

August 28, 2020

Bryan E. Brock  
Hearing Officer  
Office of the New Mexico Superintendent of Insurance

Via email to [OSI-docketfiling@state.nm.us](mailto:OSI-docketfiling@state.nm.us)

**Re: Docket No. 20-00044-RULE-PC**

Dear Mr. Brock:

On behalf of the National Association of Mutual Insurance Companies (NAMIC),<sup>1</sup> thank you for the opportunity to comment on proposed new Rule 13.2.10 under the docket number referenced above.

As you know, this rule generally adopts the National Association of Insurance Commissioners' (NAIC's) corporate governance annual disclosure model act and regulation.

In general, for this rule and any other solvency-related models, NAMIC encourages OSI to adopt language that tracks the model act and rule as closely as possible. The uniform adoption of NAIC solvency model laws and rules, and particularly of the confidentiality provisions within those models, is vital to ensure states can freely request such information from other states, and that each state can be confident that when such information is released to other state regulators, it will be well protected. Confidentiality protection is critical to the companies that are preparing and submitting information to regulators. The confidentiality protections included in these models were the subject of extensive discussion and agreement during the model development process and are now subject to strict accreditation requirements. Variations in the confidentiality provisions from the model may disrupt not only the uniformity which is so important in the confidentiality requirements of the models, but also may disturb the broad spirit of regulatory cooperation from state to state, and could undermine the accreditation system as a whole.

NAMIC also offers the following specific comments:

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<sup>1</sup> NAMIC is the largest property and casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies as well as some of the country's largest national insurers. Nationally, NAMIC members companies write \$273 billion in annual premiums, and our members account for 58 percent of homeowners, 44 percent of automobile, and 30 percent of the business insurance markets.

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### *Scope and objective*

The proposed rule excludes portions of the model act language regarding the purpose and objective of the rule. Specifically, the proposed rule does not include language recognizing that the material filed under the rule will contain confidential and sensitive information. NAMIC would suggest tracking the model act language (Sec. 1(A)(3) of the model) more closely by adding the following at the conclusion of proposed 13.2.10.6: *“that will contain confidential and sensitive information related to an insurer or insurance group’s internal operations and proprietary and trade secret information which, if made public, could potentially cause the insurer or insurance group competitive harm or disadvantage.”*

### *Confidentiality protections*

The proposed rule also excludes portions of the confidentiality protections in Sec. 6 of the model act. Specific language that is excluded are those provisions recognizing that information submitted under the rule is confidential by law and privileged, that this information is not subject to subpoena, discovery, or admissible in any private civil action, and that sharing information as allowed in the rule would not waive any privilege or claim of confidentiality.

The rule proposal does in part follow a drafting note to the model act by invoking the New Mexico examination statute to protect confidentiality. However, this drafting note to Sec. 6(A) of the model act suggests that states consider invoking their examination statutes as “applicable *additional* confidentiality protection” for documents submitted (emphasis added). NAMIC urges that the best approach, and the one most consistent with the model, would be to include all the specific confidentiality protections in Section 6 of the model act, and any additional protections under the examination statute.

Thank you again for the opportunity to comment on this rule. Please feel free to contact me if I may provide additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Schnautz'.

Jon Schnautz  
Regional Vice President  
Southwest Region  
National Association of Mutual Insurance Companies (NAMIC)