AGENDA

1. Consider Adoption of its Minutes—John Rehagen (MO)
   a. March 11
   b. Jan. 29
   c. 2019 Fall National Meeting

2. Consider Adoption of the Uniform Checklist for Reciprocal Jurisdiction Reinsurers and Updates to the Uniform Application Checklist for Certified Reinsurers—John Rehagen (MO)
   a. Uniform Checklist for Reciprocal Jurisdiction Reinsurers
   b. Uniform Application Checklist for Certified Reinsurers
   c. Comment Letters

3. Discuss Whether Compliance with Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (Model 830) (AG 48) Should be Considered “Substantially Similar” to the Term and Universal Life Insurance Reserve Financing Model Regulation (#787) for Accreditation Purposes—John Rehagen (MO)
   a. Feb. 5 Exposure Documents

4. Discuss Any Other Matters Brought Before the Task Force—John Rehagen (MO)

5. Adjournment
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The Reinsurance (E) Task Force met via conference call March 11, 2020. The following Task Force members participated: Chlora Lindley-Myers, Chair, represented by John Rehagen (MO); Raymond G. Farmer, Vice Chair, and Daniel Morris (SC); Lori K. Wing-Heier represented by David Phifer (AK); Jim L. Ridling represented by Sheila Travis (AL); Ricardo Lara represented by Monica Macaluso and Kim Hudson (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Kathy Belfi and Jim Jakielo (CT); Trinidad Navarro represented by Dave Lonchar (DE); David Altmaier represented by Carolyn Morgan (FL); John F. King represented by Martin Sullivan (GA); Dean L. Cameron represented by Nathan Faragher (ID); Robert H. Muriel represented by Eric Moser and Susan Berry (IL); Stephen W. Robertson represented by Roy Efi (IN); Vicki Schmidt represented by Chut Tee (KS); Sharon P. Clark represented by Russell Coy (KY); James J. Donelon represented by Stewart Guerin (LA); Gary Anderson represented by Christopher Joyce (MA); Eric A. Cioppa, represented by Robert Wake (ME); Jon Godfread represented by Colton Schulz (ND); Bruce R. Ramge represented by Lindsay Crawford (NE); Chris Nicolopoulos represented by Doug Bartlett (NH); Marlene Caride represented by John Tirado (NJ); Barbara D. Richardson represented by Joel Bengo (NV); Linda A. Lacewell represented by Michael Campanelli (NY); Jillian Froment represented by Dale Bruggeman (OH); Glen Mulready represented by Diane Carter (OK); Kent Sullivan represented by Doug Slape and Mike Boerner (TX); Todd E. Kiser represented by Reed Stringham (UT); Scott A. White represented by David Smith and Doug Stolte (VA); Michael S. Pieciak represented by Sandra Bigglestone (VT); and Mark Afable represented by Randy Milquet (WI).

1. **Adopted a Recommendation to the Financial Regulation Standards and Accreditation (F) Committee that the 2019 Revisions to Model #785 and Model #786 Should be an Accreditation Standard for RRGs**

Mr. Rehagen stated that at the 2019 Fall National Meeting, the Financial Regulation Standards and Accreditation (F) Committee adopted the 2019 revisions to the Credit for Reinsurance Model Law (#785) and the Credit for Reinsurance Model Regulation (#786) as an accreditation standard. The Executive (EX) Committee and Plenary are expected to consider it for final adoption at the Spring National Meeting, to be effective Sept. 1, 2022.

Dan Schelp (NAIC) stated that during the drafting process for the 2019 revisions to Model #785 and Model #786, risk retention groups (RRGs) were never specifically addressed. He stated that a memorandum (Attachment A) was prepared by NAIC staff that recommended that both the 2011 revisions and 2019 revisions to Model #785 and Model #786 should be adopted as an accreditation standard. He stated that the memorandum also recommends that the 2011 revisions to the models relating to certified reinsurers and qualified jurisdictions also be made a part of the accreditation standard since the 2019 revisions are based on the earlier revisions. Finally, the Risk Retention Group (E) Task Force unanimously adopted this recommendation during its March 2, 2020, conference call.

Mr. Kaumann made a motion, seconded by Mr. Stolte, to adopt the motion to confirm the Task Force’s support for the memorandum prepared by NAIC staff, specifically that both the 2011 revisions to Model #785 and Model #786 relating to certified reinsurers and qualified jurisdictions and the 2019 revisions relating to reciprocal jurisdictions be applicable to RRGs for accreditation purposes, with an effective date of Sept. 1, 2022. The motion passed unanimously.

2. **Discussed Whether Compliance with AG 48 Should be Considered “Substantially Similar” to Model #787 for Accreditation Purposes**

Mr. Rehagen stated that at the 2019 Fall National Meeting, the Financial Regulation Standards and Accreditation (F) Committee adopted the Term and Universal Life Insurance Reserve Financing Model Regulation (#787) as an accreditation standard with an effective date of Sept. 1, 2022. Model #787 is a codification of Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (Model 830) (AG 48), with the primary exception that AG 48 and Model #787 contain different penalty provisions.

Mr. Rehagen stated that during the Jan. 29, 2020, call of the Task Force, there was a discussion about whether compliance with AG 48 should be considered to be “substantially similar” to Model #787 for accreditation purposes. As a result of this discussion, the Task Force exposed a memorandum (Attachment B) on Feb. 5, 2020, for a 21-day public comment period. Mr. Rehagen stated that three comment letters were received, one from the American Academy of Actuaries (Academy), one from the Connecticut Insurance Department, and a combined letter from New York Life and Northwestern Mutual (Attachment C).
He stated that the three comment letters supported the adoption of Model #787, rather than reliance on AG 48 for the Reinsurance Ceded accreditation standard.

Mr. Schelp provided background information on this issue. He noted that the recommendation from the Task Force to the Financial Regulation Standards and Accreditation (F) Committee in 2017 was to make Model #787 an accreditation standard effective Jan. 1, 2020, which coincided with the effective date of the accreditation standard for principle-based reserving (PBR). He noted that it was recognized that some states might have problems meeting this expedited schedule, so the Task Force also recommended that in such cases, a state’s compliance with AG 48 should be considered as satisfactory to the Committee as substantial compliance with Model #787. The adoption of Model #787 as an accreditation standard was delayed by the Committee due to the issuance of the “Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance” (Covered Agreement), which was signed on Sept. 22, 2017.

Mr. Schelp stated that the issue is whether AG 48 should be considered to be substantially similar to Model #787 for accreditation purposes. He noted that the requirements under both AG 48 and Model #787 are virtually identical, except for the penalty provision if the requirements are not met. Under AG 48, the penalty is a qualified actuarial opinion and an increase in the Authorized Control Level Risk-Based Capital (RBC) equal to the primary security shortfall. The penalty under Model #787 is that the ceding insurer is required to establish a liability equal to the excess of the credit for reinsurance taken over the amount of primary security.

Mr. Schelp stated that the Accreditation Program Manual has a definition of “substantially similar” that declares that a state is required to demonstrate that its law, regulation or administrative practice is similar in force and no less effective than the NAIC model. Since 2016, NAIC staff have been assessing compliance with AG 48, and it has ascertained that there were no transactions that had either a primary security shortfall or another security shortfall in any of the years reviewed.

Mr. Schelp stated that at the time that Model #787 was being contemplated, the intention was for it to replace AG 48 for accreditation purposes. He stated that the accreditation standards are usually based on NAIC model laws, which are required to be adopted by the states. He noted that Model #787 was the codification of AG 48. He stated that after Model #787 was adopted, AG 48 was updated and revised to make it consistent with Model #787. He noted that AG 48 has a sunset provision that it will sunset when a state adopts a regulation substantially similar to Model #787, but it will continue to apply only with respect to the limited number of states in which their version of Model #787 applies prospectively only. Mr. Stolte stated that the intention was for AG 48 to be a temporary transition guidance until Model #787 was adopted by the states.

Ms. Belfi referred to the comment letter from the Connecticut Insurance Department, and she stated that there are substantial differences between Model #787 and AG 48. She noted that the impact of a qualified actuarial opinion results in a modified RBC for AG 48 instead of the direct balance sheet effect as prescribed by Model #787, which is a significant difference. Ms. Berry asked if Ms. Belfi’s only objection was with the difference in the penalty and whether modifying the penalty in AG 48 would be satisfactory. Mr. Rehagen noted that evaluation of credit for reinsurance is part of the state insurance regulator’s role and not that of actuaries, so it is his opinion that the penalty provision of AG 48 cannot be changed to match that of Model #787.

Ms. Belfi proposed modifying AG 48 to include provisions from Model #787 and allowing more time for the states to adopt Model #787. Mr. Schelp stated that actuarial guidelines generally only affect reserves, while Model #787 directly affects credit for reinsurance. Mr. Boerner noted that a stronger penalty could be added to AG 48, but Texas prefers that AG 48 be considered substantially similar to Model #787 for accreditation purposes. He stated that while AG 48 and Model #787 have different penalties, they have had the same outcome of preventing these transactions.

Richard Daillak (American Academy of Actuaries—Academy) stated that the Academy’s concern is with the difference in penalty between AG 48 and Model #787. He stated that the Academy has concerns with having a forced qualified actuarial opinion as the penalty mechanism, and he stated that AG 48 was intended to sunset after a state adopts Model #787.

Mr. Boerner asked if the Academy agrees that AG 48 should remain effective for contracts that were already in force prior to adoption of Model #787. Mr. Daillak stated that in that case, it would be appropriate to use AG 48 for those contracts, but he recommended the elimination of the use of AG 48 for everything else. Mr. Bruggeman stated that with AG 48, a company can correct the problem with reserves prior to the qualified actuarial opinion being issued, and the company will then receive an unqualified actuarial opinion.

Mr. Slape stated that if a company is in compliance with either AG 48 or Model #787, it will receive an unqualified actuarial opinion, and if it is out of compliance with either AG 48 or Model #787, it will receive a qualified actuarial opinion. Mr. Wake
stated that the difference is legal compliance versus compliance with actuarial guidelines. He stated that there is an actuarial penalty for violating either AG 48 or Model #787, but only Model #787 has the regulatory penalty of a denial of credit for reinsurance, which has a direct balance sheet impact, in addition to the indirect impact on the reserves. Mr. Jakielo noted that Model #787 does not have a requirement of a qualified actuarial opinion.

Doug Wheeler (New York Life) made reference to his letter, and he stated that the process to create Model #787 was a multi-year process and was heavily negotiated. He noted that there are fundamental differences between the penalties in Model #787 and AG 48. He stated that he agrees with giving the states more time to adopt Model #787 and moving the effective date of the accreditation standard further into the future. Andrew T. Vedder (Northwest Mutual) agreed with the points made by Mr. Wheeler, and he agreed that Model #787 should be the accreditation standard.

Mr. Rehagen asked the Task Force members if the recommendation to the Financial Regulation Standards and Accreditation (F) Committee should be that the effective date should be moved into the future and they should discuss allowing AG 48 with added penalty provisions as a substitute for Model #787. Mr. Hudson stated that California believes that Model #787 should be the standard, and it does not support AG 48 as a permanent substitute. Mr. Bruggeman stated that Ohio intends to adopt Model #787, but the effective date of Sept. 1, 2022, will be too soon to get the legislative work completed. He stated that extending that date may be a solution.

Ms. Belfi asked if there is a way to allow a reprieve to allow the states more time to adopt Model #787 and increase the RBC penalty for violating AG 48. Mr. Slape stated that the effective date is not the issue for Texas, and they believe that AG 48 and Model #787 are substantially similar. Mr. Bruggeman stated that extending the date would be helpful for Ohio. Mr. Jakielo suggested working through the RBC instructions to make the penalty equivalent for AG 48 and Model #787.

Mr. Rehagen directed NAIC staff to create a document that outlines today’s discussion and includes arguments for and against having AG 48 be considered substantially similar to Model #787, which can be voted on by the Task Force during its April 2020 conference call.

Having no further business, the Reinsurance (E) Task Force adjourned.
The Reinsurance (E) Task Force met via conference call Jan. 29, 2020. The following Task Force members participated: Chlora Lindley-Myers, Chair, represented by John Rehagen (MO); Raymond G. Farmer, Vice Chair, represented by Lee Hill (SC); Jim L. Ridling represented by Richard Ford (AL); Allen W. Kerr represented by Mel Anderson (AR); Ricardo Lara represented by Monica Macaluso and Kim Hudson (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Kathy Belfi (CT); Trinidad Navarro represented by Charles Santana (DE); David Altmairer represented by Robert Ridenour (FL); John F. King represented by Martin Sullivan (GA); Doug Ommen represented by Carrie Mears (IA); Dean L. Cameron represented by Eric Fletcher (ID); Robert H. Muriel represented by Eric Moser (IL); Stephen W. Robertson represented by Roy Eft and Amy Beard (IN); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Rodney Hugle (KY); James J. Donelon represented by Stewart Guerin (LA); Gary Anderson represented by Christopher Joyce (MA); Jon Godfrey represented by Matt Fischer (ND); Bruce R. Ramge represented by Lindsay Crawford (NE); Alexander K. Feldvebel represented by Doug Bartlett and Patricia Gosselin (NH); Marlene Caride represented by John Tirado (NJ); Barbara D. Richardson represented by Joel Bengo (NV); Linda A. Lacewell represented by Michael Campanelli (NY); Jillian Froment represented by Dale Bruggeman (OH); Glen Mulready represented by Eli Snowbarger (OK); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Kent Sullivan represented by Doug Slaepe and Mike Boerner (TX); Todd E. Kiser represented by Jake Garn (UT); Scott A. White represented by Doug Stolte (VA); Michael S. Pieciak represented by Stacey Alden (VT); and Mark Afable represented by Randy Milquet (WI).

1. **Adopted Technical Edits to Model #787**

Mr. Rehagen stated that at the 2019 Fall National Meeting, the Financial Regulation Standards and Accreditation (F) Committee adopted the *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787) as an accreditation standard. The NAIC Executive (EX) Committee and Plenary are expected to consider it for final adoption at the Spring National Meeting, to be effective Sept. 1, 2022. He noted that several technical edits are required to Model #787 prior to becoming an accreditation standard. Mr. Rehagen stated that the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786) were also adopted as accreditation standards at the 2019 Fall National Meeting, but that there are no revisions to Model #785 and Model #786 currently being considered.

Dan Schelp (NAIC) stated that the NAIC adopted Model #787 in 2016 to address captive reinsurance transactions involving term life and universal life with secondary guarantees (ULSG), which are often referred to as XXX/AXXX policies. This was part of a long process that included adoption of the XXX/AXXX Captive Reinsurance Framework in 2013, as well as *Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation* (AG 48) in 2014. In 2015, the NAIC amended the Preamble of the *Accreditation Program Manual* to provide that XXX/AXXX Captive Reinsurers that reinsure business covering risks residing in at least two states are multistate insurers and are subject to the accreditation standards. However, they can satisfy these standards by complying with the XXX/AXXX Captive Reinsurance Framework. NAIC staff confirm each year that captive reinsurers are complying with this requirement. Model #787 was then intended to codify AG 48 and be adopted as its own accreditation standard.

Mr. Schelp stated that the NAIC adopted revisions to Model #785 in 2016, which included a new Section 5B. He stated that Section 5B(1)-(3) provide enabling legislation permitting a commissioner to adopt Model #787 and other related regulations, and that Section 5B(4) provides an exemption for “professional reinsurers” from Model #787. Mr. Schelp stated that at the 2017 Summer National Meeting, the Task Force presented a new recommended accreditation standard but did not include Model #785 as part of that accreditation standard. He noted that it does include reinsurance exempted under Section 4 of Model #787, which covers an assuming insurer meeting the requirements of either Section 5B(4)(a) or Section 5B(4)(b) of Model #785. Mr. Schelp stated that these requirements were only referenced in Model #787, but the actual technical exemptions themselves are only included in Model #785. The Financial Regulation Standards and Accreditation (F) Committee deferred action on Model #787 at that time due to uncertainties surrounding the Covered Agreement.

Mr. Schelp stated that the proposed revisions to Model #787 are technical in nature and may be adopted by the Task Force. They would still need to be reported to the Financial Condition (E) Committee and NAIC Executive (EX) Committee and Plenary.
Mr. Slape stated that the memorandum from the Task Force to the Financial Regulation Standards and Accreditation (F) Committee in 2017 noted that adoption of AG 48 was substantially similar to adoption of Model #787, and he asked if this is still the case.

Mr. Schelp stated that AG 48 was not included in the motion related to making Model #787 an accreditation standard at the 2019 Fall National Meeting. He noted that the main differences between AG 48 and Model #787 are the penalty provisions. He stated that if a company does not meet the standards of AG 48, it must file a qualified actuarial opinion, and if a company does not meet the standard of Model #787, it will not receive credit for reinsurance with respect to the securities that do not meet the standard of Model #787. Mr. Schelp added that AG 48 sunsets in a state once that state has enacted Model #787.

Becky Meyer (NAIC) stated that the Financial Regulation Standards and Accreditation (F) Committee will make the ultimate determination of whether AG 48 and Model #787 are substantially similar, and that the Committee will welcome recommendations from the Task Force.

Mr. Slape stated that he believes that AG 48 and Model #787 are substantially similar. He noted that in addition to the penalties described by Mr. Schelp, there is a risk-based capital (RBC) impact for companies that file a qualified actuarial opinion under AG 48. He stated that Texas supports the Task Force considering AG 48 and Model #787 as substantially similar. Mr. Boerner provided some additional information on the RBC impact of a violation of AG 48.

Ms. Belfi stated that she disagrees with the position that AG 48 and Model #787 are substantially similar and that she would provide her comments in writing to the Task Force. She also recommended that the American Academy of Actuaries (Academy) be contacted for comment.

Mr. Rehagen directed NAIC staff to create a memorandum that shows the differences between AG 48 and Model #787 and expose that memorandum for a 21-day public comment period to solicit comments on whether they should be considered substantially similar for the accreditation standard.

Ms. Beard stated that Indiana is working on an expedited process to implement Model #787 and that this process must be done in the next few weeks to work within the legislative session. She said she will need the feedback as soon as possible to ensure that it is enacted correctly.

Ms. Belfi made a motion, seconded by Mr. Hill, to adopt the technical revisions to Section 1, Section 4E and Section 7 of Model #787 (Attachment A). The motion passed, with Ohio and Texas abstaining.

Having no further business, the Reinsurance (E) Task Force adjourned.
The Reinsurance (E) Task Force met in Austin, TX, Dec. 8, 2019. The following Task Force members participated: Chlora Lindley-Myers, Chair, and John Rehagen (MO); Raymond G. Farmer, Vice Chair, represented by Lee Hill (SC); Lori K. Wing-Heier represented by David Phifer (AK); Jim L. Ridling represented by Sheila Travis (AL); Allen W. Kerr represented by Mel Anderson (AR); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Kathy Belfi and Wanchin Chou (CT); Stephen C. Taylor represented by Philip Barlow (DC); Trinidad Navarro represented by Rylenn Brown (DE); David Altmaier represented by Virginia Chritst and Susanne Murphy (DC); Doug Omphen represented by Kim Cross (IA); Dean L. Cameron represented by Nathan Faragher (ID); Stephen W. Robertson represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); James J. Donelon represented by Stewart Guerin (LA); Gary Anderson represented by Christopher Joyce (MA); Eric A. Cioppa represented by Robert Wake (ME); Matthew Rosendale represented by Steve Matthews (MT); Mike Causey represented by Angela Hatchell (NC); Jon Godfried represented by Matt Fischer (ND); Bruce R. Ramge represented by Lindsay Crawford (NE); John Elias represented by Doug Bartlett (NH); Linda A. Lacewell represented by Puran Bheamsain (NY); Jillian Froment represented by Dale Bruggeman (OH); Glen Mulreedy represented by Eli Snowbarger (OK); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Hodgen Mainda represented by Trey Hancock (TN); Kent Sullivan represented by Jamie Walker (TX); Todd E. Kiser represented by Jake Garn (UT); Scott A. White represented by Doug Stolte (VA); Michael S. Pieciak represented by David Provost (VT); Mark Afable represented by Randy Milquet (WI); and James A. Dodrill represented by Ellen Potter (WV).

1. **Adopted its Oct. 22 and Summer National Meeting Minutes**

   The Task Force met Oct. 22 to: 1) adopt revisions to the *Process for Evaluating Qualified and Reciprocal Jurisdictions*; 2) adopt the re-evaluations of France, Germany, Ireland and the United Kingdom (UK) as Qualified Jurisdictions; and 3) adopt the recommendation on revisions to the Reinsurance Ceded section of the *Accreditation Program Manual*.

   Mr. Eft made a motion, seconded by Mr. Kaumann, to adopt the Task Force’s Oct. 22 (Attachment One) and Aug. 4 (see *NAIC Proceedings – Summer 2019, Reinsurance (E) Task Force*) minutes. The motion passed unanimously.


   Mr. Kaumann provided the report of the Reinsurance Financial Analysis (E) Working Group. He stated that the Working Group met Oct. 10, 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 applications of four new certified reinsurers and the renewal of 10 certified reinsurers. The Working Group met Nov. 26, 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 17 certified reinsurers. Mr. Kaumann stated that the Working Group would meet once more during December to consider one additional application for a certified reinsurer.

   Mr. Kaumann stated that the Working Group monitors 33 certified reinsurers that have been recommended for passporting, noting that the Working Group will begin discussions to determine the best and most effective approaches for the financial solvency surveillance of these non-U.S. reinsurers as reciprocal jurisdictions.

   Mr. Kaumann made a motion, seconded by Mr. Wake, to adopt the report of the Reinsurance Financial Analysis (E) Working Group. 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 three times since the Summer National Meeting in regulator-to-regulator sessions, 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.
Mr. Wake stated that the Working Group met Aug. 22 and discussed and agreed upon revisions to the Process for Evaluating Qualified and Reciprocal Jurisdictions and approved the Re-Evaluation of Qualified Jurisdiction and Summary of Findings and Determination for France, Germany, Ireland and the UK as qualified jurisdictions. He stated that the documents were exposed for a 30-day public comment period ending Oct. 4, noting that the Task Force adopted the revisions to the Process for Evaluating Qualified and Reciprocal Jurisdictions and reapproved France, Germany, Ireland and the UK as qualified jurisdictions during its Oct. 22 conference call.

Mr. Wake stated that the Working Group met Nov. 5 and Oct. 7 to discuss the evaluations of Bermuda, Japan and Switzerland as both qualified jurisdictions and reciprocal jurisdictions. On the Nov. 5 conference call, the Working Group and the Task Force exposed the Re-Evaluation of Qualified Jurisdiction and the Evaluation of Reciprocal Jurisdiction for Bermuda, Japan and Switzerland for 30-day public comment periods ending Dec. 5. Mr. Wake stated that NAIC staff kept the Federal Insurance Office (FIO) and the Office of the U.S. Trade Representative (USTR) updated in accordance with the revised Process for Evaluating Qualified and Reciprocal Jurisdictions.

Mr. Wake made a motion, seconded by Mr. Milquet, to adopt the report of the Qualified Jurisdiction (E) Working Group. The motion passed unanimously.

4. Adopted the Re-Evaluation of Qualified Jurisdiction and the Evaluation of Reciprocal Jurisdiction for Bermuda, Japan and Switzerland

Craig Swan (Bermuda Monetary Authority) provided a statement supporting the adoption of Bermuda as a reciprocal jurisdiction and the re-evaluation as a qualified jurisdiction.

Mr. Rehagen stated that the qualified jurisdiction re-evaluations for France, Germany, Ireland and the UK were adopted by the Task Force on the Oct. 22 conference call. He stated that with the adoption of Bermuda, Japan and Switzerland as qualified jurisdictions by the Task Force at this meeting, the Executive (EX) Committee and Plenary will be able to adopt the re-evaluations of the seven qualified jurisdictions together at the Fall National Meeting. He noted that the original approvals of these seven qualified jurisdictions are due to expire Dec. 31.

Dan Schelp (NAIC) stated that the use of certified reinsurers domiciled in qualified jurisdictions will be gradually phased-out over the next few years in favor of reciprocal jurisdictions, but these jurisdictions must maintain their status as qualified jurisdictions until that time. Mr. Schelp stated that the meeting materials contained the Summary of Findings and Determination as qualified jurisdictions for Bermuda, Japan and Switzerland. There was only one comment letter from the American Council of Life Insurers (ACLI) (Attachment Five) received when these were exposed for public comment.

Mr. Schelp stated that 2019 revisions to the Credit for Reinsurance Model Law (#785) and the Credit for Reinsurance Model Regulation (#786) and the revised Process for Evaluating Qualified and Reciprocal Jurisdictions provide that qualified jurisdictions that are not subject to an in-force covered agreement and that meet certain other requirements may be approved as reciprocal jurisdictions and receive similar reinsurance collateral treatment. He stated that the jurisdiction must recognize the U.S. state regulatory approach to group supervision and group capital.

Mr. Schelp stated that a determination was made on a minimum solvency or capital ratios to be applied to reinsurers licensed and domiciled in the Bermuda, Japan and Switzerland because these jurisdictions do not utilize either the solvency capital requirement under Solvency II or risk-based capital under the U.S. system. He added that each jurisdiction must have a memorandum of understanding in place with a state for the purpose of regulatory cooperation and the sharing of confidential information. Mr. Schelp stated that Bermuda, Japan and Switzerland had each completed these requirements and had provided the confirmation letter that is outlined in the Process for Evaluating Qualified and Reciprocal Jurisdictions.

Mr. Schelp stated that the meeting materials contained the Summary of Findings and Determination as reciprocal jurisdictions for Bermuda, Japan and Switzerland. There was only one comment letter from the ACLU (Attachment Nine) received when these were exposed for public comment.

Ms. Belfi made a motion, seconded by Ms. Murphy, to: 1) adopt the Summary of Findings and Determination for Bermuda (Attachment Two), Japan (Attachment Three) and Switzerland (Attachment Four) with respect to their re-evaluations as qualified jurisdictions; 2) adopt the Summary of Findings and Determination for Bermuda (Attachment Six), Japan (Attachment Seven) and Switzerland (Attachment Eight) for their approval as reciprocal jurisdictions; and 3) place them on the NAIC List of Reciprocal Jurisdictions. The motion passed unanimously.
5. **Exposed an Annual Reporting Blanks Proposal to Incorporate the 2019 Revisions to Model #785 and Model #786 into the Annual Reporting Blanks and Instructions**

Jake Stultz (NAIC) stated that this agenda item updates the annual reporting blanks to allow companies to report reinsurance with reciprocal jurisdiction reinsurers when the 2019 revisions to Model #785 and Model #786 are enacted by the state legislatures. He stated that the reciprocal jurisdiction reinsurers will need to get a new identification number for this reporting, noting that this is the same process as was done with certified reinsurers.

Mr. Stultz stated that the Blanks (E) Working Group plans to expose this agenda item during its Dec. 17 meeting, noting that this exposure will last until approximately Feb. 21, 2020, with final consideration of adoption expected at the 2020 Spring National Meeting.

Ms. Travis made a motion, seconded by Ms. Crawford, to expose the Annual Reporting Blanks proposal, which incorporates the 2019 revisions from the Model #785 and Model #786 into the annual reporting blanks and instructions (Attachment Ten). The motion passed unanimously.

6. **Received an Update on Model #787 and the 2019 Revisions to Model #785 and Model #786 as Accreditation Standards**

Mr. Schelp stated that the Financial Regulation Standards and Accreditation (F) Committee adopted the 2019 revisions to Model #785 and Model #786 as revisions to the Reinsurance Ceded accreditation standard in the *Accreditation Program Manual* during its Dec. 9 meeting. He stated that the Committee also adopted the *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787) as a new accreditation standard.

Mr. Schelp noted that these revisions will be incorporated on an expedited basis and a waiver of process will be used, with an effective date for these accreditation standards of Sept. 1, 2022, with enforcement beginning Jan. 1, 2023. He noted that this date coincides with the date by which the FIO must complete federal preemption determination of state laws under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Steve Clayburn (ACLI) stated that several state legislatures are beginning work on enacting the 2019 revisions to Model #785 and Model #786, but few have acted on Model #787 or the 2016 revisions to Model #785.

Mr. Schelp stated that a legislative packet with information on the 2019 revisions to Model #785 and Model #786 have been sent to the state legislatures, noting that this packet will be updated to include Model #787 and resubmitted to the state legislatures.

Having no further business, the Reinsurance (E) Task Force adjourned.
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# Uniform Checklist for Reciprocal Jurisdiction Reinsurers

## Reciprocal Jurisdiction Reinsurer Information:
- **Company Name:**
- **Address:**
- **Primary Contact:**
- **Domiciliary Jurisdiction / Supervisory Authority:**
- **Applicable Lines of Business:**

## I. Filing Requirements for “Lead State” of Reciprocal Jurisdiction Reinsurer

Check appropriate box:

- [ ] Initial Filing
- [ ] Annual Filing

The “Lead State” will uniformly require assuming insurers to provide the following documentation so that other states may rely upon the Lead State’s determination:

<table>
<thead>
<tr>
<th>Citation to State Law / Regulation</th>
<th>Requirements</th>
<th>Y or N</th>
<th>Reference and Supporting Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Model #786 § 9A &amp; B</td>
<td><strong>Status of Reciprocal Jurisdiction:</strong> The assuming insurer must be licensed to write reinsurance by, and has its head office or is domiciled in, a Reciprocal Jurisdiction that is listed on the <em>NAIC List of Reciprocal Jurisdictions</em>:</td>
<td></td>
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<tr>
<td>Model #785 §2F(1)(a)</td>
<td>• A non-U.S. jurisdiction that is subject to an in-force Covered Agreement with the United States;</td>
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<td>• A U.S. jurisdiction that meets the requirements for accreditation under the NAIC Financial Standards and Accreditation Program;</td>
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<td>• A Qualified Jurisdiction that has been determined by the commissioner to meet all applicable requirements to be a Reciprocal Jurisdiction.</td>
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<tr>
<td>Model #786 § 9C(2)</td>
<td><strong>Minimum Capital and Surplus:</strong> The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Model #785 §2F(1)(b)</td>
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</tr>
</tbody>
</table>

© 2020 National Association of Insurance Commissioners
<table>
<thead>
<tr>
<th>Citation to State Law / Regulation</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Model #786 § 9C(7)</td>
<td>the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction:</td>
</tr>
<tr>
<td></td>
<td>• No less than $250,000,000 (USD); or</td>
</tr>
<tr>
<td></td>
<td>• If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:</td>
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<tr>
<td></td>
<td>▪ Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least $250,000,000 (USD); and</td>
</tr>
<tr>
<td></td>
<td>▪ A central fund containing a balance of the equivalent of at least $250,000,000 (USD).</td>
</tr>
<tr>
<td>Model #785 §2F(1)(g)</td>
<td>The assuming insurer’s supervisory authority must confirm to the commissioner on an annual basis according to the methodology of its domiciliary jurisdiction that the assuming insurer complies with this requirement.</td>
</tr>
<tr>
<td></td>
<td>Minimum Solvency or Capital Ratio: The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio.</td>
</tr>
<tr>
<td>Model #786 § 9C(3)</td>
<td>• The ratio specified in the applicable in-force Covered Agreement where the assuming insurer has its head office or is domiciled; or</td>
</tr>
<tr>
<td>Model #785 §2F(1)(c)</td>
<td>• If the assuming insurer is domiciled in an accredited state, a risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, calculated in accordance with the formula developed by the NAIC; or</td>
</tr>
<tr>
<td></td>
<td>• If the assuming insurer is domiciled in a Reciprocal Jurisdiction that is a Qualified Jurisdiction, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency.</td>
</tr>
<tr>
<td>Citation to State Law / Regulation</td>
<td>Requirements</td>
</tr>
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</tr>
<tr>
<td>Model #786 § 9C(7)</td>
<td>The assuming insurer’s supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with this requirement.</td>
</tr>
<tr>
<td>Model #785 § 2F(1)(g)</td>
<td>Form RJ-1: The assuming insurer must agree to and provide a signed Form RJ-1, which must be properly executed by an officer of the assuming insurer. [Insert link to copy of form on state web site.]</td>
</tr>
</tbody>
</table>
| Model #786 § 9C(4)                | Financial/Regulatory Filings:  
- For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer’s annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;  
- For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer’s supervisor;  
- Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and  
- Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer’s assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses |       |                                    |
<table>
<thead>
<tr>
<th>Citation to State Law / Regulation</th>
<th>Requirements</th>
<th>Y or N</th>
<th>Reference and Supporting Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>by the assuming insurer. <strong>This is for purposes of evaluating Prompt Payment of Claims.</strong></td>
<td></td>
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</tr>
<tr>
<td>Model #786 § 9C(6) Model #785 §2F(1)(f)</td>
<td><strong>Prompt Payment of Claims:</strong> The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:</td>
<td></td>
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<tr>
<td></td>
<td>• More than fifteen percent (15%) of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner;</td>
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<tr>
<td></td>
<td>• More than fifteen percent (15%) of the assuming insurer’s ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer $100,000, or as otherwise specified in a Covered Agreement; or</td>
<td></td>
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<tr>
<td></td>
<td>• The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds $50,000,000, or as otherwise specified in a Covered Agreement.</td>
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<tr>
<td>Fee: [Insert $ amount of the fee applicable in this state.]</td>
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</tbody>
</table>
II. **Filing Requirements for “Passporting State” of Reciprocal Jurisdiction Reinsurer**

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 compliance with this section. 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.

If an NAIC accredited jurisdiction has determined that the conditions set forth under the *Filing Requirements for Lead States* have been met, the commissioner has the discretion to defer to that jurisdiction’s determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit. The commissioner may accept financial documentation filed with the Lead State or with the NAIC.

The following documentation must be filed with the Passporting State:

<table>
<thead>
<tr>
<th>Citation to State Law / Regulation</th>
<th>Requirements</th>
<th>Y or N</th>
<th>Reference and Supporting Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Model #786 § 9E(2)</td>
<td>Form RJ-1: An assuming insurer must submit a properly executed Form RJ-1 and additional information as the commissioner may require, except to the extent that they conflict with a Covered Agreement.</td>
<td></td>
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<tr>
<td>Model #785 §2F(3)</td>
<td></td>
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<tr>
<td>Model #786 § 9E(1)</td>
<td>Lead State: If an NAIC accredited jurisdiction has determined that the required conditions have been met, the commissioner has the discretion to defer to that jurisdiction’s determination. The commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of this requirement.</td>
<td></td>
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<tr>
<td></td>
<td>Fee: [Insert $ amount of the fee applicable in this state.]</td>
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</tr>
</tbody>
</table>
III. Interaction Between Certified Reinsurers and Reciprocal Jurisdiction Reinsurers

Under Section 8A(5) of the Credit for Reinsurance Model Regulation (#786), credit for reinsurance shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer with respect to Certified Reinsurers. Under Section 2F(7) of the Credit for Reinsurance Model Law (#785), credit may be taken with respect to Reciprocal Jurisdiction Reinsurers only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements to be designated a Reciprocal Jurisdiction Reinsurer, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.

It is expected that certain assuming insurers may be considered to be Certified Reinsurers for purposes of in-force business and Reciprocal Jurisdiction Reinsurers with respect to reinsurance agreements entered into, amended, or renewed on or after the effective date. In addition, these same reinsurers may also have certain blocks of business that are fully collateralized under the prior provisions of Model #785 and Model #786. The NAIC blanks will be amended to reflect the status of these reinsurers with respect to each type of insurance assumed.
Uniform Application Checklist for Certified Reinsurers  
*(Initial and Renewal Applications)*

**Applicant Information**

<table>
<thead>
<tr>
<th>Company Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
</tr>
<tr>
<td>Primary Contact:</td>
</tr>
<tr>
<td>Domiciliary Jurisdiction / Supervisory Authority:</td>
</tr>
<tr>
<td>Applicable Lines of Business:</td>
</tr>
</tbody>
</table>

I. **Filing Requirements for Reinsurer Currently Certified by Another NAIC-Accredited Jurisdiction**

If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the [Commissioner] has the discretion to defer to that jurisdiction’s certification and assigned rating; i.e., “passporting.” To assist the [Commissioner] in the determination to defer to another jurisdiction’s certification the following application procedures should be followed:

a. Has the applicant been certified by an NAIC accredited jurisdiction? (Yes or No) ____;

   [If “Yes,” this state (the “Lead” state) will confirm that the initial or renewal certification has been reviewed by the NAIC Reinsurance Financial Analysis (E) Working Group (“ReFAWG”) for passporting purposes.]

b. If the answer to question I.a. (above) is “No,” please proceed to Section II of this application.

c. If the answer to question I.a. (above) is “Yes,” the applicant shall provide the information specified in the table below for consideration by the [Commissioner]. In the alternative, the [Commissioner] may permit the applicant to provide written certification that some or all the required information was previously filed with the Lead State and the ReFAWG.

   Note: The ReFAWG and the Lead State may have already collected, reviewed and approved relevant documentation such as; Biographical Affidavits, Certificates of Good Standing, Licenses, Rating Agency Reports, Reports of Auditors and other certification documents. States are encouraged to accept these prior filings as complete, in lieu of duplicative filing requests.

<table>
<thead>
<tr>
<th>Citation to State Law / Regulation</th>
<th>Requirements</th>
<th>Y or N</th>
<th>Reference and Supporting Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status of Domiciliary Jurisdiction:</td>
<td>The applicant must be domiciled and licensed in a Qualified Jurisdiction, as determined by this state.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Verification of Certification Issued by an NAIC Accredited Jurisdiction:</td>
<td>If the applicant is requesting that the Commissioner recognize the certification issued by another NAIC accredited jurisdiction (i.e., passporting), the applicant must provide a copy of the approval letter or other documentation provided to the applicant by such NAIC accredited</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Mechanisms Used to Secure Obligations Incurred as a Certified Reinsurer:

The applicant must specify the mechanisms it will use to secure obligations incurred as a Certified Reinsurer. If the applicant intends to utilize a multi-beneficiary trust for this purpose, the applicant must submit (1) a copy of the approval from the domiciliary regulator with regulatory oversight of the 100% collateral and reduced collateral multi-beneficiary trusts or its intention to secure the approval of the domiciliary regulator of the trust before either trust can be used. (2) the form of the trust that will be used to secure obligations incurred as a certified reinsurer; and (3) the form of the trust that will be used to secure obligations incurred outside of the applicant’s certified reinsurer status, i.e., the applicant’s 100% collateralized trust (if applicable). The form of each trust is required to be submitted pursuant to state law in order to ensure that security for these obligations will be kept separate and to ensure that each trust meets the requirements of the state’s Credit for Reinsurance statute and/or regulation.

**NOTE:**

*The MBT includes a provision that:*

*The certified reinsurer must bind itself by the language of the multi-beneficiary trust*
<table>
<thead>
<tr>
<th>Citation to State Law / Regulation</th>
<th>Requirements</th>
<th>Y or N</th>
<th>Reference and Supporting Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.</td>
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<tr>
<td>Form CR-1 (For Initial and Renewal Applications):</td>
<td></td>
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</tr>
<tr>
<td>The applicant must provide [insert name of state] Form CR-1, which must be properly executed by an officer authorized to bind the applicant to the commitments set forth in the form. [Insert link to copy of form on state web site.]</td>
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<tr>
<td>Fee:</td>
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<tr>
<td>[Insert $ amount of the fee applicable in this state.]</td>
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<tr>
<td>Other Requirements:</td>
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<tr>
<td>The applicant must:</td>
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<tr>
<td>a. Commit to comply with other reasonable requirements deemed necessary for certification by the certifying state. Failure to comply with such other requirement could disqualify the reinsurer from certification.</td>
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<tr>
<td>b. Provide a statement that the applicant agrees to post 100% security upon the entry of an order of rehabilitation or conservation against the ceding insurer or its estate.</td>
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<tr>
<td>Public Notice Requirement:</td>
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<tr>
<td>The [Commissioner] is required to post notice on the insurance department’s website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The [Commissioner] may not take final action on the application until at least [insert number of days required in the specific state] days after posting such notice. The [Commissioner] will consider any comments received during the public</td>
<td></td>
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</tbody>
</table>
II. **Filing Requirements for Full Application**

a. The applicant shall provide the information required within Section II if:
   - The applicant has not been certified by an NAIC accredited jurisdiction; or
   - The Commissioner makes a determination not to recognize or defer to the certification issued by another NAIC accredited jurisdiction; or
   - The applicant is renewing its certification with the lead state or a state is not relying on the certification by another NAIC accredited jurisdiction.

b. Check appropriate box:
   - [ ] Initial Application
   - [ ] Renewal Application

<table>
<thead>
<tr>
<th>Citation to State Law / Regulation</th>
<th>Requirements</th>
<th>Y or N</th>
<th>Reference and Supporting Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Status of Domiciliary Jurisdiction / Proof of Licensure and Good Standing:</strong></td>
<td>The applicant must be domiciled and licensed in a Qualified Jurisdiction, as determined by this state. The applicant must be in good standing (or the jurisdiction’s equivalent classification) and maintain capital and surplus in excess of its domiciliary jurisdiction’s highest regulatory action level.</td>
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<td></td>
<td>The Commissioner will consider the following information with respect to the applicant’s domiciliary jurisdiction:</td>
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<tr>
<td></td>
<td>a. Whether the domestic supervisory authority been approved as a Qualified Jurisdiction in this state.</td>
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<tr>
<td></td>
<td>b. Confirmation as to whether the domestic supervisory authority is included on the NAIC List of Qualified Jurisdictions.</td>
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<td></td>
<td>The applicant must provide the following information:</td>
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<tr>
<td></td>
<td>a. A copy of the certificate of authority or license to transact insurance and/or reinsurance from the applicant’s domiciliary jurisdiction.</td>
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</tr>
<tr>
<td>Citation to State Law / Regulation</td>
<td>Requirements</td>
<td>Y or N</td>
<td>Reference and Supporting Documents</td>
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<tr>
<td>b.</td>
<td>A certification from the applicant’s domestic supervisory authority affirming that the applicant is in good standing (or the jurisdiction’s equivalent classification) and maintains capital and surplus in excess of the jurisdiction’s highest regulatory action level.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Mechanisms Used to Secure Obligations Incurred as a Certified Reinsurer:</strong> The applicant must specify the mechanisms it will use to secure obligations incurred as a Certified Reinsurer. If the applicant intends to utilize a multi-beneficiary trust for this purpose, the applicant must submit (1) a copy of the approval from the domiciliary regulator with regulatory oversight of the 100% collateral and reduced collateral multi-beneficiary trusts or its intention to secure the approval of the domiciliary regulator of the trust before either trust can be used; (2) the form of the trust that will be used to secure obligations incurred as a certified reinsurer; and (3) the form of the trust that will be used to secure obligations incurred outside of the applicant’s certified reinsurer status, i.e., the applicant’s 100% collateralized trust (if applicable). The form of each trust is required to be submitted pursuant to state law in order to ensure that security for these obligations will be kept separate and to ensure that each trust meets the requirements of the state’s Credit for Reinsurance statute and/or regulation. <strong>NOTE:</strong> The MBT includes a provision that: The certified reinsurer must bind itself by the language of the multi-beneficiary trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.</td>
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</tbody>
</table>
Uniform Application Checklist for Certified Reinsurers
(Initial and Renewal Applications)

Financial Strength Ratings (Stand-Alone or Group):
The applicant must maintain interactive financial strength ratings from two or more acceptable rating agencies. Initial or Affirmed financial strength rating dates must be within 15 months of the application date/renewal filing date. The applicant must provide the following:

a. Confirm all interactive financial strength ratings currently maintained by the applicant.
b. Specify the type of financial strength rating (i.e., stand-alone or group).
c. If the financial strength rating is not on a stand-alone basis, provide the rationale for the group rating.
d. Copies of full rating agency reports with respect to all financial strength ratings currently maintained by the applicant. If a full report is not available, the applicant must provide a letter from the applicable rating agency affirming its current financial strength rating. Initial or Affirmed financial strength rating dates must be within 15 months of the application date/renewal filing date.
e. An explanation of any changes in the financial strength rating during the last three years.

NOTE: Acceptable rating agencies include A.M. Best, Fitch Ratings, Moody’s Investor Service, Standard & Poor’s, Kroll Bond Rating Agency, or any other Nationally Recognized Statistical Rating Organization recognized by the SEC to provide financial strength ratings on insurance companies.

Disputed and/or Overdue Reinsurance Claims / Business Practices:
The Commissioner may consider the applicant’s business practices in dealing with its ceding insurers, including compliance with contractual terms and obligations. The applicant must provide the following if 1) applicant’s reinsurance
Uniform Checklist for Certified Reinsurers

<table>
<thead>
<tr>
<th>Obligations to U.S. cedents that are in dispute and/or more than 90 days past due exceed 5% of its total reinsurance obligations to U.S. cedents as of the end of its prior financial reporting year; or 2) the applicant’s reinsurance obligations to any of the top 10 U.S. cedents (based on the amount of outstanding reinsurance obligations as of the end of its prior financial reporting year) that are in dispute and/or more than 90 days past due exceed 10% of its reinsurance obligations to that U.S. cedent,</th>
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<tbody>
<tr>
<td>Then, in either case, the applicant will provide:</td>
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<tr>
<td>a. Notice of that fact to the Commissioner and a detailed explanation regarding the reason(s) for the amount of disputed or overdue claims exceeding the levels noted above; and</td>
</tr>
<tr>
<td>b. A description of the applicant’s business practices in dealing with U.S. ceding insurers and a statement that the applicant commits to comply with all contractual requirements applicable to reinsurance contracts with U.S. ceding insurers.</td>
</tr>
<tr>
<td>Upon receipt of such notice and explanation, the Commissioner may request additional information concerning the applicant’s claims practices with regard to any or all U.S. ceding insurers.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Schedules for Reinsurance Assumed and Reinsurance Ceded:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The applicant must provide the following:</td>
</tr>
<tr>
<td>a. For applicants domiciled in the U.S., provide the most recent NAIC Annual Statement Blank Schedule F (property/casualty) and/or Schedule S (life and health).</td>
</tr>
<tr>
<td>b. For applicants domiciled outside the U.S. provide Form CR-F (property/casualty) and/or Form CR-S (life and health), completed in accordance with the instructions adopted by the NAIC [include link to instructions.]</td>
</tr>
</tbody>
</table>
### Regulatory Actions:
The applicant must provide a description of any regulatory actions taken against the applicant.

a. Include all regulatory actions, fines and penalties, regardless of the amount.

b. Provide a description of any changes in with respect to the provisions of the applicant’s domiciliary license.

[NOTE: Reinsurance-FAWG requires this information for the last three years for passporting purposes.]

### Financial/Regulatory Filings:
The applicant must provide the following:

a. A copy of the most recent report of the independent auditor.

b. Copies of the audited financial statements for the last two years filed with its jurisdiction supervisor. Financial statements must demonstrate that the applicant has minimum capital and surplus, or the equivalent, of at least $250,000,000. If the applicant is an association including incorporated and individual unincorporated underwriters, statements must demonstrate that the applicant has capital and surplus equivalents (net of liabilities) of at least $250,000,000, and a central fund containing a balance of at least $250,000,000. **Please note the following requirements with respect to these financial statements:**

c. Audited U.S. GAAP basis statements must be submitted if available.

d. Audited IFRS basis statements are acceptable but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis.

- With the permission of the Commissioner, an applicant may be allowed to submit audited IFRS basis statements with reconciliation to U.S. GAAP certified by an officer of the applicant. The reconciliation of...
equity and net income must include all adjustments (positive or negative) by line item equal to or greater than 5% of equity and/or in aggregate equal to or greater than 10% of equity where each line item is less than 5% of equity.

- Upon the initial certification, the Commissioner may consider audited financial statements for the last three years as filed with the applicant’s non-U.S. jurisdiction supervisor. If the Commissioner accepts such statements in the initial filing, the applicant must acknowledge and commit that future financial statement filings will include the appropriate reconciliation to a U.S. GAAP basis, as indicated above.

**e.b.** A copy of the Actuarial Opinion and other regulatory filings, as filed with the applicant’s reinsurer’s domiciliary jurisdiction supervisor.

[NOTE: Reinsurance-FAWG requires a stand-alone Actuarial Opinion for passporting purposes, or the functional equivalent under the Supervisor’s applicable Actuarial Function Holder Regime.]

### Solvent Schemes of Arrangement:
The applicant must provide:

- **a.** A description of any past, present or proposed future participation in any solvent scheme of arrangement, or similar procedure, involving U.S. ceding insurers.

- **b.** A statement that the applicant commits to notify the commissioner of any future proposed participation in any solvent scheme of arrangement, or similar procedure, as soon as practicable.

### Form CR-1 (For Initial and Renewal Applications):
The applicant must provide [insert name of state] Form CR-1, which must be properly executed by an officer authorized to bind
### Uniform Checklist for Certified Reinsurers

<table>
<thead>
<tr>
<th>the applicant to the commitments set forth in the form. [Insert link to copy of form on state web site.]</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fee:</strong></td>
<td>[Insert $ amount of the fee applicable in this state.]</td>
</tr>
<tr>
<td><strong>Other Requirements:</strong></td>
<td>The applicant must:</td>
</tr>
<tr>
<td>a. Commit to comply with other reasonable requirements deemed necessary for certification by the certifying state.</td>
<td></td>
</tr>
<tr>
<td>b. Provide a statement that the applicant agrees to post 100% security upon the entry of an order of rehabilitation or conservation against the ceding insurer or its estate.</td>
<td></td>
</tr>
<tr>
<td><strong>Public Notice Requirement:</strong></td>
<td>The [Commissioner] is required to post notice on the insurance department’s website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The [Commissioner] may not take final action on the application until at least [insert number of days required in the specific state] days after posting such notice. The [Commissioner] will consider any comments received during the public notice period with respect to this application.</td>
</tr>
</tbody>
</table>

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1 **Protocol for Considering a Group Rating**

Section 8B(4) of the NAIC Credit for Reinsurance Model Regulation (#786) provides, in relevant part: “Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate.” Understanding the rating agency basis for utilizing a group rating is a key factor in determining whether an applicant’s group rating may be considered appropriate. The recommended protocol for understanding the rationale involves one or more of the following protocol steps:

- For reasons set forth in the rating agency report or its published ratings standards or guidelines, the rating agency utilizes the group rating as a consequence of finding that the company had sufficient interconnectivity with the group;
- For reasons set forth in the rating agency report or its published ratings standards or guidelines, the rating agency enhances the group rating due to the subsidiary’s potential benefit of capital support from one or more affiliated companies;
- The group rating was utilized because the subsidiary derives benefit from its inclusion within a financially strong and well-capitalized insurance group;
- The lead state has contacted the rating agency and was provided a written explanation for the use of the group rating;
- Other factors deemed appropriate by the Reinsurance Financial Analysis (E) Working Group; or
- To assist the Lead State in the assessment of the appropriateness of the use of a group rating, applicants are encouraged to provide their rational for the use of a group rating.
26th May 2020

Mr Rehagen
NAIC

Response submitted via -email

IUA Response to NAIC Uniform Checklist for Reciprocal Jurisdiction Reinsurers and the Uniform Application Checklist for Certified Reinsurers

Dear Mr Rehagen,

We are pleased to be able to provide comments to the National Association of Insurance Commissioners (NAIC) in relation to the above checklists.

The International Underwriting Association of London (IUA) represents international and wholesale insurance and reinsurance companies operating in or through London. It exists to promote and enhance the business environment for its members. The IUA’s London Company Market Statistics Report shows that overall premium income for the company market in 2018 was £28.4376bn. Gross premium written in London totalled $19,559bn, while a further £8.877bn was identified as written in other locations, but managed and overseen by London operations. For further information about our organization and membership, please visit our web site, www.iua.co.uk, under the section “About the IUA.”

While we do not have any general comments on the proposals, we do propose to request further clarification to specific questions.

Specific Questions

The comments on the Uniform Checklist for Reciprocal Jurisdiction Reinsurers are as follows.

1. We would appreciate further clarification on who is required to evidence the criteria under section “Prompt Payment of Claims.” It is understood that the first and second criteria may require the US ceding insurance company to provide evidence. In respect of the third criteria, does the criterion response need to be confirmed by the reciprocal reinsurer?

2. We would also appreciate further clarification on the format and details required by the fourth criteria under section “Financial/Regulatory Filings.” It would be helpful, perhaps, to define the requirements in a similar way to the corresponding requirement in the checklist for certified reinsurers, under “Schedules for Reinsurance Assumed and Reinsurance Ceded.”

We have no comments on the changes to the Uniform Application Checklist for Certified Reinsurers.
We hope that our comments will help NAIC officials to add clarity in those areas in which we feel could assist the market. We would be pleased to clarify or expand on our comments as required.

Yours sincerely,

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May 26, 2020

Director Chlora Lindley-Myers, Chair
Reinsurance (E) Task Force
National Association of Insurance Commissioners
c/o Mr. Jake Stultz
Via e-mail jstultz@naic.org

Re: NAIC Request for Comments on NAIC Exposure Draft Uniform Checklist for Reciprocal Reinsurers

Dear Director Lindley-Myers:

The Reinsurance Association of America (RAA) and the Lloyd’s market appreciate the opportunity to submit comments on the NAIC’s Exposure Draft of the Uniform Checklist for Reciprocal Reinsurers. The Reinsurance Association of America (RAA) is a national trade association representing reinsurance companies doing business in the United States. RAA membership is diverse, including reinsurance underwriters and intermediaries licensed in the U.S. and those that conduct business on a cross-border basis. The RAA also has life reinsurance affiliates. The Lloyd’s market is one of the largest non-U.S. domiciled sources of reinsurance capacity to the U.S. insurance industry. In 2019, Lloyd’s underwriters assumed over $5.96 billion in reinsurance premiums from U.S. cedants.

We appreciate the continued work of the Task Force to implement the 2019 changes to the NAIC Credit for Reinsurance Model Law and Regulation. This process is critical to honoring the U.S.’s commitments under the U.S./EU and U.S./UK covered agreements, as well as to providing the opportunity to extend equal treatment to other reinsurers from other jurisdictions that meet the requirements specified in the revised Model Law/Regulation.

Section I: Filing Requirements for “Lead State” of Reciprocal Jurisdiction Reinsurer

The use of the term “lead state” in this context may cause confusion, as the model and state holding company acts use a lead state concept that is different than the concept reflected here. Perhaps the phrase “Primary State” or “Lead Submission State” could be used to differentiate this term from the lead state concept in other contexts.

Status of Reciprocal Jurisdiction: It would be helpful if the checklist could make clear what reference and supporting documents would be required for this element. Would it be sufficient for the applicant to submit a statement that it is domiciled in a reciprocal jurisdiction? Would the applicant be required to submit a copy of the covered agreement? Would the reference to the applicant’s domiciliary jurisdiction on the top of the checklist be sufficient?

Form RJ-1: To the extent that this form will resemble Form CR-1, our members may have some comments. We respectfully request that a draft of the form be released for public comment.
**Financial Regulatory Filings:** As drafted, the checklist appears to take language from the model regulation that gives a commissioner the discretion to ask for more information and elevate those items to regulatory requirements. The model regulation indicates that the reinsurer must provide the information in Model #786 9C(5) “if requested by the commissioner.” The checklist should be amended to reflect the “only on request” nature of these items. In general, regulators are unlikely to need the “on request” information for most applicants. The discretion to request additional information would allow a regulator to dig deeper into applicants where there is a question or concern. This provision should not be converted to a requirement that applies broadly.

In addition, the reference on page 3 to “prior to entry into the reinsurance agreement” is confusing when considered in reference to large global reinsurers that enter into many reinsurance agreements and make annual reciprocal jurisdiction reinsurer filings. We suggest removing that phrase from the uniform checklist.

**Section III: Interaction Between Certified Reinsurers and Reciprocal Jurisdiction Reinsurers.**

In addition to the information contained in this section, it is clear that some states will adopt the revised model laws and regulations before other states adopt them. This has already occurred. The checklist should include information about how passporting will work if the “Lead State” (proposed “Primary State”) has adopted the revised model law and regulation and other passporting states have not adopted it.

Lastly, in conjunction with the release of the final version of the uniform checklist, we urge the NAIC to develop and host training sessions for state reviewers so that we can achieve more operational uniformity. Uniform implementation of these rules is crucial to assure that all parties receive equal treatment and equal benefits from their application.

**Conclusion**

We appreciate the opportunity to offer comments and work with the NAIC on the Exposure Draft of the Uniform Checklist for Reciprocal Reinsurers. Please do not hesitate to contact us with any questions or concerns.

Sincerely,

Karalee C. Morell
Reinsurance Association of America

Sabrina Miesowitz
Lloyd’s
TO: Reinsurance (E) Task Force

FROM: NAIC Staff

RE: Comparison of Term and Universal Life Insurance Reserve Financing Model Regulation (#787) and Actuarial Guideline XLVIII

DATE: February 5, 2020

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Executive Summary

At the 2019 Fall National Meeting, the Financial Regulation Standards and Accreditation (F) Committee adopted the Term and Universal Life Insurance Reserve Financing Model Regulation (#787) as an accreditation standard. The NAIC Executive (EX) Committee and Plenary are expected to consider it for final adoption at the Spring National Meeting, to be effective Sept. 1, 2022. On its conference call on Jan. 29, the Reinsurance (E) Task Force discussed whether compliance with Actuarial Guideline XLVIII (AG 48) should be considered “substantially similar” to Model #787 for accreditation purposes. Acting Chair John Rehagen (MO) directed NAIC staff to distribute a memorandum comparing the significant differences between AG 48 and Model #787 for a 21-day public comment period requesting comments on whether compliance with AG 48 should be considered substantially similar to Model #787.

2017 Recommendation on Accreditation

In its memorandum dated August 24, 2017, the Reinsurance Task Force recommended that “a state’s adoption of AG 48 will serve to satisfy this accreditation standard until such time that the state adopts the significant elements of Model #787.” (Attachment A). This recommendation was based on an expedited effective date for the accreditation standard of January 1, 2020. The Task Force recognized that “meeting the expedited date may not be feasible for some states in instances due, in whole or part, to other legislative priorities of the states. It is the recommendation of the Task Force that, in such cases, a state’s compliance with AG 48 should be considered as satisfactory to the Financial Regulation Standards and Accreditation (F) Committee as substantial compliance with Model #787.”

At that time the Committee deferred its consideration of Model #787 as an accreditation standard due to concerns expressed with respect to the impending Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance (Covered Agreement), which was signed on September 22, 2017. In 2017 AG 48 was amended “to redraft AG 48 to make it as consistent as possible with the provisions of Model #787.”

Comparison of Model #787 and AG 48

The primary difference between AG 48 and Model #787 are the consequences to an insurer if the requirements of either are not met. Paragraph 6B(1) of AG 48 (Attachment B) provides, as follows:
B. Qualified Actuarial Opinion; Remediation

(1) **The appointed actuary of the ceding insurer performing the analysis required by Section 6A above must issue a qualified actuarial opinion** as described in Section 6.D. of the AOMR or Section 3A(10) of VM-30 of the *Valuation Manual*, as applicable, unless:

(a) The requirements of Section 6A(1) and 6A(2) were fully satisfied as of the valuation date as to such reinsurance treaty; or

(b) Any deficiency has been eliminated before the due date of the Annual Statement to which the valuation date relates through the addition of Primary Security and/or Other Security, as the case may be, in such amount and in such form as would have caused the requirements of Section 6A(1) and 6A(2) to be fully satisfied as of the valuation date; or

(c) The ceding insurer has established a liability equal to the excess of the credit for reinsurance taken over the amount of Primary Security actually held pursuant to Section 6A(1).

[Emphasis Added]. A Drafting Note to this paragraph provides that the “remediation option set forth in Section 6B(1)(c) mirrors that set forth in Model #787.” In addition, the following proposals related to the XXX/AXXX Reinsurance Framework were adopted by the Capital Adequacy (E) Task Force on its June 30, 2015, conference call:

1. **2014-33-L-Mod Qualified Actuarial Opinion** – This proposal modifies the interrogatory on LR027 Interest Rate Risk and Market Risk. This interrogatory allows companies submitting an unqualified opinion to receive a one-third reduction in the factors. It was modified to prevent an opinion qualified solely due to the direction in AG 48, which is line of business specific, from impacting all lines of business.

2. **2014-35b-L-Mod Primary Securities Shortfall** – This proposal adds a new schedule showing the primary security shortfall by individual cession. The cumulative amount of primary security shortfall, with no offset for any surpluses, is then taken as a dollar-for-dollar addition to the reporting company’s Authorized Control Level.

3. **2014-42-L-Mod RBC Shortfall** – This proposal adds a new schedule which shows the RBC calculation by individual captive. The cumulative amount of RBC shortfalls, with no offset for any surpluses, is then taken as a dollar-for-dollar reduction to the reporting company’s Total Adjusted Capital.

In summary, the Qualified Actuarial Opinion under paragraph 1 above does not constitute an RBC penalty in and of itself, but is a required element to trigger the RBC penalty under paragraph 2 and is applicable only with respect to AG 48. The RBC penalty under paragraph 3 is applicable to both noncompliance with AG 48 and Model #787. Section 7B of Model #787 then provides the following additional consequences for failure to follow its requirements:
B. Requirements at Inception Date and on an On-going Basis; Remediation

(1) The requirements of Section 7A must be satisfied as of the date that risks under Covered Policies are ceded (if such date is on or after the effective date of this regulation) and on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency under Section 7A(3) or 7A(4) with respect to any reinsurance treaty under which Covered Policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.

(2) Prior to the due date of each Quarterly or Annual Statement, each life insurance company that has ceded reinsurance within the scope of Section 3 shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which Covered Policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of Sections 7A(3) and 7A(4) were satisfied. **The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of Primary Security actually held pursuant to Section 7A(3), unless either:**

(a) The requirements of Section 7A(3) and 7A(4) were fully satisfied as of the valuation date as to such reinsurance treaty; or

(b) Any deficiency has been eliminated before the due date of the Quarterly or Annual Statement to which the valuation date relates through the addition of Primary Security and/or Other Security, as the case may be, in such amount and in such form as would have caused the requirements of Section 7A(3) and 7A(4) to be fully satisfied as of the valuation date.

[Emphasis added]. Finally, Paragraph 8 of AG 48 provides that it will sunset when a state adopts a regulation substantially similar to Model #787, but will continue to apply only with respect to the limited number of states in which their version of Model #787 applies prospectively only.

**Substantially Similar**

The NAIC Financial Standards and Accreditation Program provides the following definition of “substantially similar”:

For those standards included in the Part A: Laws and Regulations Standards where the term “substantially similar” is included, a state must have a law, regulation, administrative practice or a combination of the above which addresses the significant elements included in the NAIC model laws or regulations… It is NOT required that states adopt every “significant” element in the interim annual review form by law or regulation. Instead, it is required that the state demonstrate that the law, regulation, administrative practice or a combination of the above enforced by a state insurance department results in solvency regulation that is similar in force and no less effective than the NAIC model law or regulation for that standard.
MEMORANDUM

TO: Financial Regulation Standards and Accreditation (F) Committee
FROM: Reinsurance (E) Task Force
DATE: August 24, 2017
RE: Term and Universal Life Insurance Reserve Financing Model Regulation (#787)

Executive Summary

The NAIC membership adopted the Term and Universal Life Insurance Reserve Financing Model Regulation (#787) at the 2016 Fall National Meeting on Dec. 13, 2016. At that same time, the NAIC membership also adopted revisions to Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (AG 48) to conform with the provisions of Model #787, effective Jan. 1, 2017. Model #787 establishes uniform, national standards governing reserve financing arrangements pertaining to term life and universal life insurance policies with secondary guarantees, and ensures that funds consisting of primary security and other security are held in the forms and amounts required.

At its meeting on Aug. 7, 2017, the Reinsurance (E) Task Force agreed to submit the following recommendations to the Financial Regulation Standards and Accreditation (F) Committee:

1. Model #787 should be adopted as a new accreditation standard by the NAIC, with significant elements as outlined in Attachment A.

2. The Financial Regulation Standards and Accreditation (F) Committee should consider a waiver in its normal timeline for adoption of an accreditation standard, and expeditiously consider adoption of this standard. The Task Force recommends that the accreditation standard become effective Jan. 1, 2020. The Task Force further recommends that a state’s adoption of AG 48 will serve to satisfy this accreditation standard until such time that the state adopts the significant elements of Model #787.

3. The 2016 revisions to the Credit for Reinsurance Model Law (#785) should be considered acceptable but not required by the states.

In addition to the preceding recommendations, the Task Force is offering the following additional information in order to assist the Financial Regulation Standards and Accreditation (F) Committee in reviewing the proposed accreditation standard for Model #787.
Substantially Similar

The Task Force has recommended in the draft accreditation standard that the “substantially similar” standard be utilized to meet the minimum requirements of the standard. However, the Task Force did note that Drafting Notes to Section 2, Section 3 and Section 5 of Model #785 might suggest a stronger standard of review than “substantially similar.” The Drafting Notes provide, as follows: “To assist in achieving national uniformity, commissioners are asked to strongly consider adopting regulations that are substantially similar in all material respects to NAIC adopted model regulations in the handling and treatment of such reinsurance arrangements.” [Emphasis added]. In recognition of this, and to assist in review of the actuarial method used to determine the required level of primary security as described in Section 6 of Model #787, the Task Force recommends that the NAIC Legal Division specifically note any material changes in a state’s regulation during an accreditation review for consideration by the Financial Regulation Standards and Accreditation (F) Committee.

State Adoption of AG 48

The Task Force recommends that the accreditation standard become effective on an expedited basis beginning Jan. 1, 2020. However, the Task Force further recognizes that meeting the expedited date may not be feasible for some states in instances due, in whole or part, to other legislative priorities of the states. It is the recommendation of the Task Force that, in such cases, a state’s compliance with AG 48 should be considered as satisfactory to the Financial Regulation Standards and Accreditation (F) Committee as substantial compliance with Model #787. AG 48 became effective Jan. 1, 2015, and became part of the Accounting Practices and Procedures Manual through its inclusion in Appendix C, and has been amended to conform with Model #787 effective Jan. 1, 2017.

2016 Revisions to Model #785

The Task Force does not recommend that the 2016 revisions to Model #785 be included in the proposed accreditation standard. These revisions provide that the commissioner may adopt regulations with respect to: 1) life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits; 2) universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period; 3) variable annuities with guaranteed death or living benefits; 4) long-term care insurance policies; and 5) other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance. The revisions to Model #785 also contain a “professional reinsurer exemption” for reinsurers that maintain at least $250 million in capital and surplus when determined in accordance with the Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices, and is: 1) licensed in at least 26 states; or 2) licensed in at least 10 states, and licensed or accredited in a total of at least 35 states.

The reasoning of the Task Force is that Model #787 only applies to term life and universal life with secondary guarantees (XXX/AXXX) captive reinsurance transactions, and that variable annuities, long-term care insurance and other life and health insurance and annuity products are not currently addressed. Therefore, it would be considered to be premature to require the states to adopt these provisions. In addition, the professional reinsurer exemption of Section 5B(4) of Model #785 is specifically referenced in the draft accreditation standard. Therefore, it is the recommendation of the Task Force that the 2016 revisions to Model #785 are optional, and should be considered as acceptable but not required by the states.
Proposed Accreditation Standard

Term and Universal Life Insurance Reserve Financing Model Regulation (#787)

State statute and/or regulation should be substantially similar to uniform, national standards that govern reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees, to ensure that both the total security and the primary security are provided in forms and amounts that are in compliance with the requirements set forth in the Term and Universal Life Insurance Reserve Financing Model Regulation (#787).

a. Provides that the Credit for Reinsurance Model Regulation (#786) and Model #787 shall both apply to reinsurance treaties that cede liabilities pertaining to Covered Policies; provided, that in the event of a direct conflict between the provisions of Model #787 and the provisions of Model #786, the provisions of Model #787 shall apply, but only to the extent of the conflict, substantially similar to Section 3 of Model #787?

b. Provides that Model #787 does not apply to reinsurance exempt by the provisions of Section 4 of Model #787, including reinsurance ceded to an assuming insurer that meets the requirements of either Section 5B(4)(a) of the Credit for Reinsurance Model Law (#785), which pertains to certain certified reinsurers, or Section 5B(4)(b) of Model #785, which pertains to reinsurers meeting certain threshold size and licensing requirements?

c. Provides definitions of “Covered Policies,” “Grandfathered Policies,” “Required Level of Primary Security,” “Actuarial Method,” “Primary Security,” “Other Security” and “Valuation Manual” that are substantially similar to such terms as defined in Section 5 of Model #787?

d. Provides for an Actuarial Method to establish the Required Level of Primary Security for each reinsurance treaty subject to this regulation that is substantially similar to the methodology as set forth in Section 6A of Model #787?

e. Provides for valuations to be used 1) in calculating the Required Level of Primary Security pursuant to the Actuarial Method; and 2) in determining the amount of Primary Security and Other Security, as applicable, held by or on behalf of the ceding insurer, that are substantially similar to the valuations set out in Section 6B of Model #787?

f. Provides for requirements to obtain credit for reinsurance with respect to ceded liabilities pertaining to Covered Policies that are substantially similar to the requirements set out in Section 7A of Model #787?

g. Provides for requirements at inception date and on an ongoing basis substantially similar to Section 7B(1) of Model #787?

h. Provides that if the requirements to hold Primary Security and total security are not both satisfied, the ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of Primary Security actually held, unless any deficiency has been eliminated pursuant to remediation provisions substantially similar to Section 7B(2) of Model #787?

i. Includes a prohibition against avoidance provision similar to Section 9 of Model #787?
Actuarial Guideline XLVIII  
(Applies to 2017 and Subsequent Year Valuations)

ACTUARIAL OPINION AND MEMORANDUM REQUIREMENTS FOR THE REINSURANCE OF POLICIES REQUIRED TO BE VALUED UNDER SECTIONS 6 AND 7 OF THE NAIC VALUATION OF LIFE INSURANCE POLICIES MODEL REGULATION (MODEL #830)

Background

The NAIC Principle-Based Reserving Implementation (EX) Task Force (“PBRI Task Force”) serves as the coordinating body for all NAIC technical groups involved with projects related to the Principle-Based Reserves (PBR) initiative for life and health policies. The PBRI Task Force was also charged with further assessing, and making recommendations regarding, the solvency implications of life insurance reserve financing mechanisms addressed in the June 6, 2013 NAIC White Paper on the Captives and Special Purpose Vehicle Use (E) Subgroup of the Financial Condition (E) Committee. Some of these reinsurance arrangements have been referred to as “XXX/AXXX Captive arrangements,” although not all such arrangements actually involve reinsurers organized as captives. In this connotation, XXX denotes the reserves prescribed by Section 6 of the NAIC Valuation of Life Insurance Policies Model Regulation (Model #830) while AXXX denotes the reserves prescribed by Section 7 of Model #830, and by Actuarial Guideline XXXVIII—The Application of the Valuation of Life Insurance Policies Model Regulation (AG 38). On June 30, 2014, the PBRI Task Force adopted a framework as found in Exhibits 1 and 2 of the June 4, 2014 report from Rector & Associates, Inc. (the “June 2014 Rector Report”). Exhibit 2 of the report included a charge to the Life Actuarial (A) Task Force (LATF) to develop a level of reserves (the “Required Level of Primary Security”) that must be supported by certain defined assets (“Primary Security”). The level of reserves is to be calculated by a method referred to as the “Actuarial Method.” Another charge to LATF was to promulgate an actuarial guideline specifying that, in order to comply with the NAIC Actuarial Opinion and Memorandum Regulation, Model 822 (“AOMR”) as it relates to XXX/AXXX reinsurance arrangements, the opining actuary must issue a qualified opinion as to the ceding insurer’s reserves if the ceding insurer or any insurer in its holding company system has engaged in a XXX/AXXX reserve financing arrangement that does not adhere to the Actuarial Method and Primary Security forms adopted by the NAIC. The initial version of Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (AG 48) was developed in response to that charge, with an effective date of January 1, 2015.

Coordination between this Actuarial Guideline and the NAIC Term and Universal Life Insurance Reserve Financing Model Regulation (Model #787)

Subsequently, on January 8, 2016, the NAIC adopted revisions to the Credit for Reinsurance Model Law (Model #785). Among other things, the revisions to Model #785 provide commissioners with the authority to enact, by regulation, additional requirements for ceding insurers to claim credit for reinsurance with respect to certain XXX/AXXX financing arrangements. On December 13, 2016, the NAIC adopted the Term and Universal Life Insurance Reserve Financing Model Regulation (Model #787) as the regulation permitted by Model #785. LATF subsequently received a charge to redraft AG 48 to make it as consistent as possible with the provisions of Model #787. The current version of this actuarial guideline is the result.

The following is an overview of the interrelationship between this actuarial guideline and Model #787, and the regulatory strategy that led to the adoption of each:

1. The initial version of this actuarial guideline immediately established national standards for the use of XXX/AXXX financing arrangements in an attempt to quickly set minimum standards based on the framework adopted by the PBRI Task Force on June 30, 2014. This initial version applied to such reinsurance arrangements entered into on or after 1/1/2015.
2. The revised statute (the NAIC Credit for Reinsurance Model Law (Model #785)) and a new regulation (the NAIC Term and Universal Life Insurance Reserve Financing Model Regulation (Model #787)) were then developed and adopted by the NAIC.

3. Except as noted in #4 below, this actuarial guideline will cease to be effective, on a state by state basis, as individual states enact Model #785 and adopt Model #787 to replace it.

4. Notwithstanding, it is anticipated that in a small number of states, Model #787 will need to be adopted on a “prospective” basis only (that is, it will only apply to ceded policies issued on or after the effective date thereof). In those cases, this actuarial guideline will remain as the authority for ceded policies subject to this actuarial guideline but to which Model #787, as adopted in a given state, does not apply. So although its role might diminish, this actuarial guideline will remain an essential part of the regulatory framework for a small number of states for many years to come.

5. To ensure uniformity of treatment between states, companies, and ceded policies (whether governed by this actuarial guideline or by Model #787) and to avoid confusion, this actuarial guideline is being updated, effective as of January 1, 2017, to make it as substantively identical to Model #787 as possible.

Authority, Avoidance, and Purpose

The requirements in this actuarial guideline derive authority from Section 3 of the AOMR, or, after the Operative Date of the Valuation Manual, from Section 1 of VM-30 of the Valuation Manual. Both Section 3 of the AOMR and Section 1 of VM-30 provide that the commissioner has the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the commissioner's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items. As contained in the framework adopted by the PBRI Task Force on June 30, 2014, this actuarial guideline defines new terms, such as Primary Security and Required Level of Primary Security, specifies the Actuarial Method used to calculate the Required Level of Primary Security, and specifies other requirements that must be followed when reinsurance is involved in order for the appointed actuary to render an actuarial opinion that is not qualified.

No statute, regulation or guideline can anticipate every potential XXX/AXXX captive arrangement. Common sense and professional responsibility are needed to assure not only that the text of this actuarial guideline is strictly observed, but also that its purpose and intent are honored scrupulously. To that end, and to provide documentation to the appointed actuary as to the arrangements that are subject to review under this actuarial guideline, the appointed actuary may request from each ceding insurer, and may rely upon, the certification by the Chief Financial Officer or other responsible officer of each ceding insurer filed with the insurer’s domiciliary regulator that the insurer has not engaged in any arrangement or series of arrangements involving XXX or AXXX reserves that are designed to exploit a perceived ambiguity in, or to violate the purpose and intent of, this actuarial guideline.

The purpose and intent of this actuarial guideline is to establish uniform, national standards governing XXX or AXXX reserve financing arrangements1 in conformity with the PBRI Task Force framework and, in connection with such arrangements, to ensure that Primary Security, in an amount at least equal to the Required Level of Primary Security, is held by or on behalf of the ceding insurer. As described further in

1 In general, reserve financing arrangements are those where the security/assets backing part or all of the reserves have one or more of the following characteristics: such security/assets (1) are issued by the ceding insurer or its affiliates; and/or (2) are not unconditionally available to satisfy the general account obligations of the ceding insurer; and/or (3) create a reimbursement, indemnification or other similar obligation on the part of the ceding insurer or any of its affiliates (other than a payment obligation under a derivative contract acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance arrangement).
Section 4.B., the provisions of this actuarial guideline are not intended to apply to policies that were issued prior to 1/1/2015 if those policies were included in a captive reserve financing arrangement as of 12/31/2014. Further, the requirements of this actuarial guideline should be viewed as minimum standards and are not a substitute for the diligent analysis of reserve financing arrangements by regulators. A regulator should impose requirements in addition to those set out in this actuarial guideline if the facts and circumstances warrant such action.

**Text**

1. Authority

   Pursuant to Section 3 of the AOMR or, after the Operative Date of the *Valuation Manual*, to Section 1 of VM-30 of the *Valuation Manual*, the commissioner shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the commissioner’s judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

2. Scope

   This actuarial guideline applies to reinsurance contracts that cede liabilities pertaining to Covered Policies as that term is defined in Section 4.

3. Exemptions

   This actuarial guideline does not apply to the situations described in Subsections A through F.

   A. Reinsurance of:

      (1) Policies that satisfy the criteria for exemption set forth in Section 6F or Section 6G of Model #830; and which are issued before the later of:

         (a) The effective date of Model #787 in the state of domicile of the ceding insurer, and

         (b) The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies’ statutory reserves, but in no event later than January 1, 2020;

      (2) Portions of policies that satisfy the criteria for exemption set forth in Section 6E of Model #830 and which are issued before the later of:

         (a) The effective date of Model #787 in the state of domicile of the ceding insurer, and

         (b) The date on which the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies’ statutory reserves, but in no event later than January 1, 2020;

      (3) Any universal life policy that meets all of the following requirements:

         (a) Secondary guarantee period, if any, is five (5) years or less;
(b) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables and valuation interest rate applicable to the issue year of the policy; and

(c) The initial surrender charge is not less than one hundred percent (100%) of the first year annualized specified premium for the secondary guarantee period;

(4) Credit life insurance;

(5) Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts; or

(6) Any group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year; or

B. Reinsurance ceded to an assuming insurer that meets the applicable requirements of Section 2D of Model #785; or

C. Reinsurance ceded to an assuming insurer that meets the applicable requirements of Sections 2A, 2B or 2C, of Model #785, and that, in addition:

(1) Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual, without any departures from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer’s reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to Statement of Statutory Accounting Principles No. 1—Accounting Policies, Risks & Uncertainties and Other Disclosures (“SSAP No. 1”); and

(2) Is not in a Company Action Level Event, Regulatory Action Level Event, Authorized Control Level Event, or Mandatory Control Level Event as those terms are defined in the NAIC Risk-Based Capital (RBC) for Insurers Model Act (Model #312) when its RBC is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation; or

D. Reinsurance ceded to an assuming insurer that meets the applicable requirements of Sections 2A, 2B or 2C, of Model #785, and that, in addition:

(1) Is not an affiliate, as that term is defined in Section 1A of the NAIC Insurance Holding Company System Regulatory Model Act (Model #440), of:

(a) The insurer ceding the business to the assuming insurer; or

(b) Any insurer that directly or indirectly ceded the business to that ceding insurer;

(2) Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual;
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(3) Is both:

(a) Licensed or accredited in at least 10 states (including its state of domicile), and

(b) Not licensed in any state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or any other similar licensing regime; and

(4) Is not, or would not be, below 500% of the Authorized Control Level RBC as that term is defined in Model #312 when its risk-based capital (RBC) is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation, and without recognition of any departures from NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer’s reported surplus; or

E. Reinsurance ceded to an assuming insurer that meets the requirements of either Section 5B(4)(a) of Model #785, pertaining to certain certified reinsurers or Section 5B(4)(b) of Model #785, pertaining to reinsurers meeting certain threshold size and licensing requirements; or

F. Reinsurance not otherwise exempt under Subsections A through E if the commissioner, after consulting with the NAIC Financial Analysis Working Group (FAWG) or other group of regulators designated by the NAIC, as applicable, determines under all the facts and circumstances that all of the following apply:

(1) The risks are clearly outside of the intent and purpose of this actuarial guideline (as described in the Authority, Avoidance and Purpose section above);

(2) The risks are included within the scope of this actuarial guideline only as a technicality; and

(3) The application of this actuarial guideline to those risks is not necessary to provide appropriate protection to policyholders. The commissioner shall publicly disclose any decision made pursuant to this Section 3F to exempt a reinsurance treaty from this actuarial guideline, as well as the general basis therefor (including a summary description of the treaty).

Drafting Note: The exemption set forth in Section 3F was added to address the possibility of unforeseen or unique transactions. This exemption exists because the NAIC recognizes that foreseeing every conceivable type of reinsurance transaction is impossible; that in rare instances unanticipated transactions might get caught up in this actuarial guideline purely as a technicality; and that regulatory relief in those instances may be appropriate. The example that was given at the time this exemption was developed pertained to bulk reinsurance treaties where the ceding insurer was exiting the type of business ceded. The exemption should not be used with respect to so-called “normal course” reinsurance transactions; rather, such transactions should either fit within one of the standard exemptions set forth in Sections 3A, B, C, D, or E or meet the substantive requirements of this actuarial guideline.

4. Definitions
A. “Actuarial Method” means the methodology used to determine the Required Level of Primary Security, as described in Section 5.

B. “Covered Policies” means the following: Subject to the exemptions described in Section 3, Covered Policies are those policies, other than Grandfathered Policies, of the following policy types:

(1) Life insurance policies with guaranteed nonlevel gross premiums and/or guaranteed nonlevel benefits, except for flexible premium universal life insurance policies; or,

(2) Flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.

Note: Although “Covered Policies” is defined to include all the policies described in Subsections B1 and B2 above, it is noted that whether a given “Covered Policy” is subject to this actuarial guideline or, instead, to Model #787 should be determined under Section 8 (Sunset).

C. “Grandfathered Policies” means policies of the types described in Subsections B1 and B2 above that were:

(1) Issued prior to January 1, 2015; and

(2) Ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set forth in Section 3 had that section then been in effect.

D. “Non-Covered Policies” means any policy that does not meet the definition of Covered Policies, including Grandfathered Policies.

E. “Required Level of Primary Security” means the dollar amount determined by applying the Actuarial Method to the risks ceded with respect to Covered Policies, but not more than the total reserve ceded.

F. “Primary Security” means the following forms of security:

(1) Cash meeting the requirements of Section 3A of Model #785;

(2) Securities listed by the Securities Valuation Office meeting the requirements of Section 3B of Model #785, but excluding any synthetic letter of credit, contingent note, credit-linked note or other similar security that operates in a manner similar to a letter of credit, and excluding any securities issued by the ceding insurer or any of its affiliates; and

(3) For security held in connection with funds-withheld and modified coinsurance reinsurance treaties:

(a) Commercial loans in good standing of CM3 quality and higher;

(b) Policy Loans; and
(c) Derivatives acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.

G. “Other Security” means any security acceptable to the commissioner other than security meeting the definition of Primary Security.

H. “Valuation Manual” means the valuation manual adopted by the NAIC as described in Section 11B(1) of the Standard Valuation Law, with all amendments adopted by the NAIC that are effective for the financial statement date on which credit for reinsurance is claimed.


5. The Actuarial Method

A. Description of Actuarial Method

The Actuarial Method to establish the Required Level of Primary Security for each reinsurance treaty subject to this actuarial guideline shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the Valuation Manual as then in effect, applied as follows:

(1) For Covered Policies described in Section 4B(1) above, the Actuarial Method is the greater of the Deterministic Reserve or the Net Premium Reserve (NPR) regardless of whether the criteria for exemption testing can be met. However, if the Covered Policies do not meet the requirements of the Stochastic Reserve exclusion test in the Valuation Manual, then the Actuarial Method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR. In addition, if such Covered Policies are reinsured in a reinsurance treaty that also contains Covered Policies described in Section 4B(2) above, the ceding insurer may elect to instead use paragraph 2 below as the Actuarial Method for the entire reinsurance agreement. Whether Paragraph 1 or 2 are used, the Actuarial Method must comply with any requirements or restrictions that the Valuation Manual imposes when aggregating these policy types for purposes of principle-based reserve calculations. The mortality basis for the NPR shall be the 2017 CSO Mortality Table.

(2) For Covered Policies described in Section 4B(2) above, the Actuarial Method is the greater of the Deterministic Reserve, the Stochastic Reserve, or the NPR regardless of whether the criteria for exemption testing can be met. The mortality basis for the NPR shall be the 2017 CSO Mortality Table.

(3) Except as provided in Paragraph (4) below, the Actuarial Method is to be applied on a gross basis to all risks with respect to the Covered Policies as originally issued or assumed by the ceding insurer.

(4) If the reinsurance treaty cedes less than one hundred percent (100%) of the risk with respect to the Covered Policies then the Required Level of Primary Security may be reduced as follows:

(a) If a reinsurance treaty cedes only a quota share of some or all of the risks pertaining to the Covered Policies, the Required Level of Primary Security, as well as any adjustment under Subparagraph (c) below, may be
reduced to a pro rata portion in accordance with the percentage of the risk ceded;

(b) If the reinsurance treaty in a non-exempt arrangement cedes only the risks pertaining to a secondary guarantee, the Required Level of Primary Security may be reduced by an amount determined by applying the Actuarial Method on a gross basis to all risks, other than risks related to the secondary guarantee, pertaining to the Covered Policies, except that for Covered Policies for which the ceding insurer did not elect to apply the provisions of VM-20 to establish statutory reserves, the Required Level of Primary Security may be reduced by the statutory reserve retained by the ceding insurer on those Covered Policies, where the retained reserve of those Covered Policies should be reflective of any reduction pursuant to the cession of mortality risk on a yearly renewable term basis in an exempt arrangement;

(c) If a portion of the Covered Policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the Required Level of Primary Security may be reduced by the amount resulting by applying the Actuarial Method including the reinsurance section of VM-20 to the portion of the Covered Policy risks ceded in the exempt arrangement, except that for Covered Policies issued prior to Jan 1, 2017, this adjustment is not to exceed \( \frac{c_x}{(2 \times \text{number of reinsurance premiums per year})} \) where \( c_x \) is calculated using the same mortality table used in calculating the Net Premium Reserve; and

(d) For any other treaty ceding a portion of risk to a different reinsurer, including but not limited to stop loss, excess of loss and other non-proportional reinsurance treaties, there will be no reduction in the Required Level of Primary Security.

It is possible for any combination of Subparagraphs (a), (b), (c), and (d) above to apply. Such adjustments to the Required Level of Primary Security will be done in the sequence that accurately reflects the portion of the risk ceded via the treaty. The ceding insurer should document the rationale and steps taken to accomplish the adjustments to the Required Level of Primary Security due to the cession of less than one hundred percent (100%) of the risk.

The Adjustments for other reinsurance will be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer will make no adjustment as a result of a retrocession treaty entered into by the assuming insurers.

(5) In no event will the Required Level of Primary Security resulting from application of the Actuarial Method exceed the amount of statutory reserves ceded.

(6) If the ceding insurer cedes risks with respect to Covered Policies, including any riders, in more than one reinsurance treaty subject to this actuarial guideline, in no event will the aggregate Required Level of Primary Security for those reinsurance treaties be less than the Required Level of Primary Security calculated using the Actuarial Method as if all risks ceded in those treaties were ceded in a single treaty subject to this actuarial guideline.
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(7) If a reinsurance treaty subject to this actuarial guideline cedes risk on both Covered and Non-Covered Policies:

(a) The Actuarial Method shall be used to determine the Required Level of Primary Security for the Covered Policies; and

(b) Any Primary Security and/or Other Security used to meet any requirements pertaining to the Non-Covered Policies may not be used to satisfy any requirements related to the Required Level of Primary Security and/or Other Security for the Covered Policies.

B. Valuation Used for Purposes of Calculations

For the purposes of both calculating the Required Level of Primary Security pursuant to the Actuarial Method and determining the amount of Primary Security and Other Security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:

(1) For assets, including any such assets held in trust, that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the ceding insurer, the valuations are to be determined according to statutory accounting procedures as if such assets were held in the ceding insurer’s general account and without taking into consideration the effect of any prescribed or permitted practices; and

(2) For all other assets, the valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the asset spread tables and asset default cost tables required by VM-20 shall be included in the Actuarial Method if adopted by the NAIC’s Life Actuarial (A) Task Force no later than the December 31 on or immediately preceding the valuation date for which the Required Level of Primary Security is being calculated. The tables of asset spreads and asset default costs shall be incorporated into the Actuarial Method in the manner specified in VM-20.

6. Required Actuarial Analysis and Actuarial Opinion and Memorandum Requirements

A. Required Actuarial Analysis

Before the due date of each actuarial opinion, as to each reinsurance treaty in which Covered Policies have been ceded, the appointed actuary of each ceding insurer must perform an analysis on a treaty by treaty basis, of such Covered Policies to determine whether, as of the immediately preceding December 31 (the valuation date):

(1) Funds consisting of Primary Security, in an amount at least equal to the Required Level of Primary Security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of Section 3 of Model #785, on a funds withheld, trust, or modified coinsurance basis; and

(2) Funds consisting of Other Security, in an amount at least equal to any portion of the statutory reserves as to which Primary Security is not held pursuant to Paragraph (1) above, are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of Section 3 of Model #785; and
Note: For the sake of clarity, funds consisting of Primary Security pursuant to Paragraphs (1) may exceed the Required Level of Primary Security, and Other Security is only required under Paragraph (2) to the extent that there is any portion of the statutory reserves as to which Primary Security is not so held. For example, if a ceding insurer’s statutory reserves equal $1 Billion, its Required Level of Primary Security is $600 Million, and it holds $1 Billion in Primary Security pursuant to Paragraph (1), no Other Security is required under Paragraph (2).

(3) Any trust used to satisfy the requirements of this Section 6 complies with all of the conditions and qualifications of Section 11 of the NAIC Credit for Reinsurance Model Regulation (Model #786), except that:

(a) Funds consisting of Primary Security or Other Security held in trust, shall for the purposes identified in Section 5B, be valued according to the valuation rules set forth in Section 5B, as applicable; and

(b) There are no affiliate investment limitations with respect to any security held in such trust if such security is not needed to satisfy the requirements of Section 6A(1); and

(c) The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the Primary Security within the trust (when aggregated with Primary Security outside the trust that is held by or on behalf of the ceding insurer in the manner required by Section 6A(1)) below 102% of the level required by Section 6A(1) at the time of the withdrawal or substitution.

B. Qualified Actuarial Opinion; Remediation

(1) The appointed actuary of the ceding insurer performing the analysis required by Section 6A above must issue a qualified actuarial opinion as described in Section 6.D. of the AOMR or Section 3A(10) of VM-30 of the Valuation Manual, as applicable, unless:

(a) The requirements of Section 6A(1) and 6A(2) were fully satisfied as of the valuation date as to such reinsurance treaty; or

(b) Any deficiency has been eliminated before the due date of the Annual Statement to which the valuation date relates through the addition of Primary Security and/or Other Security, as the case may be, in such amount and in such form as would have caused the requirements of Section 6A(1) and 6A(2) to be fully satisfied as of the valuation date; or

(c) The ceding insurer has established a liability equal to the excess of the credit for reinsurance taken over the amount of Primary Security actually held pursuant to Section 6A(1).

(2) In addition to the requirement set forth in Section 6B(1) above, the appointed actuary of the ceding insurer performing the analysis required by Section 6A above must issue a qualified actuarial opinion as described in Section 6.D. of the AOMR or Section 3A(10) of VM-30 of the Valuation Manual, as applicable, if the appointed actuary for any affiliated reinsurer of the ceding insurer issues a qualified actuarial opinion with respect to such affiliated reinsurer where (a) the affiliate reinsures Covered Policies of the ceding insurer and (b) the qualified...
actuarial opinion pertaining to the affiliated reinsurer results, in whole or in part, from the analysis required by this actuarial guideline.

Note: The remediation option set forth in Section 6B(1)(c) mirrors that set forth in Model #787. Under this option, a ceding company may choose to avoid the consequence (a qualified opinion under this actuarial guideline) by establishing a liability equal to the excess of the credit for reinsurance taken over the amount of Primary Security actually held. For example, suppose a ceding insurer has established statutory reserves of $1 Billion and has Primary Security of $550 Million and Other Security of $450 Million. Suppose further that the actuary determines that the insurer’s Required Level of Primary Security is $600 Million. Under Section 6B(1)(c), the insurer may avoid a qualified opinion by establishing a liability equal to $450 Million (the difference between the statutory reserve of $1 Billion and the $550 Million amount of Primary Security actually held).

C. Additional Requirements for the Actuarial Opinion and Memorandum for Companies that have Covered Policies Requiring the Analysis Pursuant to this actuarial guideline

(1) In the statement of actuarial opinion, the appointed actuary of the ceding insurer must state whether (i) he has performed an analysis, as to each reinsurance arrangement under which Covered Policies have been ceded, of the security supporting the Covered Policies and whether funds consisting of Primary Security in an amount at least equal to the Required Level of Primary Security are held by or on behalf of the ceding insurer, as security under the reinsurance contract, on a funds withheld, trust, or modified coinsurance basis and (ii) funds consisting of Primary Security or Other Security in an amount equal to the statutory reserves are held by or on behalf of the ceding insurer as security under the reinsurance arrangement.

(2) In the actuarial memorandum as described by Section 7 of the AOMR or Section 3B of VM-30 of the Valuation Manual, as applicable, the appointed actuary of the ceding insurer must document the analysis and requirements applied by this actuarial guideline as to each reinsurance arrangement under which Covered Policies are ceded.

(3) In the event that a reinsurance treaty contains both (1) Covered Policies subject to this actuarial guideline rather than to Model #787, and (2) Covered Policies subject to Model #787 rather than to this actuarial guideline, the treaty shall be tested as a whole for purposes of a ceding insurer’s compliance with both (a) the requirements of Section 6A(1) and Section 6A(2) of this actuarial guideline and (b) the requirements of Section 7A(3) and Section 7A(4) of Model #787; provided further, that:

(a) If funds consisting of Primary Security are held in amounts less than the Required Level of Primary Security, such funds consisting of Primary Security shall be allocated first to fulfill the Required Level of Primary Security for the Covered Policies subject to this actuarial guideline, with any remainder allocated to those Covered Policies subject to Model #787; and

(b) If funds consisting of Other Security are held in amounts less than the requirements of Section 6A(2), such funds consisting of Other Security shall be allocated first to fulfill the Other Security requirements for the Covered Policies subject to this actuarial guideline, and any remainder shall be allocated to those Covered Policies subject to Model #787.
7. Effective Date

This actuarial guideline shall become effective as of January 1, 2017 with respect to all Covered Policies. This actuarial guideline supersedes and replaces all previous versions thereof with respect to actuarial opinions rendered as to valuation periods ending on or after January 1, 2017.

Note: For the avoidance of doubt, actuarial opinions issued with respect to the year ended December 31, 2016, shall be governed by the version of AG 48 in effect on December 31, 2016, as included in the Accounting Practices and Procedures Manual.

8. Sunset Provision

This actuarial guideline shall cease to apply as to Covered Policies that are both (a) issued by ceding insurers domiciled in a jurisdiction that has in effect, as of December 31st of the calendar year immediately preceding the year in which the actuarial opinion is to be filed, a regulation substantially similar to Model #787 adopted by the NAIC on December 13, 2016; and (b) subject to Model #787 as so adopted by the ceding insurer’s jurisdiction of domicile. This Actuarial Guideline shall continue to apply, without interruption, to any and all Covered Policies not included in both (a) and (b) of the immediate preceding sentence.

Note: It is anticipated that, for most states, this actuarial guideline will sunset pursuant to (a) and (b) of Section 8 and will continue only with respect to the limited number of states in which their version of Model #787 applies prospectively only, i.e., applies only to Covered Policies issued on or after the effective date of their version of Model #787. It is anticipated, however, that most states will be able to adopt a version of Model #787 that, like the Model itself, applies to all Covered Policies (subject to the applicable exemptions and grandfathering provisions) that are “in force” on or after the effective date, even if the policies were originally issued prior to that effective date. The goal of Section 8 is to ensure that all Covered Policies ceded in reinsurance transactions within the scope of this actuarial guideline continue to be subject to this actuarial guideline unless and until they become subject to Model #787.