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Locke Lord QuickStudy: Private Credit Fund Investments: How New NAIC Rules Could Affect Insurance Companies

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Insurance Companies investing in private credit funds should be prepared for:

- Enhanced scrutiny on credit ratings.
- Potential for higher capital charges.
- Increased administrative burden.

The National Association of Insurance Commissioners (NAIC) held its [Summer National Meeting](#), at which it adopted new guidelines allowing state regulators or NAIC staff to override formerly automatic ratings on investments. This could lead to higher capital charges for investments made by insurance companies in debt markets. The changes are expected to take effect in 2026.

Existing Exempt Filing Rules

The NAIC sets standards and establishes best practices for the U.S. insurance industry and provides support to insurance regulators. It develops model laws, regulations, and guidelines that state insurance regulators and state legislatures can adopt and enforce within their jurisdictions.

Under the NAIC's framework of risk-based capital (RBC) requirements for insurers, an insurance company is required to hold a certain amount of capital to cover the risks associated with its investments and the amount and type of insurance business written. The RBC requirements ensure that insurers have sufficient capital to support their overall business operations and protect policyholders.

Insurance companies are assigned different capital charges based on the riskiness of various asset classes, such as bonds, stocks, real estate, and other investments. Higher riskiness attracts higher capital charges, which

means the asset and investment will count less in the calculation of an insurer's RBC. Insurance companies are responsible for initially classifying their investments.

In the NAIC's [existing guidelines](#), insurers are granted an exemption when they file with the NAIC's Securities Valuation Office for investments assigned a rating by a nationally recognized statistical rating organization (NRSRO). The NRSRO rating is converted to the equivalent [NAIC designation](#) for reporting purposes. This is called the "filing exempt rule." Under the filing exempt rule, insurance companies save costs associated with filing securities with the Securities Valuation Office. The filing exempt rule also allows insurance companies to avail themselves of lower risk-based capital charges.

New Rules Provide Greater Oversight Over Ratings

Under the NAIC's [newly adopted guidelines](#), state regulators or NAIC staff will have the ability to contest insurers' investment ratings under the filing exempt rule if they believe that the credit rating is not a reasonable assessment of investment risk.

In that case, the NAIC will convene a committee to determine if the existing credit rating of an investment is reasonable. If the committee determines that the rating is likely a reasonable assessment of investment risk, no further action is taken.

If the committee determines that the rating is likely not reasonable, then the committee will notify the insurance company that the investment is under review and request information to fully analyze the risk profile. Insurance companies will have 45 days to provide the requested information unless an extension is granted. If the insurance company does not timely respond, the committee will remove the investment from the filing exempt rule process (*i.e.*, the insurance company will need to file with the NAIC's Securities Valuation Office or request a re-evaluation for possible reinstatement in a subsequent filing year).

Upon receipt of the requested information, the committee will reconvene and determine whether the investment's rating is "materially different" from its own assessment of the risk. "Materially different" means that the insurance company's rating is three or more notches different than the committee's assessment. If the difference is found, then the committee will remove the investment from the filing exempt rule process.

Insurance Companies, Be on the Lookout

The newly adopted NAIC guidelines are expected to take effect in 2026. If adopted as-is, the guidelines may have significant implications for insurance companies investing in private credit funds.

Insurance companies could face increased scrutiny on the credit ratings of their investments. The ability of state regulators or NAIC staff to override investment ratings that were previously not subject to discretionary review means that insurers can no longer solely rely on NRSRO ratings to determine their capital charges. This could lead to higher capital charges if the NAIC deems that the ratings are an unreasonable assessment of risk. Although the new guidelines don't target private credit funds specifically, they seem to be partly driven by [NAIC staff concern](#) about private letter ratings by independent credit rating firms.

Greater regulatory oversight could also lead to market uncertainty. Predictability from filing exemption is a key factor for the current functioning market. Finally, the new rules could increase the administrative burden on insurance companies because, if their initial rating is contested, they may need to provide detailed information about their investments. These administrative costs may be passed onto consumers, who will contend with increased premiums.

Insurance companies should enhance due diligence to ensure that investments are accurately rated and reflect the true risk profile, such as conducting internal assessments or seeking third-party evaluations to corroborate NRSRO ratings. They should also review the NAIC's proposed annual enforcement summary to understand the types of investments that have been subject to increased scrutiny, identify trends in regulatory actions, and anticipate potential areas of concern.

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