



# NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

**NAIC 2021** | **SPRING NATIONAL MEETING VIRTUAL**

Date: 3/18/21

*Virtual Meeting  
(in lieu of meeting at the 2021 Spring National Meeting)*

## REINSURANCE (E) TASK FORCE

Tuesday, March 23, 2021

2:00 – 3:00 p.m. ET / 1:00 – 2:00 p.m. CT / 12:00 – 1:00 p.m. MT / 11:00 a.m. – 12:00 p.m. PT

### ROLL CALL

Chlora Lindley-Myers, Chair	Missouri	Eric A. Cioppa	Maine
Raymond G. Farmer, Vice Chair	South Carolina	Gary D. Anderson	Massachusetts
Jim L. Ridling	Alabama	Troy Downing	Montana
Lori K. Wing-Heier	Alaska	Bruce R. Ramage	Nebraska
Peni Itula Sapini Teo	American Samoa	Chris Nicolopoulos	New Hampshire
Alan McClain	Arkansas	Marlene Caride	New Jersey
Ricardo Lara	California	Russell Toal	New Mexico
Michael Conway	Colorado	Linda A. Lacewell	New York
Andrew N. Mais	Connecticut	Mike Causey	North Carolina
Trinidad Navarro	Delaware	Jon Godfread	North Dakota
David Altmaier	Florida	Judith L. French	Ohio
John F. King	Georgia	Glen Mulready	Oklahoma
Dana Popish Severinghaus	Illinois	Elizabeth Kelleher Dwyer	Rhode Island
Stephen W. Robertson	Indiana	Doug Slape	Texas
Doug Ommen	Iowa	Jonathan T. Pike	Utah
Vicki Schmidt	Kansas	Michael S. Pieciak	Vermont
Sharon P. Clark	Kentucky	Scott A. White	Virginia
James J. Donelon	Louisiana	Mark Afable	Wisconsin

NAIC Support Staff: Jake Stultz/Dan Schelp

### AGENDA

1. Consider Adoption of its 2020 Fall National Meeting Minutes Attachment One  
—*John Rehagen (MO)*
2. Consider Adoption of the Reinsurance Financial Analysis (E) Working Group Report—*Rolf Kaumann (CO)*
3. Consider Adoption of the Qualified Jurisdiction (E) Working Group Report  
—*Robert Wake (ME)*
  - Memorandum with Updated Charges and Name Change for the Qualified Jurisdiction (E) Working Group Attachment Two
  - Draft Revisions to the *Process for Evaluating Qualified and Reciprocal Jurisdictions* Attachment Three
4. Receive a Status Report on the States’ Implementation of the 2019 Revisions to the *Credit for Reinsurance Model Law (#785)* and the *Credit for Reinsurance Model Regulation (#786)*—*John Rehagen (MO)* Attachment Four



## NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

**NAIC** | **SPRING**  
**2021** | **NATIONAL**  
| **MEETING**  
| *VIRTUAL*

5. Discuss Any Other Matters Brought Before the Task Force—*John Rehagen (MO)*
6. Adjournment

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Draft: 11/23/20

Reinsurance (E) Task Force  
Virtual Meeting (in lieu of meeting at the 2020 Fall National Meeting)  
November 17, 2020

The Reinsurance (E) Task Force met Nov. 17, 2020. The following Task Force members participated: Chlora Lindley-Myers, Chair, represented by John Rehagen (MO); Raymond G. Farmer, Vice Chair (SC); Lori K. Wing-Heier represented by David Phifer (AK); Jim L. Ridling represented by Sean Duke (AL); Alan McClain represented by Mel Anderson (AR); Ricardo Lara represented by Monica Macaluso (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Kathy Belfi (CT); David Altmaier represented by Carolyn Morgan (FL); John F. King (GA); Doug Ommen represented by Kim Cross (IA); Robert H. Muriel represented by Eric Moser (IL); Stephen W. Robertson represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Russell Coy and Jeff Gaither (KY); James J. Donelon represented by Stewart Guerin (LA); Gary Anderson represented by Christopher Joyce (MA); Eric A. Cioppa represented by Robert Wake (ME); Mike Causey represented by Jackie Obusek (NC); Jon Godfread represented by Matt Fischer (ND); Bruce R. Ramage represented by Lindsay Crawford (NE); Chris Nicolopoulos represented by Doug Bartlett (NH); Marlene Caride represented by John Tirado (NJ); Tynesia Dorsey represented by Dale Bruggeman (OH); Texas represented by Jamie Walker (TX); Tanji J. Northrup represented by Jake Garn (UT); and Scott A. White represented by David Smith and Doug Stolte (VA).

1. Adopted its Summer National Meeting Minutes

Ms. Belfi made a motion, seconded by Ms. Macaluso, to adopt the Task Force's Aug. 6 minutes (*see NAIC Proceedings – Summer 2020, Reinsurance (E) Task Force*). The motion passed unanimously.

2. Adopted the Report of the Reinsurance Financial Analysis (E) Working Group

Mr. Kaumann provided the report of the Reinsurance Financial Analysis (E) Working Group. He stated that the Working Group met Oct. 14 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss the application of one new certified reinsurer and the renewal of nine certified reinsurers. Mr. Kaumann stated that the Working Group would meet two more times during 2020 to complete the remaining reviews of certified reinsurers. He noted that the Working Group will begin discussions to determine the best and most effective approaches for the financial solvency surveillance of the reciprocal jurisdiction reinsurers in the next several months.

Mr. Kaumann made a motion, seconded by Mr. Eft, to adopt the Working Group's report. The motion passed unanimously.

3. Adopted the Report of the Qualified Jurisdiction (E) Working Group

Mr. Wake provided the report of the Qualified Jurisdiction (E) Working Group. He stated that the Working Group met Nov. 12 in regulator-to-regulator session, pursuant to paragraph 6 (consultations with NAIC staff members) and paragraph 8 (considerations of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss three countries that have shown interest in becoming qualified jurisdictions.

Mr. Wake stated that two reciprocal jurisdictions had inquired about the process for filing annual confirmations assuming insurers comply with the capital and surplus and minimum solvency ratio requirements of the *Credit for Reinsurance Model Regulation* (#786). He noted that the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers* would permit filing with the NAIC, like passporting, and that the NAIC would provide this information to the other states. Mr. Wake stated that the consensus of the Working Group was that such filing should satisfy the requirements of Model #786.

Mr. Wake stated that the Working Group discussed amending the *Process to Evaluate Qualified and Reciprocal Jurisdictions* to add a termination process to re-evaluate both qualified jurisdictions and reciprocal jurisdictions to determine whether they should continue to be placed on the *NAIC List of Qualified Jurisdictions* and the *NAIC List of Reciprocal Jurisdictions*. He stated that the Working Group intends to begin this review process sometime early in 2021.

Mr. Wake made a motion, seconded by Ms. Crawford, to adopt the Working Group's report. The motion passed unanimously.

4. Received a Status Report on the States' Implementation of the 2019 Revisions to Model #785 and Model #786

Mr. Rehagen stated that as of Nov. 4, 16 U.S. jurisdictions have adopted the 2019 revisions to the *Credit for Reinsurance Model Law* (#785), while 12 jurisdictions have action under consideration. He noted that California, Pennsylvania and Virginia have adopted the revisions to Model #786, and four jurisdictions currently have action under consideration. Mr. Rehagen added that New York has released its new regulation for public comment. He stated that the maps showing the adoption of the 2019 revisions to Model #785 and Model #786 were included in the meeting materials (Attachment One).

Mr. Rehagen stated that the 2019 revisions to the models must be adopted by the states prior to Sept. 1, 2022, which is when the revisions become an accreditation standard. He noted that Sept. 1, 2022, is also the date at which the Federal Insurance Office (FIO) must complete its federal preemption reviews under the “Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance” (EU Covered Agreement). He noted that the COVID-19 pandemic has slowed the adoption process as several state legislatures have temporarily closed or have primarily focused on the pandemic. He stated that the Task Force will provide support to the states to meet this deadline, and it will communicate with the U.S. Department of the Treasury (Treasury Department) and the FIO as necessary. He noted that there have not been any specific conversations with either the FIO or the European Union (EU) about extending this deadline, but there have been some preliminary discussions with the FIO on the status of state adoptions.

Mr. Rehagen stated that the current adoption maps can be found on the Task Force’s web page. He noted that Dan Schelp (NAIC) and Jake Stultz (NAIC) can answer any technical questions during the legislative process, and Holly Weatherford (NAIC), Legislative Counsel, is working directly with the states on the adoption of the 2019 revisions to Model #785 and Model #786.

Having no further business, the Reinsurance (E) Task Force adjourned.

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**MEMORANDUM**

To: Financial Condition (E) Committee

From: Group Capital Calculation (E) Working Group

Date: February 25, 2021

Re: Proposed New Charge for the Recognize and Accept Process

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On Dec. 9, 2020, the NAIC Executive (EX) Committee and Plenary unanimously adopted revisions to the NAIC *Insurance Holding Company System Model Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). These revisions will enable the Group Capital Calculation (GCC) once adopted by the states. The revisions specifically include provisions that allow the Commissioner to exempt groups that has a group-wide supervisor that “recognize and accept” the GCC for U.S. groups in their jurisdiction; thereby embracing the concepts of mutual recognition and one group/one group wide supervisor. Model #450 provides a general framework for how the “recognize and accept” process will work and specifically contemplates the development of “a list” of such jurisdictions. This concept of a list in the context of mutual recognition is not a new one and is already used by the Qualified Jurisdiction (E) Working Group of the Reinsurance (E) Task Force. To that end, the Working Group recommends the Financial Condition (E) Committee reposition the group to report directly to the Committee, modify the charges of the Qualified Jurisdiction (E) Working Group as shown below, and revise the title of the group to be more encompassing, as also shown in the following:

2021 Charges

The ~~Qualified~~ **Mutual Recognition of Jurisdictions** (E) Working Group will:

1. Develop a process for evaluating jurisdictions that meets the NAIC requirements for recognizing and accepting the NAIC Group Capital Calculation (GCC).
2. Maintain the *NAIC List of Qualified Jurisdictions* and the *NAIC List of Reciprocal Jurisdictions* in accordance with the *Process for Evaluating Qualified and Reciprocal Jurisdictions*.
3. Perform a yearly due diligence 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.
4. Consider evaluations of any additional jurisdictions for inclusion on the *NAIC List of Qualified Jurisdictions*.

If you have any questions, please contact NAIC staff support Dan Daveline (ddaveline@naic.org).

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Approved by the NAIC on ~~December 10, 2019~~

Draft: 03/23/2021

# Process for Evaluating Qualified and Reciprocal Jurisdictions

## Table of Contents

### I. Preamble

### II. Principles for Evaluation of Non-U.S. Jurisdictions

### III. Procedure for Evaluation of Non-U.S. Jurisdictions

1. Initiation of Evaluation of the Reinsurance Supervisory System of an Individual Jurisdiction
2. Evaluation of Jurisdiction
3. NAIC Review of Evaluation Materials
4. Discretionary On-site Review
5. Standard of Review
6. Additional Information to be Considered as Part of Evaluation
7. Preliminary Evaluation Report
8. Review of Preliminary Evaluation Report
9. Opportunity to Respond to Preliminary Evaluation Report
10. NAIC Determination Regarding List of Qualified Jurisdictions
11. Memorandum of Understanding (MOU)
12. Process for Periodic Evaluation
13. Review of Qualified Jurisdictions as **Potential** Reciprocal Jurisdictions
14. Termination of Status as Qualified and/or Reciprocal Jurisdiction
- ~~13,15.~~ **Passporting Process for Reciprocal Jurisdictions**

### IV. Evaluation Methodology

Section A: Laws and Regulations

Section B: Regulatory Practices and Procedures

Section C: Jurisdiction's Requirements Applicable to U.S.-Domiciled Reinsurers

Section D: Regulatory Cooperation and Information Sharing

Section E: History of Performance of Domestic Reinsurers

Section F: Enforcement of Final U.S. Judgments

Section G: Solvent Schemes of Arrangement

### V. Appendices: Specific Guidance with Respect to Section A and Section B

Appendix A: Laws and Regulations

Appendix B: Regulatory Practices and Procedures

## I. Preamble

### Purpose

The revised *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786) (collectively, the Credit for Reinsurance Models) require an assuming insurer to be licensed and domiciled in a “Qualified Jurisdiction” in order to be eligible for certification by a state as a certified reinsurer for reinsurance collateral reduction purposes. In 2012, the NAIC Reinsurance (E) Task Force was charged to develop an NAIC process to evaluate the reinsurance supervisory systems of non-U.S. jurisdictions, for the purposes of developing and maintaining a list of jurisdictions recommended for recognition by the states as Qualified Jurisdictions. This charge was extended in 2019 to encompass the recognition of Reciprocal Jurisdictions in accordance with the 2019 amendments to the Credit for Reinsurance Models, including the maintenance of a list of recommended Reciprocal Jurisdictions. The purpose of the *Process for Evaluating Qualified and Reciprocal Jurisdictions* is to provide a documented evaluation process for creating and maintaining these NAIC lists.

### Background

On November 6, 2011, the NAIC Executive (EX) Committee and Plenary adopted revisions to the Credit for Reinsurance Models. These revisions serve to reduce reinsurance collateral requirements for certified reinsurers that are licensed and domiciled in Qualified Jurisdictions. Under the previous version of the Credit for Reinsurance Models, in order for U.S. ceding insurers to receive reinsurance credit, the reinsurance was required to be ceded to U.S.-licensed reinsurers or secured by collateral representing 100% of U.S. liabilities for which the credit is recorded. When considering revisions to the Credit for Reinsurance Models, the Reinsurance (E) Task Force contemplated establishing an accreditation-like process, modeled on the current NAIC Financial Regulation Standards and Accreditation Program, to review the reinsurance supervisory systems of non-U.S. jurisdictions. Under the revised Credit for Reinsurance Models, the approval of Qualified Jurisdictions is left to the authority of the states; however, the models provide that a list of Qualified Jurisdictions will be created through the NAIC committee process, and that individual states must consider this list when approving jurisdictions.

The ~~enactment in 2010 of the~~ federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), enacted in 2010, further, the Dodd-Frank Act authorizes the U.S. Treasury Secretary and the U.S. Trade Representative (USTR), jointly, to negotiate and enter into “covered agreements” on behalf of the United States. These are bilateral or multilateral agreements with foreign governments, authorities or regulators relating to insurance prudential measures, which can preempt contrary state insurance laws or regulatory measures. The Dodd-Frank Act also created the Federal Insurance Office (FIO), which has the following authority: (1) coordinate federal efforts and develop federal policy on prudential aspects of international insurance matters; (2) assist the Secretary of the U.S. Department of the Treasury in negotiating covered agreements ~~(as defined in the Dodd-Frank Act)~~; (3) determine whether the states’ insurance measures are preempted by covered agreements; and (4) consult with the states (including state insurance regulators) regarding insurance matters of national importance and prudential insurance matters of international importance. ~~Further, the Dodd-Frank Act authorizes the U.S. Treasury Secretary and the U.S. Trade Representative (USTR), jointly, to negotiate and enter into covered agreements on behalf of the United States.~~ It is the NAIC’s intention to communicate and coordinate with the FIO and related federal authorities as appropriate with respect to the evaluation of the reinsurance supervisory systems of non-U.S. jurisdictions.

On September 22, 2017, the United States and the European Union (EU) entered into the “*Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance.*” A similar agreement with the United Kingdom (UK) was signed on December 18, 2018. Both agreements (collectively referred to as the “Covered Agreements”) will require the states to eliminate reinsurance

collateral requirements for reinsurers licensed and domiciled in these jurisdictions within 60 months (five years) after signing or face potential federal preemption by the Federal Insurance Office (FIO) under the Dodd-Frank Act.

### Reciprocal Jurisdictions

On June 25, 2019, the NAIC Executive (EX) Committee and Plenary adopted revisions to the Credit for Reinsurance Models. These revisions were intended to conform the Models to the relevant provisions of the Covered Agreements. The Covered Agreements would eliminate reinsurance collateral requirements for EU and UK reinsurers that maintain a minimum amount of own funds equivalent to \$250 million and a solvency capital requirement (SCR) of 100% under Solvency II, among other conditions. Conversely, U.S. reinsurers that maintain capital and surplus equivalent to 226 million euros with a risk-based capital (RBC) of 300% of authorized control level would not be required to maintain a local presence in order to do business in the EU or UK or post reinsurance collateral. Under the revised Credit for Reinsurance Models, jurisdictions that are subject to in-force Covered Agreements are considered to be Reciprocal Jurisdictions, and reinsurers that have their head office or are domiciled in a Reciprocal Jurisdiction are not required to post reinsurance collateral if they meet all of the requirements of the Credit for Reinsurance Models.

Under the revised Credit for Reinsurance Models, not only are jurisdictions that are subject to Covered Agreements treated as Reciprocal Jurisdictions for reinsurance collateral purposes, but any other Qualified Jurisdictions can also qualify for collateral elimination as Reciprocal Jurisdictions. States that meet the requirements of the NAIC Financial Standards and Accreditation Program are also considered to be Reciprocal Jurisdictions.

The NAIC has updated and revised this *Process for Evaluating Qualified and Reciprocal Jurisdictions* to specify how Qualified Jurisdictions that recognize key NAIC solvency initiatives, including group supervision and group capital standards, and also meet the other requirements under the revised Credit for Reinsurance Models, will be recognized as Reciprocal Jurisdictions and receive similar treatment as that provided under the EU and UK Covered Agreements, including the elimination of reinsurance collateral and local presence requirements by the states.

## II. Principles for the Evaluation of Non-U.S. Jurisdictions

1. The NAIC model revisions applicable to certified reinsurers are intended to facilitate cross-border reinsurance transactions and enhance competition within the U.S. market, while ensuring that U.S. insurers and policyholders are adequately protected against the risk of insolvency. To be eligible for certification, a reinsurer must be domiciled and licensed in a Qualified Jurisdiction as determined by the domestic regulator of the ceding insurer. A Qualified Jurisdiction not subject to an in-force Covered Agreement under the Dodd-Frank Act may also be determined to be a Reciprocal Jurisdiction, and reinsurers that have their head office or are domiciled in any such Reciprocal Jurisdiction will not be required to post reinsurance collateral, provided they meet the minimum capital and financial strength requirements and comply with the other requirements of the Credit for Reinsurance Models.
2. The evaluation of non-U.S. jurisdictions as Qualified Jurisdictions and Reciprocal Jurisdictions will be conducted in accordance with the provisions of the Credit for Reinsurance Models and any other relevant guidance developed by the NAIC.
3. The evaluation of non-U.S. jurisdictions as Qualified Jurisdictions is intended as an outcomes-based comparison to financial solvency regulation under the NAIC Financial Regulation Standards and Accreditation Program (Accreditation Program), adherence to international supervisory standards, and relevant international guidance for recognition of reinsurance supervision. It is not intended as a prescriptive comparison to the NAIC Accreditation Program. In order for a Qualified Jurisdiction that is not subject to an in-force Covered Agreement to be evaluated as a Reciprocal Jurisdiction, that Qualified Jurisdiction must agree to recognize the states' approach to group supervision, including group capital, and other such requirements as provided under the Credit for Reinsurance Models.
4. The states shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system within the Qualified Jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled in the U.S. The determination of Qualified Jurisdiction status is based on the effectiveness of the entire reinsurance supervisory system within the jurisdiction.
5. Each state may evaluate a non-U.S. jurisdiction to determine if it is a Qualified Jurisdiction. A list of Qualified Jurisdictions will be published through the NAIC committee process. A state must consider this list in its determination of Qualified Jurisdictions, and if the state approves a jurisdiction not on this list, the state must thoroughly document the justification for approving this jurisdiction in accordance with the standards for approving Qualified Jurisdictions contained in the Credit for Reinsurance Models. The creation of this list does not constitute a delegation of regulatory authority to the NAIC. The regulatory authority to recognize a Qualified Jurisdiction resides solely in each state and the NAIC List of Qualified Jurisdictions is not binding on the states.
6. A list of Reciprocal Jurisdictions will be published through the NAIC committee process. Jurisdictions subject to an in-force Covered Agreement and states that meet the requirements of the NAIC Financial Standards and Accreditation Program are automatically included on the List of Reciprocal Jurisdictions. A state must consider this list in its determination of Reciprocal Jurisdiction status, and if the state approves a jurisdiction not on this list, the state must thoroughly document the justification for approving this jurisdiction in accordance with the standards for approving Reciprocal Jurisdictions contained in the Credit for Reinsurance Models.
7. In order to facilitate multi-state recognition of assuming insurers and to encourage uniformity among the states, the NAIC has initiated a process called "passporting," as discussed more fully below in paragraph 15 of Section III under which the commissioner has the discretion to defer to another state's determination that a jurisdiction

~~is a Qualified or Reciprocal Jurisdiction. Passporting is based upon individual state regulatory authority, and states are encouraged to act in a uniform manner in order to facilitate the passporting process. States are also encouraged to utilize the passporting process to reduce the amount of documentation filed with the states and reduce duplicate filings. The NAIC Lists of Qualified and Reciprocal Jurisdictions are intended to facilitate the passporting process.~~

8. Both Qualified Jurisdictions and Reciprocal Jurisdictions must agree to share information and cooperate with the state with respect to all applicable reinsurers domiciled within that jurisdiction. Critical factors in the evaluation process include but are not limited to the history of performance by assuming insurers in the applicant jurisdiction and any documented evidence of substantial problems with the enforcement of final U.S. judgments in the applicant jurisdiction. A jurisdiction will not be a Qualified Jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.
9. The determination of Qualified Jurisdiction status can only be made with respect to the reinsurance supervisory system in existence and applied by a non-U.S. jurisdiction at the time of the evaluation.
10. The NAIC and the states will communicate and coordinate with the FIO, USTR and other relevant federal authorities as appropriate with respect to the evaluation of the reinsurance supervisory systems of non-U.S. jurisdictions.

### III. Procedure for Evaluation of Non-U.S. Jurisdictions

#### 1. Initiation of Evaluation of the Reinsurance Supervisory System of an Individual Jurisdiction.

- a. Priority will be given to requests from the states and from those jurisdictions specifically requesting an evaluation by the NAIC.
- b. Formal notification of the NAIC's intent to initiate the evaluation process will be sent by the NAIC to the reinsurance supervisory authority in the jurisdiction selected, with copies to the FIO and other relevant federal authorities as appropriate. The NAIC will issue public notice on the NAIC website upon confirmation that the jurisdiction is willing to participate in the evaluation process. The NAIC will at this time request public comments with respect to consideration of the jurisdiction as a Qualified Jurisdiction. 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, subject to a preliminary confidentiality and information sharing agreement between the NAIC, relevant states and the applicant jurisdiction.
- c. Relevant U.S. state and federal authorities will be notified of the NAIC's decision to evaluate a jurisdiction.

#### 2. Evaluation of Jurisdiction

- a. Evaluation Materials. The Qualified Jurisdiction Working Group will initiate evaluation of a jurisdiction's regulatory system by using the information identified in Section A through Section G of the Evaluation Methodology (Evaluation Materials). The Qualified Jurisdiction Working Group will begin by undertaking a review of the most recent Financial Sector Assessment Program (FSAP) Report prepared by the International Monetary Fund (IMF), 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. The Qualified Jurisdiction Working Group will also invite each jurisdiction or its designee to provide information relative to Section A through Section G of the Evaluation Methodology in order to update, complete or supplement publicly available information. The Qualified Jurisdiction Working Group may also request or accept relevant information from reinsurers domiciled in the jurisdiction under review.
- b. The Qualified Jurisdiction Working Group will notify the jurisdiction of any information upon which the Working Group is relying. In that communication, the NAIC will invite the supervisory authority to compare the materials identified by the NAIC to the materials described in Appendix A and Appendix B, and provide information required to update the identified public information or supplement the public information, as required, to address the topics identified in Section A through Section G of the Evaluation Methodology. The use of publicly available information (e.g., the FSAP Report and/or the Insurance Sector Technical Note) is intended to lessen the burden on applicant jurisdictions by requiring the production of information that is readily available, while still addressing substantive areas of inquiry detailed in the Evaluation Methodology. The Qualified Jurisdiction Working Group's review at this stage will be focused on how the jurisdiction's laws, regulations, administrative practices and procedures, and regulatory authorities regulate the financial solvency of its domestic reinsurers in comparison to key principles underlying the U.S. financial solvency framework<sup>1</sup> and other factors set forth in the Evaluation Methodology.

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<sup>1</sup> The U.S. financial solvency framework is understood to refer to the key elements provided in the NAIC Financial Regulation Standards and Accreditation Program. Appendix A and Appendix B are derived from this framework.

- c. After reviewing the Evaluation Materials, the Qualified Jurisdiction Working Group may request that the applicant jurisdiction submit supplemental information as necessary to determine whether the jurisdiction has sufficient authority to regulate the solvency of its reinsurers in an effective manner. The Working Group will address specific questions directly with the jurisdiction related to items detailed in the Evaluation Methodology that are not otherwise addressed in the Evaluation Materials.
- d. The NAIC will request that all responses from the jurisdiction being evaluated be provided in English. Any responses submitted with respect to a jurisdiction's laws and regulations should be provided by a person qualified in that jurisdiction to provide such analyses and, in the case of statutory analysis, qualified to provide such legal interpretations, to ensure that the jurisdiction is providing an accurate description.
- e. The NAIC does not intend to review confidential company-specific information in this process, and has focused the procedure on reviewing publicly available information. No confidential company-specific information shall be disclosed or disseminated during the course of the jurisdiction's evaluation unless specifically requested, subject to appropriate confidentiality safeguards addressed in a preliminary confidentiality and information-sharing agreement. If no such agreement is executed or the jurisdiction is unable to enter into such an agreement under its regulatory authority, the NAIC will not accept any confidential company-specific information.

### **3. NAIC Review of Evaluation Materials**

- a. NAIC staff and/or outside consultants with the appropriate knowledge, experience and expertise will review the jurisdiction's Evaluation Materials.
- b. Expenses with respect to the evaluations will be absorbed within the NAIC budget. This will be periodically reviewed.
- c. Timeline for review. A project management approach will be developed with respect to the overall timeline applicable to each evaluation.
- d. Upon completing its review of the Evaluation Materials, the internal reviewer(s) will report initial findings to the Qualified Jurisdiction 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 FIO and other relevant federal authorities subject to appropriate confidentiality and information-sharing agreements being in place.

### **4. Discretionary On-site Review**

- a. The NAIC may ask the jurisdiction under consideration for the opportunity to perform an on-site review of the jurisdiction's reinsurance supervisory system. Factors that the Qualified Jurisdiction Working Group will consider in determining whether an on-site review is appropriate include the completeness of the information provided by the jurisdiction under review, the general familiarity of the jurisdiction by the NAIC staff or other state regulators participating in the review based on prior conduct or dealings with the jurisdiction, and the results of other evaluations performed by other regulatory or supervisory organizations. If the review is performed, it will be coordinated through the NAIC, utilizing personnel with the appropriate knowledge, experience and expertise. Individual states may also request that representatives from their state be added to the review team.
- b. The review team will communicate with the supervisory authority in advance of the on-site visit to clearly identify the objectives, expectations and procedures with respect to the review, as well as any significant

issues or concerns identified within the review of the Evaluation Materials. Information to be considered during the on-site review includes, but is not limited to, the following:

- i. Interviews with supervisory authority personnel.
  - ii. Review of organizational and personnel practices.
  - iii. Any additional information beneficial to gaining an understanding of document and communication flows.
- c. Upon completing the on-site review, the reviewer(s) will report initial findings to the Qualified Jurisdiction Working Group, including any significant issues or concerns identified. This report will be included as part of the official documentation of the evaluation.

## **5. Standard of Review**

The evaluation is intended as an outcomes-based comparison to financial solvency regulation under the NAIC Accreditation Program, adherence to international supervisory standards and relevant international guidance for recognition of reinsurance supervision. The standard for qualification of a jurisdiction is that the NAIC must reasonably conclude that the jurisdiction's reinsurance supervisory system achieves a level of effectiveness in financial solvency regulation that is deemed acceptable for purposes of reinsurance collateral reduction, that the jurisdiction's demonstrated practices and procedures with respect to reinsurance supervision are consistent with its reinsurance supervisory system, and that the jurisdiction's laws and practices satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Models.

## **6. Additional Information to be Considered as Part of Evaluation**

The NAIC may also consider information from sources other than the jurisdiction under review. This information includes:

- a. Documents, reports and information from appropriate international, U.S. federal and U.S. state authorities.
- b. Public comments from interested parties.
- c. Rating agency information.
- d. Any other relevant information.

## **7. Preliminary Evaluation Report**

- a. NAIC staff and/or outside consultants will prepare a Preliminary Evaluation Report for review by the Qualified Jurisdiction Working Group. This preliminary report will be private and confidential (i.e., may only be reviewed by Working Group members, designated NAIC staff, consultants, the states, the FIO and other relevant federal authorities that specifically request to be kept apprised of this information, provided that such entities have entered into a preliminary confidentiality and information-sharing agreement with the foreign jurisdiction. Any outside consultants retained by the NAIC will be required to enter into a confidentiality and nondisclosure agreement.).
- b. The report will be prepared in a consistent style and format to be developed by NAIC staff. It will contain detailed advisory information and recommendations with respect to the evaluation of the jurisdiction's reinsurance supervisory system and the documented practices and procedures thereunder. The report will contain a recommendation as to whether the NAIC should recognize the jurisdiction as a Qualified Jurisdiction.

- c. All workpapers and reports, including supporting documentation and data, produced as part of the evaluation process are the property of the NAIC and shall be maintained at the NAIC Central Office. In the event that the NAIC shall come into possession of any confidential information, the information shall be held subject to a confidentiality and information-sharing agreement, which will outline the appropriate actions necessary to protect the confidentiality of such information.

## **8. Review of Preliminary Evaluation Report**

- a. The Qualified Jurisdiction Working Group's review of the Preliminary Evaluation Report will be held in regulator-to-regulator session in accordance with the NAIC Policy Statement on Open Meetings.
- b. The Qualified Jurisdiction Working Group will make a preliminary determination as to whether the jurisdiction under consideration satisfies the Standard of Review and is deemed acceptable to be included on the NAIC List of Qualified Jurisdictions. If the preliminary determination is that the jurisdiction should not be included on the NAIC List of Qualified Jurisdictions, the Qualified Jurisdiction Working Group will set forth its specific findings and identify those areas of concern with respect to this determination.
- c. The results of the Preliminary Evaluation Report will be immediately communicated in written form to the supervisory authority of the jurisdiction under review.

## **9. Opportunity to Respond to Preliminary Evaluation Report**

- a. Upon receipt of the Preliminary Evaluation Report, the supervisory authority will have an opportunity to respond to the initial findings and determination. This is not intended to be a formal appeals process that would initiate U.S. state administrative due process requirements.
- b. The Qualified Jurisdiction Working Group will consider any response, and will proceed to prepare its Final Evaluation Report. The Qualified Jurisdiction Working Group will consider the Final Evaluation Report for approval in regulator-to-regulator session in accordance with the NAIC Policy Statement on Open Meetings. This report will be approved upon an affirmative vote of a majority of the members in attendance at this meeting.
- c. Upon approval of the Final Evaluation Report, the Qualified Jurisdiction 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 for public comment. The detailed report will be a confidential, regulator-only document. The report may be shared with any state indicating that it is considering relying on the NAIC List of Qualified Jurisdictions and has entered into a preliminary confidentiality and information-sharing agreement with the foreign jurisdiction.

## **10. NAIC Determination ~~¶~~Regarding List of Qualified Jurisdictions**

- a. Once the Qualified Jurisdiction Working Group has adopted its Final Evaluation Report, it will submit the summary of its findings and its recommendation to the Reinsurance (E) Task Force at an open meeting. Upon approval by the Reinsurance (E) Task Force, the summary and recommendation will be submitted to the Executive (EX) Committee and Plenary, as well as to the FIO, USTR and other relevant federal authorities for consultation purposes. Upon approval as a Qualified Jurisdiction by the Executive (EX) Committee and Plenary, the jurisdiction will be added to the NAIC List of Qualified Jurisdictions. The NAIC will maintain the List of Qualified Jurisdictions on its public website and in other appropriate NAIC publications.

- b. In the event that a jurisdiction is not approved as a Qualified Jurisdiction, the supervisory authority will be eligible for reapplication at the discretion of the NAIC.
- c. Upon final adoption of the Qualified Jurisdiction Working Group’s determination with respect to a jurisdiction, the Final Evaluation Report will be made available to individual U.S. state insurance regulators upon request and confirmation that the information contained therein will remain confidential.

## 11. Memorandum of Understanding (MOU)

- a. A Qualified Jurisdiction must agree to share information and cooperate on a confidential basis with the U.S. state insurance regulatory authority with respect to all certified reinsurers domiciled within that jurisdiction.
- b. The International Association of Insurance Supervisors (IAIS) Multilateral Memorandum of Understanding (MMoU) is the recommended method under which a Qualified Jurisdiction will agree to share information and cooperate with U.S. state insurance regulatory authorities. However, until such time as a state has been approved as a signatory to the MMoU by the IAIS, the state may rely on an MOU entered into by a “Lead State” designated by the NAIC. This Lead State will act as a conduit for information between the Qualified Jurisdiction and other states that have certified a reinsurer domiciled and licensed in that jurisdiction, and will share information with these states consistent with the terms governing the further sharing of information included in the NAIC Master Information Sharing and Confidentiality Agreement, and, as applicable, in the applicable IAIS MMoU, or in a bilateral MOU between the Lead State and the Qualified Jurisdiction ~~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 obtaining information concerning its certified reinsurers, provided the that Lead State share that information with the other states requesting the information only in a manner consistent with the terms governing the further sharing of information included, ~~as in the applicable, in the~~ IAIS MMoU or bilateral MOU between the Lead State and the Qualified Jurisdiction.
- c. If a Qualified Jurisdiction has not been approved by the IAIS ~~for use of as a party to~~ the MMoU, it must enter into an MOU with a Lead State. The MOU ~~will also~~ must provide for appropriate confidentiality safeguards with respect to the information shared between the jurisdictions.
- d. The NAIC and the states will communicate and coordinate with the FIO, USTR and other relevant federal authorities as appropriate with respect to this process.

## 12. Process for Evaluation after Initial Approval

- a. The process for determining whether a non-U.S. jurisdiction is a Qualified Jurisdiction is ongoing and subject to periodic review. The Qualified Jurisdiction 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 Qualified Jurisdiction Working Group to be appropriate.
- b. Qualified Jurisdictions must provide the Qualified Jurisdiction Working Group with notice of any material change in the applicable reinsurance supervisory system that may affect the status of the Qualified Jurisdiction. A U.S. jurisdiction should also notify the Qualified Jurisdiction Working Group if it receives notice of any material change in the applicable reinsurance supervisory system, or any adverse developments with respect to enforcement of final U.S. judgments, that may affect the status of the

Qualified Jurisdiction. U.S. ceding insurers may also initiate notice to the Qualified Jurisdiction Working Group if they receive notice of any material change in the applicable reinsurance supervisory system or any adverse developments with respect to enforcement of final U.S. judgments. Upon receipt of any such notice, the Qualified Jurisdiction Working Group will consider whether it is necessary to re-evaluate the status of the Qualified Jurisdiction. Any review will be conducted in accordance with the procedure set forth in paragraph 14.

~~e.a. If the Qualified Jurisdiction Working Group finds the jurisdiction to be out of compliance at any time with the requirements to be a Qualified Jurisdiction, the specific reasons will be documented in a report to the jurisdiction under review, and the status as a Qualified Jurisdiction may be placed on probation, suspended or revoked.~~

~~d.c.~~ The Qualified Jurisdiction Working Group will monitor those jurisdictions that have been approved as Qualified Jurisdictions by individual states, but are not included on the NAIC List of Qualified Jurisdictions.

### 13. Review of Qualified Jurisdictions as Potential Reciprocal Jurisdictions

a. In ~~undertaking the evaluation of whether to designate~~ a Qualified Jurisdiction as a Reciprocal Jurisdiction, the Qualified Jurisdiction Working Group shall utilize such processes and procedures as outlined in the immediately-preceding paragraphs 1 – 12 of Section III. *Procedure for Evaluation of Non-U.S. Jurisdictions* such as the Qualified Jurisdiction Working Group deems is appropriate. Specifically, the Qualified Jurisdiction Working Group will use processes and procedures outlined in paragraph 1 (*Initiation of Evaluation of the Reinsurance Supervisory System of an Individual Jurisdiction*), paragraph 3 (*NAIC Review of Evaluation Materials*), paragraph 7 (*Preliminary Evaluation Report*), paragraph 8 (*Review of Preliminary Evaluation Report*), paragraph 9 (*Opportunity to Respond to Preliminary Evaluation Report*), paragraph 10 (*NAIC Determination regarding List of Qualified Jurisdictions*), paragraph 11 (*Memorandum of Understanding*) and paragraph 12 (*Process for Evaluation after Initial Approval*), as modified for use with applicants for Reciprocal Jurisdiction status.

b. A Qualified Jurisdiction may not be reviewed for inclusion on the NAIC List of Reciprocal Jurisdictions, unless it has undergone the *Evaluation Methodology* outlined in Section IV, and remains in good standing with the NAIC as a Qualified Jurisdiction. The Qualified Jurisdiction Working Group may, if it determines an extended review period to be appropriate after its initial approval of a new Qualified Jurisdiction, defer consideration of that jurisdiction as a possible Reciprocal Jurisdiction until there has been sufficient United States experience with that jurisdiction and its Certified Reinsurers that the Working Group believes it is appropriate to progress from collateral reduction to collateral elimination. Nothing in this process requires a finding that a Qualified Jurisdiction meets the standards for recognition as a Reciprocal Jurisdiction, and the Qualified Jurisdiction Working Group may base ~~such recommendations~~ its determination on all relevant information, which may include factors not specifically included in this ~~Process~~ for Evaluating Qualified and Reciprocal Jurisdictions.

c. A list of Reciprocal Jurisdictions will be published through the NAIC committee process. Jurisdictions subject to an in-force Covered Agreement and states that meet the requirements of the NAIC Financial Standards and Accreditation Program are automatically included on the NAIC List of Reciprocal Jurisdictions. In making its recommendation with respect to whether a Qualified Jurisdiction that is not automatically designated as a Reciprocal Jurisdiction should be added to the NAIC List of Reciprocal

Jurisdictions, the Qualified Jurisdiction Working Group shall undertake the following analysis in making its evaluation:

- i. The Qualified Jurisdiction must confirm that an insurer which has its head office or is domiciled in that jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as the same insurer would receive credit for reinsurance assumed by an assuming insurers domiciled in that jurisdiction ~~is received by United States ceding insurers;~~
  - ii. The Qualified Jurisdiction must confirm that it does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by that jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;
  - iii. The Qualified Jurisdiction must recognize the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by its competent regulatory authority that insurance groups that are domiciled or maintain their worldwide headquarters in ~~this state or a nother~~ jurisdiction accredited by the NAIC shall be subject only to their U.S. home jurisdiction's worldwide prudential insurance group supervision, including worldwide group governance, solvency and capital, and reporting, as applicable, and will not be subject to group supervision by the Qualified Jurisdiction at the level of the worldwide parent undertaking of the insurance or reinsurance group ~~by the Qualified Jurisdiction;~~
  - iv. The Qualified Jurisdiction must provide written confirmation by its competent regulatory authority that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the states in accordance with a memorandum of understanding or similar document between a state and the Qualified Jurisdiction, including but not limited to the IAIS MMoU or other multilateral memoranda of understanding coordinated by the NAIC This requirement may be satisfied by an MOU with a Lead State, which shall provide for appropriate confidentiality safeguards with respect to the information shared between the jurisdictions, similar to the MOU requirement outlined in paragraph 11 of this section III; and
  - v. The Qualified Jurisdiction must confirm that it will provide to the states on an annual basis confirmation that each eligible assuming insurer that is domiciled in the Qualified Jurisdiction continues to comply with the requirements set forth in in Section 9C(2) and (3) of Model #786; i.e., must maintain, on an ongoing basis, minimum capital and surplus of no less than \$250,000,000, and ~~maintains on an ongoing basis~~ the required minimum solvency or capital ratio, as applicable.
- d. In order to satisfy the requirements of subsection (c) above, the chief insurance supervisor of the Qualified Jurisdiction being evaluated as a Reciprocal Jurisdiction may provide the NAIC with a written letter confirming, as follows:

[Jurisdiction] is a Qualified Jurisdiction under the NAIC *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786), and is currently in good standing on the *NAIC List of Qualified Jurisdictions*. As the lead insurance regulatory supervisor for [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:

- An insurer which has its head office or is domiciled in [Jurisdiction] shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as credit would be granted for reinsurance assumed by insurers domiciled in [Jurisdiction] ~~is received by United States ceding insurers~~. [Jurisdiction] does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by [Jurisdiction] or as a condition to allow the ceding insurer to recognize credit for such reinsurance.
  - [Jurisdiction] recognizes the U.S. state regulatory approach to group supervision and group capital, and confirms that insurance groups that are domiciled or maintain their worldwide headquarters in jurisdictions accredited by the NAIC shall be subject only to their U.S. home jurisdiction's worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the [Jurisdiction].
  - [Jurisdiction] confirms that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the states in accordance with a memorandum of understanding or similar document between a state and the [Jurisdiction].
  - [Jurisdiction] will annually provide to the states confirmation that applicable assuming insurers domiciled in [Jurisdiction] maintain minimum capital and surplus of no less than \$250,000,000, and maintain on an ongoing basis the required minimum solvency or capital ratio, as applicable.
  - Finally, I confirm that [Jurisdiction] will immediately notify the NAIC upon any changes to the assurances provided in this letter.
- e. The Qualified Jurisdiction 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 letter are true and accurate, and will prepare for the review by the Reinsurance Task Force a Summary of Findings and Determination recommending that the Qualified Jurisdiction be recognized as a Reciprocal Jurisdiction. Upon approval by the Task Force, the Summary of Findings and Determination ~~must be adopted by~~ will be submitted for a vote of the NAIC Executive (EX) Committee and Plenary for inclusion on the List of Reciprocal Jurisdictions.
- f. The Qualified Jurisdiction Working Group, working in coordination with the Qualified Jurisdiction and the Reinsurance Financial Analysis (E) Working Group, must make a determination on a minimum solvency or capital ratio under which reinsurers licensed and domiciled in the Qualified Jurisdiction may assume insurance from U.S. ceding companies without posting reinsurance collateral. The applicable minimum solvency or capital ratio must be an effective measure of solvency, comparable to either an NAIC risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, or one hundred percent (100%) of the solvency capital requirement (SCR) as calculated under the Solvency II Directive

issued by the European Union, giving due consideration to any applicable equivalency assessment conducted by the European Insurance and Occupational Pensions Authority (EIOPA) on the Qualified Jurisdiction with respect to Solvency II.

#### **14. Termination of Status as Qualified and/or Reciprocal Jurisdiction**

- a. If the Qualified Jurisdiction Working Group finds ~~the~~ a Qualified ~~J~~ Jurisdiction to be out of compliance at any time with the requirements to be a Qualified Jurisdiction, the specific reasons will be documented in a report to the jurisdiction under review. The Qualified Jurisdiction Working Group would then report any concerns to its parent Task Force for further discussion and communication with appropriate federal and/or international authorities, ~~and~~ The status as a Qualified Jurisdiction may be placed on probation, suspended or revoked by the NAIC.
- b. Except for Reciprocal Jurisdictions entitled to automatic recognition, a jurisdiction's status as a Reciprocal Jurisdiction may be placed on probation, suspended or revoked for good cause in the same manner as provided for Qualified Jurisdictions ~~under paragraph 12~~. If cause is found to question the fitness of a Reciprocal Jurisdiction that is subject to an in-force ~~e~~ Covered ~~a~~ Agreement, or its compliance with applicable requirements of the covered agreement, the Qualified Jurisdiction Working Group would report any concerns to its parent Task Force for further discussion and communication with appropriate federal and/or international authorities. It is intended that compliance with the covered agreement will ultimately be determined by the Joint Committee established under the covered agreement, or through termination of the covered agreement by the parties to the covered agreement.
- c. Both Qualified Jurisdictions and Reciprocal Jurisdictions that are not subject to a covered agreement are obligated to provide notice to the Qualified Jurisdiction Working Group of any applicable changes to their reinsurance supervisory system or changes to the assurances provided in the letter set forth in paragraph 13. States and U.S. ceding insurers may also provide notice of such changes to the Working Group. Upon notice of any such material changes, the Working Group will meet in regulator-only session to determine if these changes are in fact material to continuing recognition by the NAIC as either a Qualified or Reciprocal Jurisdiction. The Working Group will work directly with the jurisdiction to address any issues that have been identified. If these issues cannot be resolved through this regulator-only dialogue, then the Working Group will report its recommendation to the Reinsurance Task Force, which will consider a suspension of the jurisdiction's status as a Qualified or Reciprocal Jurisdiction in open session. The Task Force will then make a recommendation to the NAIC Plenary on the action, if any, to be taken, which may include placing the Qualified or Reciprocal Jurisdiction's status on probation, or suspending or revoking its status.
- d. If a Qualified or Reciprocal Jurisdiction's status is placed on probation by the NAIC, the material change will be noted in an update to its Summary of Finding and Determination in order to provide notice to the states and U.S. ceding insurers of this material change. If the NAIC decides to suspend or revoke its status, the jurisdiction may be given a reasonable time period, no more than 18 months, to rectify its noncompliance with the standards and return it to good standing. Once the NAIC's suspension or revocation takes effect, it is expected that the same action will be taken by the respective states that have recognized the jurisdiction as a Qualified or Reciprocal Jurisdiction.

- e. There is no administrative right to appeal the decision of the NAIC with respect to the revocation of status as a Qualified or Reciprocal Jurisdiction, but the jurisdiction can apply for reinstatement after a one-year period.
- b.f. During the period in which a Qualified or Reciprocal Jurisdiction's status has been suspended by a state, any new reinsurance assumed by a reinsurer domiciled in that jurisdiction from a ceding insurer domiciled in that state will not be eligible for credit unless the transaction qualifies for credit on the basis of security posted by the ceding insurer or some other basis that does not depend on recognition of the jurisdiction as a Qualified or Reciprocal Jurisdiction. However, suspension does not affect credit for reinsurance that was already in force.
- g. If a Qualified or Reciprocal Jurisdiction's status is revoked by a state, then those Certified Reinsurers and/or Reciprocal Jurisdiction Reinsurers domiciled in that jurisdiction must post within three months of this determination one hundred percent (100%) collateral on all their liabilities assumed from ceding insurers domiciled in that state.
- h. The factors used in the evaluation of Reciprocal Jurisdictions are not the same as are utilized in the evaluation of Qualified Jurisdictions. A Qualified Jurisdiction that has been approved by the NAIC as a Reciprocal Jurisdiction may have its status as a Reciprocal Jurisdiction either suspended or revoked but still meet the requirements to be a Qualified Jurisdiction. However, if a Reciprocal Jurisdiction that is not subject to a covered agreement has its status as a Qualified Jurisdiction revoked, it cannot maintain its status as a Reciprocal Jurisdiction, because it must be a Qualified Jurisdiction to meet the requirements of a Reciprocal Jurisdiction.

## **15. Passporting Process for Reciprocal Jurisdictions**

- a. In order to facilitate multi-state recognition of assuming insurers and to encourage uniformity among the states, the NAIC has initiated a process called "passporting" under which the commissioner has the discretion to defer to another state's determination with respect to the requirements for both Certified Reinsurers and Reciprocal Jurisdiction Reinsurers. Passporting is based upon individual state regulatory authority, and states are encouraged to act in a uniform manner in order to facilitate the passporting process. States are also encouraged to utilize the passporting process to reduce the amount of documentation filed with the states and reduce duplicate filings.
- b. The passporting process is facilitated through the Reinsurance Financial Analysis (E) Working Group (ReFAWG). It is intended that ReFAWG will help facilitate multi-state recognition of Certified Reinsurers and Reciprocal Jurisdiction Reinsurers and address issues of uniformity among the states, both with respect to initial application and subsequent changes in rating or status. The ReFAWG Review Process is set forth in the *ReFAWG Procedures Manual*.
- c. Section 9C(7) of the *Credit for Reinsurance Model Regulation* (#786) provides that the "assuming insurer's supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in Paragraphs (2) [i.e., minimum capital and surplus of no less than \$250] and (3) [i.e., minimum solvency or capital ratio] of this subsection." Section 9E(1) of Model #786 then provides that "The commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirements of Subsection C." A Reciprocal Jurisdiction may satisfy the requirements of Section 9C(7) of Model #786 by annually filing the required

information with each state in which it is doing business, or with either its Lead State or the NAIC, which will share this documentation with the other states through the ReFAWG Review Process. Each state may accept financial documentation filed with the Lead State or with the NAIC.

## IV. Evaluation Methodology

The Evaluation Methodology was developed to be consistent with the provisions of the NAIC Credit for Reinsurance Models. It is intended to provide an outcomes-based comparison to financial solvency regulation under the NAIC Accreditation Program, adherence to international supervisory standards and relevant international guidance for recognition of reinsurance supervision. Although the methodology includes a comparison of the jurisdiction's supervisory system to a number of key elements from the NAIC Accreditation Program, it is not intended as a prescriptive assessment under the NAIC Accreditation Program. Rather, the NAIC Accreditation Program simply provide the framework for the outcomes-based analysis. The NAIC will evaluate the appropriateness and effectiveness of the reinsurance supervisory system within the jurisdiction and consider the rights, benefits and the extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled in the U.S. The determination of a Qualified Jurisdiction is based on the effectiveness of the entire reinsurance supervisory system within the jurisdiction.

The Evaluation Methodology consists of the following:

- Section A: Laws and Regulations
- Section B: Regulatory Practices and Procedures
- Section C: Jurisdiction's Requirements Applicable to U.S.-Domiciled Reinsurers
- Section D: Regulatory Cooperation and Information Sharing
- Section E: History of Performance of Domestic Reinsurers
- Section F: Enforcement of Final U.S. Judgments
- Section G: Solvent Schemes of Arrangement

This information will be the basis for the Final Evaluation Report and the determination of whether the jurisdiction will be included on the NAIC List of Qualified Jurisdictions.

## Section A: Laws and Regulations

The NAIC will review publicly available information, as well as information provided by an applicant jurisdiction with respect to its laws and regulations, in an effort to evaluate whether the jurisdiction has sufficient authority to regulate the solvency of its reinsurers in an effective manner. This will include a review of elements believed to be basic building blocks for sound insurance/reinsurance regulation.<sup>2</sup> A jurisdiction's effectiveness under Section A may be demonstrated through law, regulation or established practice that implements the general authority granted to the jurisdiction, or any combination of laws, regulations or practices that meet the objective.

The Qualified Jurisdiction Working Group will initiate evaluation of a jurisdiction's regulatory system by gathering and undertaking a review of the most recent FSAP Report, ROSC and any other publicly available information regarding the laws, regulations, practices and procedures applicable to the reinsurance supervisory system. The Qualified Jurisdiction Working Group will simultaneously invite each jurisdiction (or its designee) to provide information relative to Section A (and other sections, as relevant) to assist the NAIC in evaluating its laws and regulations. The NAIC will review this information in conjunction with Appendix A, which provides more detailed guidance with respect to elements the NAIC intends to consider on an outcomes basis in the evaluation under this section. Appendix A is not intended as a prescriptive checklist of requirements a jurisdiction must meet in order to be a Qualified Jurisdiction. Rather, it is provided in an effort to facilitate an outcomes-based comparison to financial solvency regulation under the NAIC Accreditation Program. An applicant jurisdiction is requested to address the following information, which the NAIC will consider, at a minimum, in determining whether the outcomes achieved by the jurisdiction's laws and regulations meet an acceptable level of effectiveness for the jurisdiction to be included on the NAIC List of Qualified Jurisdictions:

1. Confirmation of the jurisdiction's most recent FSAP Report, including relevant updates with respect to descriptions or elements of the FSAP Report in which changes have occurred since the assessment or where information might otherwise be outdated.
2. Confirmation of the jurisdiction's ROSC, including relevant updates with respect to descriptions or elements of the ROSC in which changes have occurred since the report was completed or where information might otherwise be outdated.
3. If materials responsive to the topics under review have been provided in response to information exchanges between the jurisdiction under review and the NAIC, such prior responses may be cross-referenced provided updates are submitted, if required to address changes in laws or procedures.
4. Any other information, descriptions or responses the jurisdiction believes would be beneficial to the NAIC's evaluation process in order to address, on an outcomes basis, the key elements described within Appendix A.

The NAIC will review the information provided by the applicant jurisdiction and determine whether it is adequate to reasonably conclude whether the jurisdiction has sufficient authority to regulate the solvency of its reinsurers in an effective manner. After reviewing the initial submission, the NAIC may request that the applicant jurisdiction submit supplemental information as necessary in order to make this determination. An applicant jurisdiction is strongly encouraged to provide thorough, detailed and current information in its initial submission in order to

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<sup>2</sup> The basic considerations under this section are derived from Model #786, Section 8C(2), which include: (a) the framework under which the assuming reinsurer is regulated; (b) the structure and authority of the jurisdiction's reinsurance supervisory authority with regard to solvency regulation requirements and financial surveillance; (c) the substance of financial and operating standards for reinsurers domiciled in the jurisdiction; and (d) the form and substance of financial reports required to be filed or made publicly available by reinsurers domiciled in the jurisdiction and the accounting principles used.

minimize the number and extent of supplemental information requests from the NAIC with respect to Section A of this Evaluation Methodology. The NAIC will provide a complete description in the Final Evaluation Report of the information provided in the Evaluation Materials, and any updates or other information that have been provided by the applicant jurisdiction.

### **Section B: Regulatory Practices and Procedures**

Section B is intended to facilitate an evaluation of whether the jurisdiction effectively employs baseline regulatory practices and procedures to supplement and support enforcement of the jurisdiction's financial solvency laws and regulations described in Section A. This evaluation methodology recognizes that variation may exist in practices and procedures across jurisdictions due to the unique situations each jurisdiction faces. Jurisdictions differ with respect to staff and technology resources that are available, as well as the characteristics of the domestic industry regulated. A determination of effectiveness may be achieved using various financial solvency oversight practices and procedures. This evaluation is not intended to be prescriptive in nature.

The NAIC will utilize the information provided by the jurisdiction as outlined under Section A in completing this section of the evaluation. The NAIC will review this information in conjunction with Appendix B, which provides more detailed guidance with respect to elements the NAIC intends to consider on an outcomes basis in the evaluation under this section. Appendix B is not intended as a prescriptive checklist of requirements a jurisdiction must meet in order to be a Qualified Jurisdiction. Rather, it is provided in an effort to facilitate an outcomes-based comparison to financial solvency regulation under the NAIC Accreditation Program. An applicant jurisdiction should also provide any other information, descriptions or responses the jurisdiction believes would be beneficial to the NAIC's evaluation process in order to address, on an outcomes basis, the key elements described within Appendix B.

### **Section C: Jurisdiction's Requirements Applicable to U.S. Domiciled Reinsurers**

The jurisdiction is requested to describe and explain the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. supervisory authority to reinsurers licensed and domiciled in the U.S.

### **Section D: Regulatory Cooperation and Information-Sharing**

The Credit for Reinsurance Models require the supervisory authority to share information and cooperate with the U.S. state insurance regulators with respect to all certified reinsurers domiciled within their jurisdiction. The jurisdiction is requested to provide an explanation of the supervisory authority's ability to cooperate, share information and enter into an MOU with U.S. state insurance regulators and confirm that they are willing to enter into an MOU. This should include information with respect to any existing MOU with U.S. state and/or federal authorities that pertain to reinsurance. Both the jurisdiction and the states may rely on the IAIS MMoU to satisfy this requirement, and any states that have not yet been approved by the IAIS as a signatory to the MMoU may rely on an MOU entered into by a Lead State with the jurisdiction until such time that the state has been approved as a signatory to the IAIS MMoU. The NAIC and the states will communicate and coordinate with the FIO, USTR and other relevant federal authorities as appropriate with respect to this process.

### **Section E: History of Performance of Domestic Reinsurers**

The jurisdiction is requested to provide a general description with respect to the historical performance of reinsurers domiciled in the jurisdiction. The NAIC does not intend to review confidential company-specific information under this section. Rather, it is intended that any information provided would be publicly available, unless specifically addressed with the jurisdiction under review. This discussion should address, at a minimum, the following information:

- a. Number of reinsurers domiciled in the jurisdiction, and a list of any reinsurers domiciled in the jurisdiction that have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, of no less than \$250,000,000.
- b. Up to a 10-year history of any regulatory actions taken against specific reinsurers.
- c. Up to a 10-year history listing any reinsurers that have gone through insolvency proceedings, including the size of each insolvency and a description of the related outcomes (e.g., reinsurer rehabilitated or liquidated, payout percentage of claims to priority classes, payout percentage of claims to domestic and foreign claimants).
- d. Up to a 10-year history of any significant industry-wide fluctuations in capital or profitability with respect to domestic reinsurers.

**Drafting Note:** The NAIC will determine the appropriate time period for review on a case-by-case basis with respect to this information.

### **Section F: Enforcement of Final U.S. Judgments**

The NAIC has previously collected information from a number of jurisdictions with respect to enforcement of final U.S. judgments. The jurisdiction is also requested to provide a current description or explanation of any restrictions with respect to the enforcement of final foreign judgments in the jurisdiction. Based on the foregoing information, the NAIC will make an assessment of the effectiveness of the ability to enforce final U.S. judgments in the jurisdiction. This will include a review of the status, interpretations, application and enforcement of various treaties, conventions and international agreements with respect to final judgments, arbitration and choice of law. The Qualified Jurisdiction Working Group will monitor the enforcement of final U.S. judgments and the Qualified Jurisdiction is requested to notify the NAIC of any developments in this area.

### **Section G: Solvent Schemes of Arrangement**

The jurisdiction is requested to provide a description of any legal framework that allows reinsurers domiciled in the jurisdiction to propose or participate in any solvent scheme of arrangement or similar procedure. In addition, the jurisdiction is requested to provide a description of any solvent scheme of arrangement or similar procedure that a domestic reinsurer has proposed or participated in and the outcome of such procedure.

**V. Appendices: Specific Guidance with Respect to Section A and Section B**

It is important to note that Part IV, Section A: Laws and Regulations, and Part IV, Section B: Regulatory Practices and Procedures, are derived from the NAIC Financial Regulation Standards and Accreditation Program, which is intended to establish and maintain standards to promote sound insurance company financial solvency regulation among the U.S. states. As such, the NAIC Accreditation Program requires the states to employ laws, regulations and administrative policies and procedures substantially similar to the NAIC accreditation standards in order to be considered an accredited state.

However, it is not the intent of the Evaluation Methodology to require applicant jurisdictions to meet the standards required by the NAIC for accreditation. Instead, Section A and Section B (and their corresponding appendices) are intended to provide a framework to facilitate an outcomes-based evaluation by the NAIC and state insurance regulators of the effectiveness of the jurisdiction's supervisory authority. This framework consists of a description of the jurisdiction's laws, regulations, practices and procedures applicable to the supervision of its domestic reinsurers. The amount of detail provided within these appendices should not be interpreted as specific requirements that must be met by the applicant jurisdiction. Rather, the information is intended to provide direction to the applicant jurisdiction in an effort to facilitate a complete response and increase the efficiency and timeliness of the evaluation process.

## Appendix A: Laws and Regulations

### 1. Examination Authority

Does the jurisdiction have the authority to examine its domestic reinsurers? This description should address the following:

- a. Frequency and timing of examinations and reports.
- b. Guidelines for examination.
- c. Whether the jurisdiction has the authority to examine reinsurers whenever it is deemed necessary.
- d. Whether the jurisdiction has the authority to have complete access to the reinsurer's books and records and, if necessary, the records of any affiliated company.
- e. Whether the jurisdiction has the authority to examine officers, employees and agents of the reinsurer when necessary with respect to transactions directly or indirectly related to the reinsurer under examination.
- f. Whether the jurisdiction has the authority to share confidential information with U.S. state insurance regulatory authorities, provided that the recipients are required, under their law, to maintain its confidentiality.

### 2. Capital and Surplus Requirement

Does the jurisdiction have the authority to require domestic reinsurers to maintain a minimum level of capital and surplus to transact business? This description should address the following:

- a. Whether the jurisdiction has the authority to require reinsurers to maintain minimum capital and surplus, including a description of such minimum amounts.
- b. Whether the jurisdiction has the authority to require additional capital and surplus based on the type, volume and nature of reinsurance business transacted.
- c. Capital requirements for reinsurers, including reports and a description of any specific levels of regulatory intervention.

### 3. Accounting Practices and Procedures

Does the jurisdiction have the authority to require domestic reinsurers to file appropriate financial statements and other financial information? This description should address the following:

- a. Description of the accounting and reporting practices and procedures.
- b. Description of any standard financial statement blank/reporting template, including description of content/disclosure requirements and corresponding instructions.

### 4. Corrective Action

Does the jurisdiction have the authority to order a reinsurer to take corrective action or cease and desist certain practices that, if not corrected or terminated, could place the reinsurer in a hazardous financial condition? This description should address the following:

- a. Identification of specific standards which may be considered to determine whether the continued operation of the reinsurer might be hazardous to the general public.
- b. Whether the jurisdiction has the authority to issue an order requiring the reinsurer to take corrective action when it has been determined to be in hazardous financial condition.

## 5. Regulation and Valuation of Investments

What authority does the jurisdiction have with respect to regulation and valuation of investments? This description should address the following:

- a. Whether the jurisdiction has the authority to require a diversified investment portfolio for all domestic reinsurers as to type, issue and liquidity.
- b. Whether the jurisdiction has the authority to establish acceptable practices and procedures under which investments owned by reinsurers must be valued, including standards under which reinsurers are required to value securities/investments.

## 6. Holding Company Systems

Does the jurisdiction have laws or regulations with respect to supervision of the group holding company systems of reinsurers? This description should address the following:

- a. Whether the jurisdiction has access to information via the parent or other regulated group entities about activities or transactions within the group involving other regulated or non-regulated entities that could have a material impact on the operations of the reinsurer.
- b. Whether the jurisdiction has access to consolidated financial information of a reinsurer's ultimate controlling person.
- c. Whether the jurisdiction has the authority to review integrity and competency of management.
- d. Whether the jurisdiction has approval and intervention powers for material transactions and events involving reinsurers.
- e. Whether the jurisdiction has authority to monitor, or has prior approval authority over:
  - i. Change in control of domestic reinsurers.
  - ii. Dividends and other distributions to shareholders of the reinsurer.
  - iii. Material transactions with affiliates.

## 7. Risk Management

Does the jurisdiction have the authority to require its domestic reinsurers to maintain an effective risk-management function and practices? This description should address the following:

- a. Whether the jurisdiction has Own Risk and Solvency Assessment (ORSA) requirements and reporting.
- b. Any requirements regarding the maximum net amount of risk to be retained by a reinsurer for an individual risk based on the reinsurer's capital and surplus.
- c. Whether the jurisdiction has authority to monitor enterprise risk, including any activity, circumstance, event (or series of events) involving one or more affiliates of a reinsurer that, if not remedied promptly, is likely to have a material adverse effect on the financial condition or liquidity of the reinsurer or its insurance holding company system as a whole.
- d. Whether the jurisdiction has corporate governance requirements for reinsurers.

## 8. Liabilities and Reserves

Does the jurisdiction have standards for the establishment of liabilities and reserves (technical provisions) resulting from reinsurance contracts? This description should address the following:

- a. Liabilities incurred under reinsurance contracts for policy reserves, unearned premium, claims and losses unpaid, and incurred but not reported (IBNR) claims (including whether discounting is allowed for reserve calculation/reporting).
- b. Liabilities related to catastrophic occurrences.
- c. Whether the jurisdiction requires an opinion on reserves and loss and loss adjustment expense reserves by a qualified actuary or specialist for all domestic reinsurers, and the frequency of such reports.

## 9. Reinsurance Ceded

What are the jurisdiction's requirements with respect to the financial statement credit allowed for reinsurance retroceded by its domestic reinsurers? This description should address the following:

- a. Credit for reinsurance requirements applicable to reinsurance retroceded to domestic and non-domestic reinsurers.
- b. Collateral requirements applicable to reinsurance contracts.
- c. Whether the jurisdiction requires a reinsurance agreement to provide for insurance risk transfer (i.e., transfer of both underwriting and timing risk).
- d. Requirements applicable to special purpose reinsurance vehicles and insurance securitizations.
- e. Affiliated reinsurance transactions and concentration risk.
- f. Disclosure requirements specific to reinsurance transactions, agreements and counterparties, if such information is not provided under another item.

## 10. Independent Audits

Does the jurisdiction require annual audits of domestic reinsurers by independent certified public accountants or similar accounting/auditing professional recognized in the applicant jurisdiction? This description should address the following:

- a. Requirements for the filing of audited financial statements prepared in conformity with accounting practices prescribed or permitted by the supervisory authority.
- b. Contents of annual audited financial reports.
- c. Requirements for selection of auditor.
- d. Allowance of audited consolidated or combined financial statements.
- e. Notification of material misstatements of financial condition.
- f. Supervisor's access to auditor's workpapers.
- g. Audit committee requirements.
- h. Requirements for reporting of internal control-related matters.

## 11. Receivership

Does the jurisdiction have a receivership scheme for the administration of reinsurers found to be insolvent? This should include a description of any liquidation priority afforded to policyholders and the liquidation priority of reinsurance obligations to domestic and non-domestic ceding insurers in the context of an insolvency proceeding of a reinsurer.

12. Filings with Supervisory Authority

Does the jurisdiction require the filing of annual and interim financial statements with the supervisory authority? This description should address the following:

- a. The use of standardized financial reporting in the financial statements, and the frequency of relevant updates.
- b. The use of supplemental data to address concerns with specific companies or issues.
- c. Filing format (e.g., electronic data capture).
- d. The extent to which financial reports and information are public records.

13. Reinsurance Intermediaries

Does the jurisdiction have a regulatory framework for the regulation of reinsurance intermediaries?

14. Other Regulatory Requirements with respect to Reinsurers

Any other information necessary to adequately describe the effectiveness of the jurisdiction's laws and regulations with respect to its reinsurance supervisory system.

**Appendix B: Regulatory Practices and Procedures**1. Financial Analysis

What are the jurisdiction's practices and procedures with respect to the financial analysis of its domestic reinsurers? Such description should address the following:

- a. Qualified Staff and Resources  
The resources employed to effectively review the financial condition of all domestic reinsurers, including a description of the educational and experience requirements for staff responsible for financial analysis.
- b. Communication of Relevant Information to/from Financial Analysis Staff  
The process under which relevant information and data received by the supervisory authority are provided to the financial analysis staff and the process under which the findings of the financial analysis staff are communicated to the appropriate person(s).
- c. Supervisory Review  
How the jurisdiction's internal financial analysis process provides for supervisory review and comment.
- d. Priority-Based Analysis  
How the jurisdiction's financial analysis procedures are prioritized in order to ensure that potential problem reinsurers are reviewed promptly.
- e. Depth of Review  
How the jurisdiction's financial analysis procedures ensure that domestic reinsurers receive an appropriate level or depth of review commensurate with their financial strength and position.
- f. Analysis Procedures  
How the jurisdiction has documented its financial analysis procedures and/or guidelines to provide for consistency and continuity in the process and to ensure that appropriate analysis procedures are being performed on each domestic reinsurer.
- g. Reporting of Material Adverse Findings  
The process for reporting material adverse indications, including the determination and implementation of appropriate regulatory action.
- h. Early Warning System/Stress Testing  
Whether the jurisdiction has an early warning system and/or stress testing methodology that is utilized with respect to its domestic reinsurers.

## 2. Financial Examinations

What are the jurisdiction's practices and procedures with respect to the financial examinations of its domestic reinsurers? Such description should address the following:

- a. Qualified Staff and Resources  
The resources employed to effectively examine all domestic reinsurers. This should include whether the jurisdiction prioritizes examination scheduling and resource allocation commensurate with the financial strength and position of each reinsurer, and a description of the educational and experience requirements for staff responsible for financial examinations.
- b. Communication of Relevant Information to/from Examination Staff  
The process under which relevant information and data received by the supervisory authority are provided to the examination staff and the process under which the findings of the examination staff are communicated to the appropriate person(s).
- c. Use of Specialists  
Whether the supervisory authority's examination staff includes specialists with appropriate training and/or experience or whether the supervisory authority otherwise has available qualified specialists that will permit the supervisory authority to effectively examine any reinsurer.
- d. Supervisory Review  
Whether the supervisory authority's procedures for examinations provide for supervisory review.
- e. Examination Guidelines and Procedures  
Description of the policies and procedures the supervisory authority employs for the conduct of examinations, including whether variations in methods and scope are commensurate with the financial strength and position of the reinsurer.
- f. Risk-Focused Examinations  
Does the supervisory authority perform and document risk-focused examinations and, if so, what guidance is utilized in conducting the examinations? Are variations in method and scope commensurate with the financial strength and position of the reinsurer?
- g. Scheduling of Examinations  
Whether the supervisory authority's procedures provide for the periodic examination of all domestic reinsurers, including how the system prioritizes reinsurers that exhibit adverse financial trends or otherwise demonstrate a need for examination.
- h. Examination Reports  
Description of the format in which the supervisory authority's reports of examinations are prepared, and how the reports are shared with other jurisdictions under information-sharing agreements.
- i. Action on Material Adverse Findings  
What are the jurisdiction's procedures regarding supervisory action in response to the reporting of any material adverse findings.

## 3. Information Sharing

Does the jurisdiction have a process for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with U.S. state regulatory officials, provided that the recipients are required, under their law, to maintain its confidentiality?

4. Procedures for Troubled Reinsurers

What procedures does the jurisdiction follow with respect to troubled reinsurers?

5. Organization, Licensing and Change of Control of Reinsurers

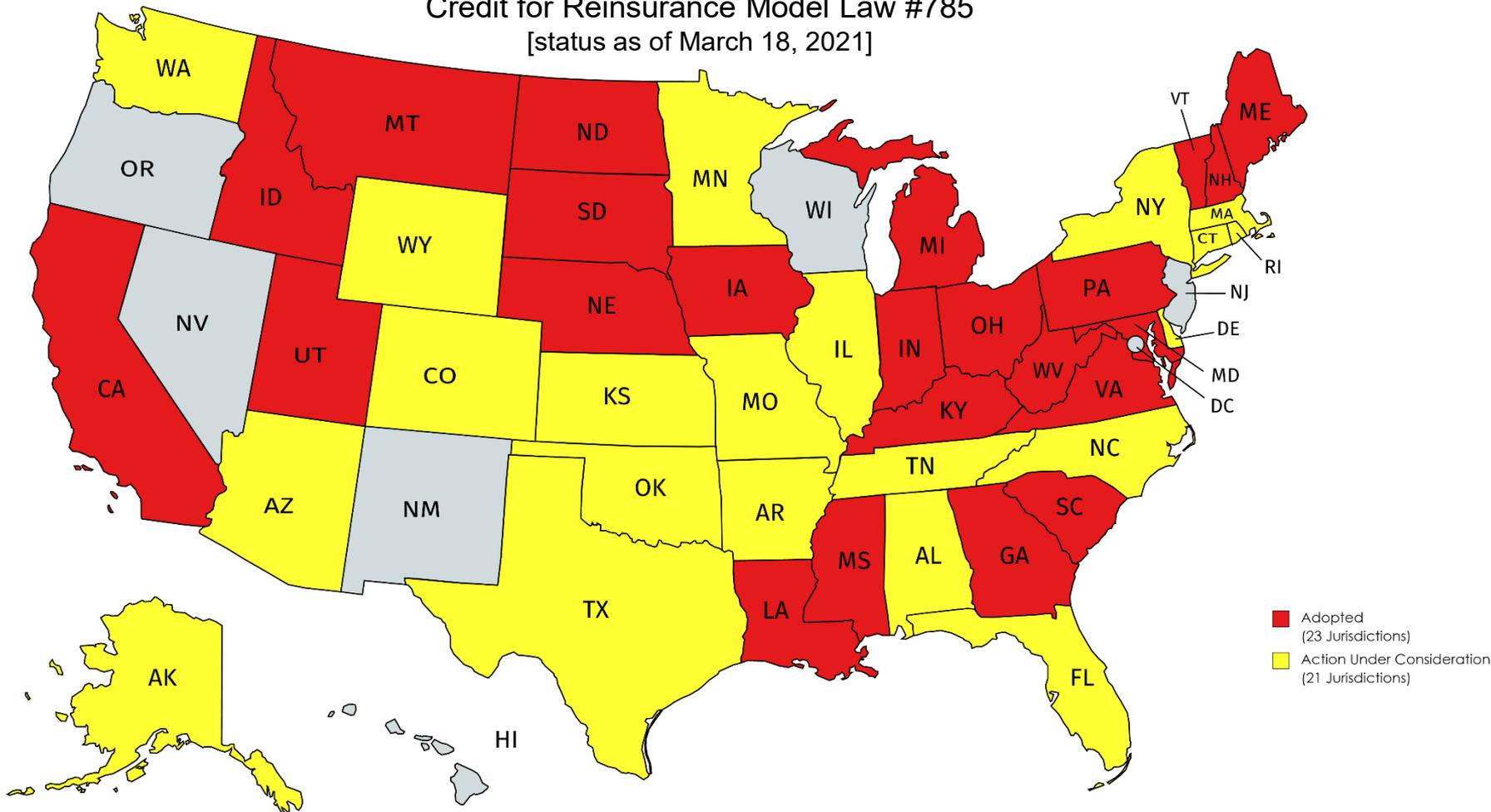
What processes does the supervisory authority use to identify unlicensed or fraudulent activities? The description should address the following:

- a. Licensing Procedure  
Whether the supervisory authority has documented licensing procedures that include a review and/or analysis of key pieces of information included in a primary licensure application.
- b. Staff and Resources  
The educational and experience requirements for staff responsible for evaluating company licensing.
- c. Change in Control of a Domestic Reinsurer  
Procedures for the review of key pieces of information included in filings with respect to a change in control of a domestic reinsurer.

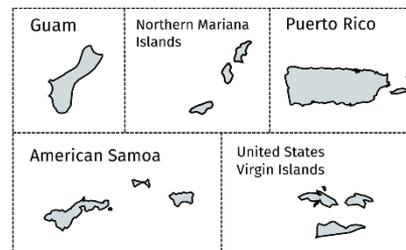
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# Implementation of the 2019 Revisions to the Credit for Reinsurance Model Law #785

[status as of March 18, 2021]



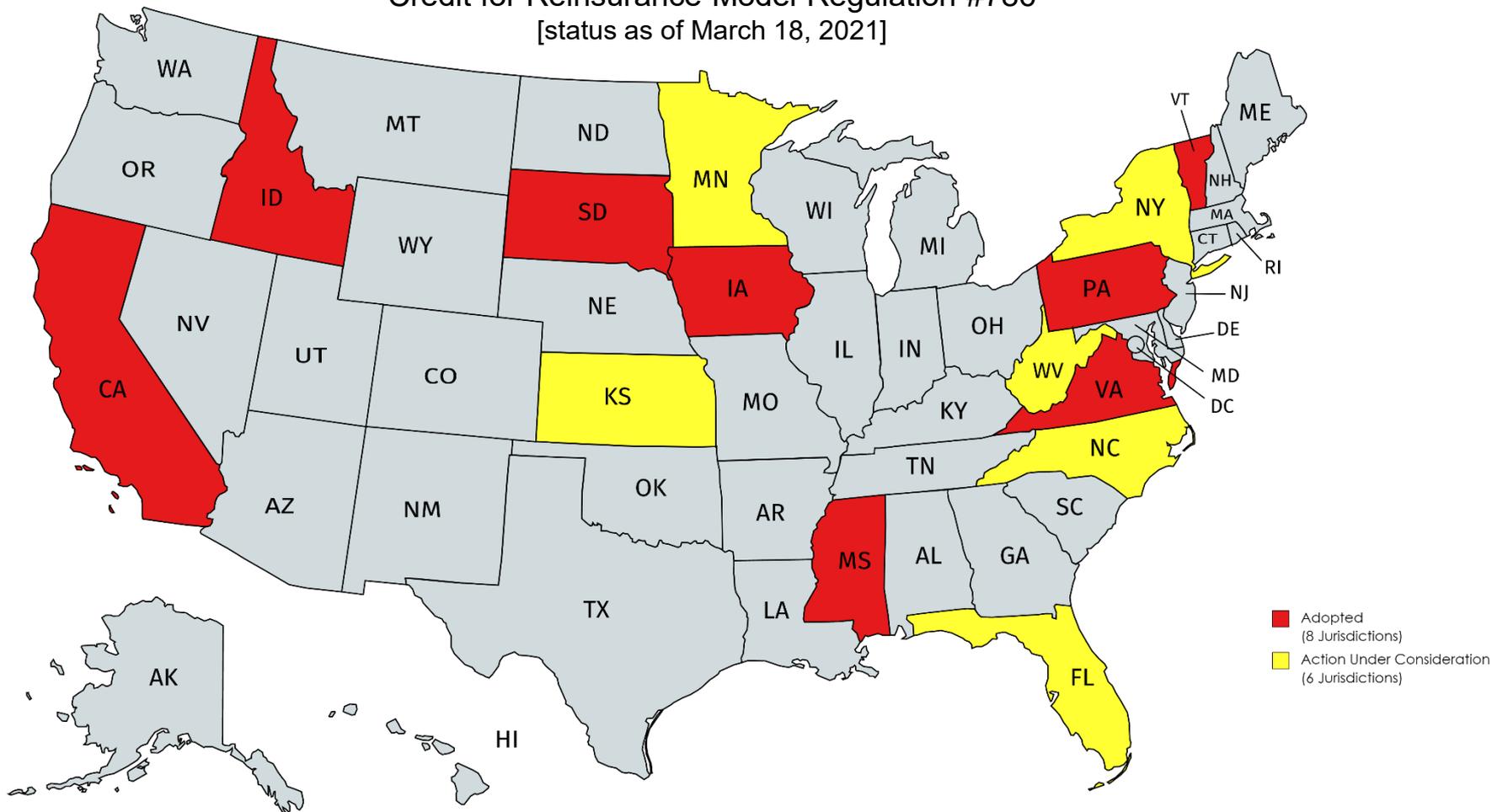
■ Adopted  
 (23 Jurisdictions)  
■ Action Under Consideration  
 (21 Jurisdictions)



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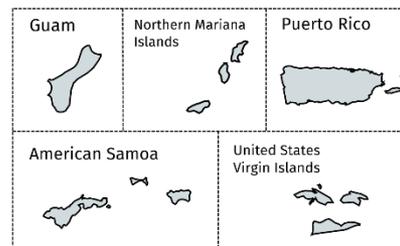
Disclaimer: This map represents state action or pending state action regarding NAIC amendments to the model(s). This map does not reflect a determination as to whether the pending or enacted legislation contains all elements of NAIC amendments to the model(s) or whether a state meets any applicable accreditation standards.

# Implementation of the 2019 Revisions to the Credit for Reinsurance Model Regulation #786 [status as of March 18, 2021]



**Adopted**  
(8 Jurisdictions)

**Action Under Consideration**  
(6 Jurisdictions)



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