small number of states. While the NAIC plenary "votes" on such changes, by the time decisions reach the plenary, they are virtually impossible to reverse. Further, a state may vote no at the plenary on a change, including this Framework, but nonetheless be bound by the decisions of other states through the accreditation system. This is in tension with, if not a clear violation of, state constitutional nondelegation doctrine principles.

<u>The Framework itself delegates substantive judgments to unaccountable NAIC subgroups.</u>

Relatedly, the Framework contemplates that "final acceptance decisions and remediation actions" will rest with the Credit Rating Provider (E) Working Group,50 which reports to the Financial Condition (E) Committee through the Invested Assets (E) Task Force.51 In turn, NAIC staff, including the Investment Analysis Office ("IAO"), of which the Securities Valuation Office is a component, will conduct the substantive testing procedures and prepare the recommendations that inform working-group decisions.52 None of these bodies is directly accountable to any elected official, subject to APA notice-and-comment, or subject to formal judicial review. Each is a subgroup of a private tax-exempt corporation. Each may nonetheless make determinations affecting the treatment of NRSROs whose regulation Congress reserved to the SEC and prohibited to States.

<u>Broader macroeconomic and international considerations.</u>

Because U.S. insurers are among the largest institutional investors in corporate credit, structured credit, and infrastructure debt globally, NAIC changes that introduce extensive uncertainty regarding reliance on ratings for existing and future investments have consequences that extend well beyond insurance.

Over-calibration risks (i) creating significant uncertainty in capital markets, (ii) reducing availability of capital and increasing the cost capital, (iii) driving up costs for insurers, and by extension, American households.

Defect Three: The Framework expands confidential data transfers to the NAIC while its data-steward role is under active question.

The Framework's confidential data call is not incidental – it is central. Section 1.2.3.1 requires each accepted CRP to "confidentially share their annual SEC assessment findings with the NAIC" and further contemplates NAIC use of findings from the Bermuda Monetary Authority, the European Securities and Markets Authority, the Financial Conduct Authority, and the Japan Financial Services Agency.[18] The SEC's annual staff reports on NRSROs are, by statutory design, published on an anonymized basis to protect competitive and confidential information.[19] The proposed channel would effectively reaggregate that information at the NAIC in non-anonymized form, without an accompanying federal statute authorizing that transfer and without a corresponding NAIC-wide confidentiality regime enforceable against third parties.

The recently reported NAIC cybersecurity incident, disclosed by the NAIC on June 17, 2026 and involving unauthorized access identified on or about June 11, 2026, is a legitimate governance consideration – not because it makes the Framework impossible, but because it counsels careful attention to the legal, technical, and audit arrangements under which any new confidential-data channel would operate. The NAIC has publicly confirmed that data taken during the incident included credit-rating-agency rating determinations of insurer investments, and that certain credit rating agencies paused their data feeds while the incident was being addressed. The independent forensic review is understood to be ongoing.

The NAIC has stated that it recognizes "the seriousness of this incident and the trust placed in the NAIC and the state-based regulatory insurance system." We take that recognition at face value. But trust is not restored by expanding a confidential-data footprint before the last one has been publicly accounted for. Trust is restored by (a) meeting, not lagging, the standards the NAIC imposes on industry, (b) publishing an independent, third-party post-incident audit, and (c) pausing new mandates that materially expand the confidential-data holdings of an organization whose data-steward capacities are currently under public examination.

Prudent policy design would resolve the governance framework – including independent audit, data retention limitations, encryption standards, access controls, and incident notification commitments – *before* new confidential data mandates take effect.

Requested Actions

Pinpoint Policy Institute respectfully urges the Working Group to take the following steps:

1. Coordinate formally with the SEC and Congress to reconcile the Framework with 15 U.S.C. § 78o-7(c)(2), and to obtain the SEC's views on the confidential-data channel described in Section 1.2.3.1.

2. Conduct and publish a cost-benefit analysis and competition-effects assessment, including projected pass-through effects on annuity, life insurance, and retirement-product pricing.
3. Publish the underlying data, model code, and sensitivity analyses used to support the Framework's proposed scoping thresholds and materiality tolerances.
4. Convene additional public stakeholder sessions – including with CRPs, insurers, other capital markets stakeholders, and consumer representatives – to refine calibration and process.
5. Adopt explicit data-minimization, confidentiality, and independent-audit commitments as a condition precedent to any new confidential-data channel, including but not limited to the transfer of SEC examination findings.
6. Re-expose the redesigned Framework for public comment for a period of not less than 60 days, and defer adoption until the analysis, coordination, and governance commitments above are complete.

The concerns identified in this letter are not intended to question the Working Group's objectives. Pinpoint agrees that the NAIC should have confidence in the tools it uses to assign regulatory capital treatment to insurer investments. However, confidence in that process will be stronger, not weaker, if the Framework is grounded in a clear legal basis, supported by a public record of market and consumer impacts, and accompanied by durable confidentiality and procedural protections.

Those issues can and must be addressed before adoption. Pinpoint therefore respectfully urges the Working Group to defer final action, conduct the additional legal, economic, and operational analysis described above, and re-expose a revised Framework for public comment. Pinpoint appreciates the opportunity to submit these comments and stands ready to continue engaging constructively as the process moves forward.

Sincerely,

Eric Ventimiglia

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Executive Director
Pinpoint Policy Institute

Footnotes

[1] Pinpoint Policy Institute is a 501(c)(4) organization (EIN 99-2037033). See Pinpoint Policy Institute, *About*, https://pinpointpolicyinstitute.org/about.

[2] National Association of Insurance Commissioners, *NAIC Credit Rating Provider (CRP) Due Diligence Framework – Whitepaper*, at Executive Summary (exposed May 4, 2026) [hereinafter "Framework"], available at https://content.naic.org/sites/default/files/inline-files/NAIC%20-%20CRP%20Due%20DIligence%20Framework%20_%28For%205_4_2026Meeting%29_v4.pdf

[3] 15 U.S.C. § 78o-7(c)(2).

[4] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 939A, 124 Stat. 1376 (2010).

[5] Framework, *supra* note 2, § 1.2.3.1.

[6] *Id.* § 1.2.2.1 (thresholds "preliminary and will require further discussion and refinement").

[7] Credit Rating Agency Reform Act of 2006, Pub. L. No. 109-291, 120 Stat. 1327; codified at 15 U.S.C. § 78o-7.

[8] 15 U.S.C. § 78o-7(c)(2).

[9] Pub. L. No. 111-203, § 939A.

[10] See, e.g., 12 C.F.R. § 1.5 (OCC); 12 C.F.R. §§ 217.2, 217.50 (Federal Reserve); 12 C.F.R. § 324.50 (FDIC); Removal of References to Credit Ratings from Regulation M, Release No. 34-97657 (SEC June 7, 2023).

[11] Framework, *supra* note 2, § 3.2.1.

[12] *Id.* § 4.2.2 (Tier 2 Remediation Actions).

[13] *Id.* § 1.2.3.1.

[14] American Council of Life Insurers, *2025 Life Insurers Fact Book* (general account and product-line statistics).

[15] Framework, *supra* note 2, at Executive Summary.

[16] *Id.* § 1.2.2.1.

[17] Lawrence Powell & Julian Morris, *Life Insurance and Private Credit*, International Center for Law & Economics (June 2026); see also Pinpoint Policy Institute, *Private Credit Isn't Breaking the Insurance System, But Overregulation Could*, The Point (June 9, 2026).

[18] Framework, *supra* note 2, § 1.2.3.1.

[19] See U.S. Sec. & Exch. Comm'n, Off. of Credit Ratings, *Staff Report on Nationally Recognized Statistical Rating Organizations* (Feb. 2024); SEC Press Release 2025-32 (Jan. 28, 2025); 15 U.S.C. § 78o-7(p) (statutory framework governing SEC NRSRO examinations, including confidentiality).

[20] NAIC, *An Important Update on the NAIC's Security Incident* (updated June 26, 2026, 5 p.m. ET), https://content.naic.org/about/security-update.

[21] *Id.*

[22] *Id.* ("We understand that this process can take several weeks.").

[23] Framework, *supra* note 2, § 1.2.2.1.

[24] *Id.* § 1.2.2.3 (three-sub-notch improvement threshold).

[25] *Id.* § 2 (Risk Assessment); § 2.3 ("Test Segments that lack sufficient data or reliable history will initially default to High Risk status.").

[26] *Id.* § 3.1.1 (Sampling Approach).

[27] *Id.* § 4.2.2 (Remediation Actions and Tiered authority).