



NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Date: 11/8/21

Virtual Meeting

MUTUAL RECOGNITION OF JURISDICTIONS (E) WORKING GROUP

Thursday, November 18, 2021

12:00 – 1:00 p.m. ET / 11:00 a.m. – 12:00 p.m. CT / 10:00 – 11:00 a.m. MT / 9:00 – 10:00 a.m. PT

ROLL CALL

Robert Wake, Chair	Maine	Lindsay Crawford	Nebraska
Monica Macaluso, Vice Chair	California	Diana Sherman	New Jersey
Kathy Belfi	Connecticut	Michael Campanelli	New York
Virginia Christy	Florida	Kimberly Rankin	Pennsylvania
Elizabeth Nunes/Scott Sanders	Georgia	Daniel Morris	South Carolina
Tom Travis	Louisiana	Amy Garcia	Texas
Shelley Woods	Missouri		

NAIC Support Staff: Dan Schelp/Jake Stultz

AGENDA

1. Discuss the Yearly Due Diligence Reviews of the Qualified Jurisdictions and Reciprocal Jurisdictions—*Robert Wake (ME)* Attachment 1
2. Consider Adoption of the *Process for Evaluating Jurisdictions That Recognize and Accept the Group Capital Calculation*—*Robert Wake (ME)*
 - A. Nov. 18 Draft Attachment 2
 - B. Comment Letter Attachment 3
3. Provide an Update on the South Korea Application to become a Qualified Jurisdiction—*Robert Wake (ME)*

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TO: Robert Wake, Chair of the Mutual Recognition of Jurisdictions (E) Working Group

FROM: NAIC Staff

RE: Yearly Due Diligence Review of Qualified Jurisdictions & Reciprocal Jurisdictions

DATE: November 8, 2021

Executive Summary & Recommendation

The Mutual Recognition of Jurisdictions (E) Working Group will perform a yearly review of Qualified Jurisdictions to determine whether there have been any significant changes over the prior year that might affect their status as Qualified Jurisdictions. The Working Group will also perform a yearly review with respect to non-Covered Agreement Reciprocal Jurisdictions. NAIC staff has performed a due diligence review of these jurisdictions, and has the following recommendations to the Working Group:

1. The following Qualified Jurisdictions shall retain their status on the *NAIC List of Qualified Jurisdictions*:

- Bermuda, Bermuda Monetary Authority (BMA)
- France, Autorité de Contrôle Prudentiel et de Résolution (ACPR)
- Germany, Federal Financial Supervisory Authority (BaFin)
- Ireland, Central Bank of Ireland (Central Bank)
- Japan, Financial Services Agency (FSA)
- Switzerland, Financial Market Supervisory Authority (FINMA)
- United Kingdom, Prudential Regulation Authority of the Bank of England (PRA)

2. The following non-Covered Agreement Reciprocal Jurisdictions shall retain their status on the *NAIC List of Reciprocal Jurisdictions*:

- Bermuda, Bermuda Monetary Authority (BMA)
- Japan, Financial Services Agency (FSA)
- Switzerland, Financial Market Supervisory Authority (FINMA)

Process for Evaluation after Initial Approval

The afore-described jurisdictions were originally evaluated and placed on the *NAIC List of Qualified Jurisdictions* effective January 1, 2015, and were later re-evaluated effective January 1, 2020. Four of them are entitled to Reciprocal Jurisdiction status by virtue of in-force Covered Agreements. The other three Reciprocal Jurisdictions were evaluated and placed on the *NAIC List of Reciprocal Jurisdictions* effective January 1, 2020. Part III, Section 12 of the *Process for Evaluating Qualified and Reciprocal Jurisdictions*

("Process"), which was amended by the NAIC on August 17, 2021, provides a process for evaluating both Qualified and Reciprocal Jurisdictions after their initial approval:

The process for determining whether a non-U.S. jurisdiction is a Qualified Jurisdiction is ongoing and subject to periodic review. The Mutual Recognition of Jurisdictions (E) Working Group will perform a yearly review of Qualified Jurisdictions to determine whether there have been any significant changes over the prior year that might affect their status as Qualified Jurisdictions. This yearly review shall follow such abbreviated process as may be determined by the Mutual Recognition of Jurisdictions (E) Working Group to be appropriate. It shall include a review of the jurisdiction's status as a Reciprocal Jurisdiction if the jurisdiction has been recognized by the NAIC as a Reciprocal Jurisdiction through the process established in paragraph 13 [i.e., Qualified Jurisdictions that are not subject to an in-force covered agreement and are not accredited U.S. jurisdictions].

The yearly review shall follow such abbreviated process as may be determined by the Working Group to be appropriate. For this review, NAIC staff searched for any publicly available information that would potentially impact the jurisdictions' status as a Qualified Jurisdiction or as a Reciprocal Jurisdiction. This evaluation relied on much of the same documentation as was used in the initial review of the jurisdictions, as detailed in Part III, Section 2 of the Process. NAIC staff searched for any publicly available information about any changes to existing insurance and reinsurance laws and regulations in the jurisdictions. Next, NAIC staff verified whether a new Financial Sector Assessment Program (FSAP) Report prepared by the International Monetary Fund (IMF), or any other externally produced documentation was available, including the Technical Note on Insurance Sector Supervision, and any other publicly available information regarding the laws, regulations, practices and procedures applicable to the reinsurance supervisory system. This search also included any documents from ratings agencies and any other public information that was deemed to be relevant.

During this process, NAIC staff did not engage directly with the Qualified Jurisdictions or Reciprocal Jurisdictions and relied solely on publicly available information. Additionally, NAIC staff included any information received (if any had been received) directly from regulators, interested parties or impacted insurance companies that could potentially impact the status of the Qualified Jurisdictions or Reciprocal Jurisdictions. NAIC staff also consulted with the Federal Insurance Office and United States Trade Representative.

NAIC Staff Findings

Upon review of the available information, NAIC staff has reached the conclusion that the reinsurance supervisory systems of the 7 Qualified Jurisdictions continue to achieve a level of effectiveness in financial solvency regulation that is acceptable for purposes of reinsurance collateral reduction, that their demonstrated practices and procedures with respect to reinsurance supervision continue to be consistent with their respective reinsurance supervisory systems, and that their laws and practices satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Models. NAIC staff made similar findings with respect to the 3 Reciprocal Jurisdictions that are not subject to an in-force Covered Agreement.

Therefore, it is the recommendation of NAIC staff that these jurisdictions continue to qualify for inclusion on the *NAIC List of Qualified Jurisdictions* and the *NAIC List of Reciprocal Jurisdictions*.

Draft dated 11/08/2021 with revisions accepted from 09/22/2021 Exposure Document



Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation

Mutual Recognition of Jurisdictions (E) Working Group

***Process for Evaluating Jurisdictions that Recognize and Accept
the Group Capital Calculation***

1. **Group Capital Calculation.** On December 9, 2020, the NAIC adopted revisions to the NAIC *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). These revisions implement the Group Capital Calculation (GCC) filing requirements for insurance groups at the level of the ultimate controlling person for the purposes of evaluating solvency at the group level. The revisions specifically provide that the requirement to file the NAIC’s GCC applies to U.S.-based groups, while a group headquartered outside the U.S. is exempt from the GCC (subject to limited exceptions)¹ if its group-wide supervisor “recognizes and accepts” the GCC for U.S. groups doing business in that jurisdiction. Likewise, a U.S. group subject to a group capital calculation specified by the Federal Reserve Board is exempt from the GCC. This process codifies the concepts of mutual recognition and one group/one group-wide supervisor.
2. **NAIC Listing Process.** Section 4L(2) of Model #440 provides two ways a non-U.S. jurisdiction may meet the standards for its insurance groups to be exempt from the GCC:
 - (a) If the jurisdiction has been determined to be a Reciprocal Jurisdiction for purposes of credit for reinsurance, which includes a requirement that the jurisdiction “recognizes the U.S. state regulatory approach to group supervision and group capital”;² or
 - (b) If the jurisdiction has otherwise been determined to recognize and accept the GCC by procedures specified in regulation.

Jurisdictions meeting either of these criteria will be referred to informally as “‘Recognize and Accept’ Jurisdictions.” Sections 21D and 21E of Model #450 provide a general framework for how the process to identify “Recognize and Accept” Jurisdictions will work and specifically contemplates the development of a list of such jurisdictions through the NAIC Committee Process. The purpose of this document is to provide a documented evaluation process for creating and maintaining this list of jurisdictions that recognize and accept the GCC.

3. **Covered Agreements.** The ~~GCC and the “recognize and accept” process are intended to comply with the requirements under the~~ “*Bilateral Agreement Between the United States of*

¹ Under Section 4L(2)(e) of Model #440, if the worldwide insurance operations of a non-U.S. group are exempt from the GCC, the group’s U.S. Lead State Commissioner may nevertheless require a GCC that is limited to the group’s U.S. operations if: “after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.” A group’s exemption is also contingent on the group providing sufficient information to the lead state, directly or through the group-wide supervisor, sufficient to enable the lead state to comply with the group supervision approach set forth in the *NAIC Financial Analysis Handbook*.

² Model #440. § 4L(2)(c).

America and the European Union on Prudential Measures Regarding Insurance and Reinsurance”, ~~which~~ was signed on September 22, 2017. On December 18, 2018, a similar Covered Agreement was signed with the United Kingdom (UK) (collectively “Covered Agreements”). The Covered Agreements ~~require~~include, inter alia, the elimination of reinsurance collateral requirements for certain reinsurers licensed and domiciled in participating jurisdictions, and limit the worldwide application of prudential group insurance measures on insurance groups based in participating jurisdictions. ~~Specifically~~In relevant part, the Covered Agreements provide that U.S. insurers and reinsurers can operate in the EU and UK without subjecting the U.S. parent to the host jurisdiction’s group-level governance, solvency and capital, and reporting requirements, and also provide the same protections for EU and UK insurers and reinsurers operating in the U.S. However, the Covered Agreements only exempt U.S., EU and UK insurance groups from each other’s worldwide group capital requirements if the home supervisor performs worldwide group capital assessments on its own insurance groups and has the authority to impose preventive and corrective measures.

4. **Reciprocal Jurisdictions.** In response to the Covered Agreements, the NAIC also amended the *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786) to provide that jurisdictions that are subject to in-force covered agreements are considered to be “Reciprocal Jurisdictions,” and large, financially strong reinsurers that are based in those jurisdictions are not required to post reinsurance collateral. In addition, a “Qualified Jurisdiction” under Section 2E of Model #785 may become a Reciprocal Jurisdiction if, among other requirements, it “recognizes the U.S. state regulatory approach to group supervision and group capital.” By the terms of the Covered Agreements, insurance groups based in EU Member States and the UK are entitled to exemption from the extraterritorial application of the U.S. GCC, and Section 4L(2)(c) of Model #440 recognizes that other Reciprocal Jurisdictions, which have made the same commitment, are entitled to the same treatment.
5. **Other Jurisdictions that Recognize and Accept.** In addition, because most of the requirements for Reciprocal Jurisdiction status are not relevant to group capital and group supervision, Section 4L(2)(d) of Model #440 provides an alternative pathway for the exemption. The ultimate controlling person of an insurance holding company system whose non-U.S. group-wide supervisor is not in a Reciprocal Jurisdiction is exempted from filing the GCC as long as the jurisdiction of its group-wide supervisor “recognizes and accepts” the GCC, as specified by the commissioner in regulation. Section 21D of Model #450 provides that a non-U.S. jurisdiction is considered to “recognize and accept” the GCC if it satisfies all of the following criteria:
 - (a) The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is

- accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction;
- (b) Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in Section 21D(1)(a);
 - (c) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force;
 - (d) Notwithstanding these exemptions, Section 4L(2)(e) of Model #440 provides that a lead state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system from a Reciprocal Jurisdiction or “Recognize and Accept” Jurisdiction where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace. Section 21E(1) of Model #450 then provides that to assist with a determination under Section 4L(2)(e) of Model #440, the list will also identify whether a jurisdiction that is exempted under either Sections 4L(2)(c) or 4L(2)(d) requires a group capital filing for any U.S.-based insurance group’s operations in that non-U.S. jurisdiction.
- 6. Mutual Recognition of Jurisdictions (E) Working Group.** On March 8, 2021, the Financial Condition (E) Committee repositioned the Qualified Jurisdiction (E) Working Group to report directly to the Committee and revised the name of the group to the Mutual Recognition of Jurisdictions (E) Working Group. The Working Group received the additional charge of developing a process for evaluating jurisdictions that meet the NAIC requirements for recognizing and accepting the GCC (*“Process for Evaluating Jurisdictions that Recognize and*

Accept the Group Capital Calculation,” or “Recognize and Accept” Process). A separate process exists for evaluating Qualified and Reciprocal Jurisdictions (“*Process for Evaluating Qualified and Reciprocal Jurisdictions*”), and it is intended that the “Recognize and Accept” Process will closely mirror this process. The Committee charged this Working Group with developing and implementing the “Recognize and Accept” Process due to this Working Group’s experience and expertise in evaluating the insurance regulatory systems of non-U.S. jurisdictions and their recognition of U.S. group-wide supervision.

7. **List of Jurisdictions that Recognize and Accept the GCC.** The Mutual Recognition of Jurisdictions (E) Working Group will evaluate non-U.S. jurisdictions in accordance with this “Recognize and Accept” Process. A list of “Recognize and Accept” Jurisdictions is published through the NAIC committee process (“NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation”; “‘Recognize and Accept’ List”; or “List”). The creation of the List does not constitute a delegation of regulatory authority to the NAIC. Although a state must consider this List under Section 21E(3) of Model #450 in its determination of whether a non-U.S. insurance group is exempt from filing an annual GCC, the List is not binding and the ultimate authority to designate a “Recognize and Accept” Jurisdiction resides solely in each state.
 - (a) The List will include all Reciprocal Jurisdictions that recognize the U.S. state regulatory approach to group supervision and group capital. [See discussion in paragraph 9.]
 - (b) The evaluation of non-U.S. jurisdictions that are non-Reciprocal Jurisdictions as “Recognize and Accept” Jurisdictions will be conducted in accordance with the provisions of Section 4L(2) of Model #440 and Section 21 of Model #450, and any other relevant guidance developed by the NAIC. [see discussion in paragraphs 10 and 11.]
 - (c) As specified in Section 21E(1) of Model #450, the List will also identify which “Recognize and Accept” Jurisdictions require a group capital filing for a U.S.-based insurance group’s operations in that jurisdiction. [See discussion of Subgroup Capital Calculation in paragraph 13.]
 - (d) Upon final inclusion of a jurisdiction on the List, any confidential documents reviewed by the Mutual Recognition of Jurisdictions (E) Working Group in its evaluation of the jurisdiction will be made available to individual U.S. state insurance regulators upon request and confirmation that the information contained therein will remain confidential. The NAIC will maintain the List on its public website and in other appropriate NAIC publications.

- (e) If a non-US group's lead state exempts the group from the GCC, and the group-wide supervisor is based in a jurisdiction that is not on the "Recognize and Accept" List, the state must thoroughly document the justification for the exemption.

8. Procedure for Evaluation of Non-U.S. Jurisdictions. In undertaking the evaluation of a non-U.S. Jurisdiction for inclusion on the "Recognize and Accept" List, the Mutual Recognition of Jurisdictions (E) Working Group shall utilize similar processes and procedures to those outlined in the *Process for Evaluating Qualified and Reciprocal Jurisdictions*. Specifically, the Working Group will undertake the following procedure in making its evaluation:

- (a) **Initiation of Evaluation.** Formal notification of the Mutual Recognition of Jurisdictions (E) Working Group's intent to initiate the evaluation process will be sent by the NAIC to the supervisory authority in the jurisdiction selected. The process of evaluation and all related documentation are private and confidential matters between the NAIC and the applicant jurisdiction, unless otherwise provided in this document. Upon receipt of confirmation by a competent regulatory authority of the non-U.S. jurisdiction, the Mutual Recognition of Jurisdictions (E) Working Group:
 - i. Will direct NAIC staff and/or outside consultants with the appropriate knowledge, experience and expertise to review the materials received from the jurisdiction. Upon completing its review of the evaluation materials, the internal reviewer(s) will report initial findings to the Mutual Recognition of Jurisdictions (E) Working Group, including any significant issues or concerns identified. This report will be included as part of the official documentation of the evaluation. Copies of the initial findings may also be made available to the Federal Insurance Office (FIO) and other relevant federal authorities subject to appropriate confidentiality and information-sharing agreements being in place.
 - ii. Will issue public notice on the NAIC website inviting public comments with respect to consideration of the jurisdiction as a "Recognize and Accept" Jurisdiction.
 - iii. Will consider public comments from state regulators, U.S. insurance groups, and any other interested parties.
 - iv. May review other public materials deemed relevant to making a determination.
 - v. Will invite each non-U.S. jurisdiction, or its designee, to provide any additional information it deems relevant to making a determination.
 - vi. Relevant U.S. state and federal authorities will be notified of the Mutual

Recognition of Jurisdictions (E) Working Group’s decision to evaluate a jurisdiction.

- (b) **Preliminary Evaluation Report.** NAIC staff will prepare a Preliminary Evaluation Report for review by the Mutual Recognition of Jurisdictions (E) Working Group. The report will contain a recommendation as to whether the NAIC should recognize the jurisdiction as a “Recognize and Accept” Jurisdiction. Upon review by the Working Group, the results of the Preliminary Evaluation Report will be immediately communicated in written form to the supervisory authority of the jurisdiction under review. At that time, a copy of the Preliminary Evaluation Report will also be shared with the Group Capital Calculation (E) Working Group in regulator-to-regulator session. The Group Capital Calculation (E) Working Group will also be kept advised of any new developments in the evaluation of this jurisdiction.
- (c) **Final Evaluation Report.** Upon receipt of the Preliminary Evaluation Report, the supervisory authority will have an opportunity to respond to the initial findings and determination. The Mutual Recognition of Jurisdictions (E) Working Group will consider any response, and will proceed to prepare its Final Evaluation Report. The Working Group will consider the Final Evaluation Report for approval in regulator-to-regulator session.
- (d) **Summary of Findings and Determination.** Upon approval of the Final Evaluation Report, the Mutual Recognition of Jurisdictions (E) Working Group will issue a public statement and a summary of its findings with respect to its determination. At this time, the Working Group will release the Summary of Findings and Determination for public comment. Once the Working Group has finally adopted the Summary of Findings and Determination in open session after opportunity for public comment, it will submit the summary of its findings and its recommendation to the Financial Condition (E) Committee at an open meeting. Upon approval by the Committee, the summary and recommendation will be submitted to the Executive (EX) Committee and Plenary, as well as to the Federal Insurance Office (FIO), United States Trade Representative (USTR) and other relevant federal authorities for informational purposes. Upon approval as a “Recognize and Accept” Jurisdiction by the Executive (EX) Committee and Plenary, the jurisdiction will be added to the NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation.

9. **Evaluation of Reciprocal Jurisdictions.** Under Section 4L(2)(c) of Model #440, Reciprocal Jurisdictions that recognize the U.S. state regulatory approach to group supervision and group capital are exempt from the GCC. Because a “recognize and accept” evaluation by the Mutual Recognition of Jurisdictions (E) Working Group is already part of the Reciprocal Jurisdiction review process, all Reciprocal Jurisdictions designated by the NAIC through that review

process are also automatically designated as “Recognize and Accept” Jurisdictions. Likewise, in ~~accordance with~~view of the terms of the EU and UK Covered Agreements, all EU Member States and the UK are automatically designated “Recognize and Accept” Jurisdictions. ~~If there is a material change to the terms of either Covered Agreement, or the United States enters into a new covered agreement with one or more non-U.S. jurisdictions, the Mutual Recognition of Jurisdictions (E) Working Group will rely upon its review and evaluation of the applicable covered agreement, in consultation with FIO and USTR, to determine whether automatic “Recognize and Accept” status is appropriate, or whether it is necessary to conduct a case-by-case review of the jurisdiction or jurisdictions in accordance with Paragraph 10 below. If there is a material change to the terms of the U.S.-EU or U.S.-UK Covered Agreement, or if the United States enters into a new covered agreement with one or more non-U.S. jurisdictions, the Mutual Recognition of Jurisdictions (E) Working Group will consider, and will consult with FIO and USTR regarding, whether and how the applicability of the procedures in this document may apply~~

10. Evaluation of Non-Reciprocal Jurisdictions with U.S. Insurance Group Operations.

Under Section 21D(1)(a) of Model #450, a non-Reciprocal Jurisdiction, in which a U.S. insurance group has operations, that recognizes the U.S. state regulatory approach to group supervision and group capital may be included on the NAIC “Recognize and Accept” List. The Mutual Recognition of Jurisdictions (E) Working Group may rely on written confirmation by a competent regulatory authority in that jurisdiction that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction. ~~The process outlined in this Paragraph will also apply to a jurisdiction that is a Reciprocal Jurisdiction by virtue of a covered agreement, if the Mutual Recognition of Jurisdictions (E) Working Group has determined that a case-by-case review of the jurisdiction is warranted.~~

- (a) The Mutual Recognition of Jurisdictions (E) Working Group will perform a due diligence review of available public and confidential documents to confirm that to the best of its determination the representations in the written confirmation are true and accurate.
- (b) The jurisdiction must also have an acceptable Memorandum of Understanding to be included on the “Recognize and Accept” List, as described in paragraph 12 of this Process.
- (c) NAIC staff will work with the Mutual Recognition of Jurisdictions (E) Working Group

and the applicant jurisdiction to prepare an acceptable confirmation letter for this purpose. The NAIC will publish a form letter in the *Appendix: Letter Templates* that a competent regulatory authority of a non-U.S. jurisdiction may use to provide confirmation pursuant to Section 21D(1)(a), Section 21D(1)(b) and 21D(2) of Model #450 as well as a template letter that any “Recognize and Accept” Jurisdiction, including a Reciprocal Jurisdiction, may use to provide confirmation, pursuant to Section 21(E)(1) of Model #450, as to whether or not it requires a group capital filing for any U.S. based insurance group’s operations. NAIC Staff will work with the jurisdiction to modify these forms if necessary for a particular jurisdiction.

11. Evaluation of Non-Reciprocal Jurisdictions with No U.S. Insurance Group Operations.

Because the GCC embraces and encourages the concepts of mutual recognition and one group/one group-wide supervisor, a non-U.S. jurisdiction may be included on the “Recognize and Accept” List, enabling its insurance groups to do business in the U.S. without being subject to U.S. group-wide supervision, even if no U.S. groups operate in that jurisdiction. Under Section 21D(1)(b) of Model #450, such a jurisdiction must document its recognition and acceptance by indicating formally in writing to the lead state of each of its insurance groups doing business in the U.S., with a copy to the International Association of Insurance Supervisors (IAIS), that the GCC is an acceptable international capital standard. The Mutual Recognition of Jurisdictions (E) Working Group may rely on written confirmation by a competent regulatory authority in that jurisdiction.

- (a) The Mutual Recognition of Jurisdictions (E) Working Group will perform a due diligence review of available public and confidential documents to confirm that, to the best of its determination, the representations in the written confirmation are true and accurate.
- (b) The jurisdiction must also have an acceptable Memorandum of Understanding to be included on the “Recognize and Accept” List, as described in paragraph 12 of this Process.
- (c) NAIC staff will work with the Mutual Recognition of Jurisdictions (E) Working Group and the applicant jurisdiction to prepare an acceptable confirmation letter for this purpose.

12. Memorandum of Understanding. Section 21D(2) of Model #450 requires a non-Reciprocal Jurisdiction that “recognizes and accepts” the GCC to provide confirmation by a competent regulatory authority that information regarding insurers, and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner of any U.S.-based insurance group doing business in that jurisdiction, in accordance with a memorandum of understanding or similar document between the commissioner and the jurisdiction.

Acceptable MOUs include, but are not limited to, the International Association of Insurance Supervisors Multilateral Memorandum of Understanding (“IAIS MMoU”) or other multilateral memoranda of understanding coordinated by the NAIC. The Mutual Recognition of Jurisdictions (E) Working Group will review such memoranda of understanding and include an opinion in the Summary of Findings and Determination as to whether the jurisdiction has met this condition to be included on the “Recognize and Accept” List.

- (a) The lead state will act as a conduit for information between the “Recognize and Accept” Jurisdiction and other states that have an insurer from that jurisdiction, and will share information with these states consistent with the terms governing the further sharing of information included in the applicable MOU, and pursuant to the NAIC Master Information Sharing and Confidentiality Agreement. The jurisdiction must also confirm in writing that it is willing to permit this lead state to act as the contact for purposes of sharing information concerning all insurers within the group.
- (b) If a jurisdiction has not been approved by the IAIS as a signatory to the MMoU, it must either (1) enter into an MOU with the lead state, or (2) enter into an MOU with a state that has agreed to serve as a single point of contact for multiple lead states, similar to the procedure for sharing information under the *Process for Evaluating Qualified and Reciprocal Jurisdictions*. The MOU must also provide for appropriate confidentiality safeguards with respect to the information shared among the jurisdictions.
- (c) The same requirements and procedures will apply to a Reciprocal Jurisdiction that is subject to a case-by-case “recognize and accept” review, unless the necessary information-sharing procedures are already specified in the applicable covered agreement.

13. Prudential Oversight and Solvency Monitoring. Section 4L(2)(e) of Model #440 directs a lead state commissioner to require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system based in a “Recognize and Accept” Jurisdiction if, after any necessary consultation with other supervisors or officials, the commissioner deems such a “subgroup” calculation to be appropriate for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace. Section 21E(1) of Model #450 provides that to assist with such a determination, the “Recognize and Accept” List will also identify whether a listed jurisdiction requires a group capital filing for any U.S. based insurance group’s operations in that jurisdiction. As part of Paragraph 8, *Procedure for Evaluation of Non-U.S. Jurisdiction*, the Mutual Recognition of Jurisdictions (E) Working Group will perform a due diligence review of available public and confidential documents to confirm whether or not any “Recognize and Accept” Jurisdiction requires a subgroup group capital filing for a U.S.-based insurance group’s operations, and a discussion and findings on this review will be included in the Preliminary Evaluation Report, Final

Evaluation Report and Summary of Findings and Determination. If the Working Group has evidence indicating that a jurisdiction requires a subgroup group capital filing for any U.S.-based insurance group's operations in that jurisdiction, it will attempt to obtain written confirmation of the existence and scope of any such requirement from a competent regulatory authority in that jurisdiction, but it is recognized that such a confirmation is not an essential element of the Working Group's determination. The NAIC will identify such jurisdictions on the "Recognize and Accept" List, and may include an explanatory note in cases where a simple "Yes" or "No" response does not adequately describe the jurisdiction's requirements. States may rely on this List when making determinations under Section 4L(2)(e) of Model #440.

14. Process for Periodic Evaluation. The process for determining whether a non-U.S. jurisdiction is a "Recognize and Accept" Jurisdiction is ongoing and subject to periodic review. The Mutual Recognition of Jurisdictions (E) Working Group will perform a yearly review of the NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation to determine whether there have been any significant changes over the prior year that might affect inclusion on the List. This yearly review shall follow such abbreviated process as may be determined by the Working Group to be appropriate.

- (a) Upon determination by a lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to "recognize and accept" the GCC, the lead state commissioner may provide a recommendation to the Working Group that the jurisdiction be removed from the "Recognize and Accept" List. Upon review and after consultation with the "Recognize and Accept" Jurisdiction, the Working Group may remove the jurisdiction from the List, which must then be confirmed by the Financial Condition (E) Committee and the NAIC Executive (EX) Committee and Plenary.
- (b) Upon determination by a lead state commissioner that a non-U.S. jurisdiction requires a group capital filing for any U.S. based insurance group's operations in that non-U.S. jurisdiction, the lead state commissioner may provide a recommendation to the Working Group that the non-U.S. jurisdiction be identified as such on the "Recognize and Accept" List. Upon receipt of any such notice, the Mutual Recognition of Jurisdictions (E) Working Group will also consider whether it is necessary to re-evaluate the jurisdiction's "Recognize and Accept" status.
- (c) The Mutual Recognition of Jurisdictions (E) Working Group will also give due consideration to any notice from a U.S.-based insurance group that it has been required to perform a group capital calculation, at either the group-wide or subgroup level, in a jurisdiction on the "Recognize and Accept" List.

- (d) If a jurisdiction referred for re-evaluation under this Paragraph is a Reciprocal Jurisdiction, the Mutual Recognition of Jurisdictions (E) Working Group shall conduct a concurrent review of the jurisdiction's continuing status as a Reciprocal Jurisdiction, or, in the case of a jurisdiction entitled to that status by virtue of a covered agreement, shall refer the matter to the Reinsurance (E) Task Force for further discussion and communication with appropriate federal and/or international authorities, in accordance with the *Process for Evaluating Qualified and Reciprocal Jurisdictions*.

Appendix: Letter Templates

Paragraph 10(c) of the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation* provides that the NAIC will publish a form letter that a competent regulatory authority of a non-U.S. jurisdiction that is not a Reciprocal Jurisdiction may use to provide confirmation pursuant to Section 21(D)(1)(a), Section 21(D)(1)(b) and 21(D)(2) of the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450), as well as a template letter that any "Recognize and Accept" Jurisdiction, including a Reciprocal Jurisdiction, may use to provide confirmation, pursuant to Section 21(E)(1) of Model #450, as to whether or not it requires a group capital filing for any U.S. based insurance group's operations. The following template letters are designed to satisfy these requirements:

- A. Jurisdictions with U.S. Insurance Group Operations.** In order to satisfy the requirements of Sections 21D(1)(a) and 21D(2) of Model #450, the competent regulatory authority of a non-U.S. Jurisdiction in which U.S. insurance groups operate shall provide the NAIC with a written letter, confirming, as follows:

As the competent regulatory authority for [non-U.S. Jurisdiction], I hereby confirm to the National Association of Insurance Commissioners (NAIC) and the chief insurance regulators of the 50 states, the District of Columbia and five U.S. territories the following:

- [Non-U.S. Jurisdiction] recognizes the U.S. state regulatory approach to group supervision and group capital, and confirms that that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction;

- Information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to a lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and [non-U.S. Jurisdiction], including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.
- [Non-U.S. Jurisdiction] will immediately notify the NAIC upon any changes to the assurances provided in this letter.

B. Jurisdictions with No U.S. Insurance Group Operations. In order to satisfy the requirements of Sections 21D(1)(b) and 21D(2) of Model #450, the competent regulatory authority of a non-U.S. Jurisdiction in which no U.S. insurance groups operate shall provide the NAIC with a written letter, confirming, as follows:

As the competent regulatory authority and lead insurance regulatory supervisor for [non-U.S. Jurisdiction], I hereby confirm to the National Association of Insurance Commissioners (NAIC) and the chief insurance regulators of the 50 states, the District of Columbia and five U.S. territories, with a copy to the International Association of Insurance Supervisors (IAIS), the following:

- [Non-U.S. Jurisdiction] recognizes the Group Capital Calculation as defined under Section 4L(2) of the NAIC *Insurance Holding Company System Regulatory Act* (#440) as an acceptable international capital standard.
- Information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to a lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and [non-U.S. Jurisdiction], including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.
- [Non-U.S. Jurisdiction] will immediately notify the NAIC upon any changes to the assurances provided in this letter.

C. Jurisdictions with Subgroup Capital Requirements. Paragraph 13 of the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation* provides that the Mutual Recognition of Jurisdictions (E) Working Group will attempt to obtain written confirmation from a competent regulatory authority in any jurisdiction where the Working Group has evidence indicating that the jurisdiction requires a subgroup group capital filing for any U.S. based insurance group's operations in that jurisdiction. The NAIC will identify such

jurisdictions on the “Recognize and Accept” List, and will provide an explanation and discussion on such determination in its Summary of Findings and Determination. States may rely on this List when making determinations under Section 4L(2)(e) of Model #440.

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October 13, 2021

Re: NAIC Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation Exposure Draft

Thank you for the opportunity to comment on the NAIC's *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation*. Swiss Re believes the process as outlined accurately reflects the requirements contained in the Insurance Holding Company System Models and pertinent provisions in the Credit for Reinsurance Models defining Qualified and Reciprocal Jurisdictions.

The certified reinsurer experience has demonstrated that day-to-day practices do not always align with written processes. Differences among the states in interpretation and implementation of the processes surrounding the evaluation of jurisdictions and reinsurers can frustrate both the international cooperation and financial solvency regulation goals of the NAIC and the states.

Therefore, we recommend that the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation*, the *Process for Evaluating Qualified and Reciprocal Jurisdictions*, and the checklists for certified and reciprocal jurisdiction reinsurers be added to the NAIC Accreditation Program. Specifically, adherence to these policies should be evaluated by the NAIC accreditation review team as part of the Part B standards – Regulatory Practices and Procedures. Because the purpose of Part B of the accreditation program is to identify base-line regulatory practices and procedures required to supplement and support enforcement of states' financial solvency laws in order for the states to attain substantial compliance with the core standards established in Part A, and Part A contains both the holding company and credit for reinsurance models, the accreditation program is the ideal mechanism to guide regulatory best practices in this area.

If you have any questions, please contact me.

Yours sincerely,



Matthew Wulf
Head State Regulatory Affairs Americas
Swiss Re