National Association of Insurance Commissioners

Summary of Findings and Determination

Switzerland:
Financial Market Supervisory Authority (FINMA)

Re-Evaluation of Qualified Jurisdiction

Approved By:

Qualified Jurisdiction (E) Working Group	October 7, 2019
Reinsurance (E) Task Force	December 8, 2019
Executive (EX) Committee and Plenary	December 10, 2019

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I. Re-Evaluation of Switzerland: Financial Market Supervisory Authority

The Qualified Jurisdiction (E) Working Group of the National Association of Insurance Commissioners (NAIC) has completed this Summary of Findings and Determination with respect to its re-evaluation of the Financial Market Supervisory Authority (FINMA), the lead insurance regulatory supervisor for Switzerland. It is the recommendation of the Working Group that the NAIC re-approve FINMA as a Qualified Jurisdiction and continue its designation on the *NAIC List of Qualified Jurisdictions*, to be effective as of January 1, 2020. Further, the Working Group recommends that Missouri be the Lead State for purposes of regulatory cooperation and information sharing with FINMA. These recommendations are based on the following analysis.

II. Procedural History

The NAIC adopted the *Process for Developing and Maintaining the NAIC List of Qualified Jurisdictions* (Qualified Jurisdiction Process) on August 27, 2013 (which was further amended on August 19, 2014). The 2011 revisions to the *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786) (collectively, the "Credit for Reinsurance Models") require an assuming insurer to be licensed and domiciled in a Qualified Jurisdiction in order to be eligible for certification by a state as a certified reinsurer for reinsurance collateral reduction purposes.[1]

On December 16, 2014, the NAIC Executive (EX) Committee and Plenary approved FINMA as a Qualified Jurisdiction and placed it on the *NAIC List of Qualified Jurisdictions*, to be effective as of January 1, 2015. This designation as a Qualified Jurisdiction was to be valid for five years (absent a material change in circumstances) ending on December 31, 2019, after which FINMA would be re-evaluated under the provisions of the Qualified Jurisdiction Process. Specifically, paragraph III(12)(c) of the Qualified Jurisdiction Process currently provides, as follows:

> Once approved, a Qualified Jurisdiction is subject to a re-evaluation every five years. The Periodic Evaluation may follow a similar process as that set forth above, **or such abbreviated process as the Qualified Jurisdiction Working Group may deem appropriate**. [Emphasis added].

The Working Group has determined that it would follow such an abbreviated process in its re-evaluations of the jurisdictions currently on the *NAIC List of Qualified Jurisdictions*. The Working Group met in regulator-to-regulator session on October 7, 2019, and heard a presentation by NAIC staff

[1] The Credit for Reinsurance Models were further revised on June 25, 2019, to recognize a new designation of "Reciprocal Jurisdiction" under which certain reinsurers licensed and domiciled in Reciprocal Jurisdictions are not required to post reinsurance collateral. A Qualified Jurisdiction which meets certain additional requirements described in the Credit for Reinsurance Models may be determined to be a Reciprocal Jurisdiction under a separate evaluation by the Working Group.

on whether FINMA should be re-approved as a Qualified Jurisdiction. The Working Group considered the following information with respect to the re-evaluation of FINMA:

1. *International Monetary Fund (IMF), Switzerland: Financial Sector Assessment Program, June 2019 (IMF Country Report No. 19/183).*
2. *International Monetary Fund (IMF), Switzerland: Financial Sector Assessment Program—Technical Note—Insurance Regulation and Supervision, June 2019 (IMF Country Report No. 19/185).*
3. *International Monetary Fund (IMF), Switzerland: Financial Sector Assessment Program—Technical Note—Insurance Stress Testing, June 27, 2019 (IMF Country Report No. 19/186).*
4. *2015 EIOPA Advice to the European Commission: Equivalence assessment of the Swiss supervisory system in relation to Articles 172, 227 and 260 of the Solvency II Directive (EIOPA-BoS-15/041).*
5. *Switzerland: Enforcement of Foreign Judgments 2019 (International Comparative Legal Guide, Global Legal Group, 2019).*
6. *Summary of Findings and Determination Switzerland: Financial Market Supervisory Authority (FINMA) approved by NAIC Executive (EX) Committee and Plenary on December 16, 2014.*
7. *NAIC Staff Workpapers on Initial Review and Findings dated August 5, 2014 (Confidential).*

III. Standard of Review

The standard for qualification of a jurisdiction is that the NAIC must reasonably conclude that the jurisdiction's reinsurance supervisory system achieves a level of effectiveness in financial solvency regulation that is deemed acceptable for purposes of reinsurance collateral reduction. In addition, the jurisdiction's demonstrated practices and procedures with respect to reinsurance supervision are consistent with its reinsurance supervisory system and the jurisdiction's laws and practices satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Models.

This same standard was deemed appropriate by the Working Group with respect to the re-evaluation of a Qualified Jurisdiction under the abbreviated process. Specifically, the Working Group determined that it would be appropriate to review a jurisdiction's most recent IMF report prepared under its Financial Sector Assessment Program (FSAP), and any other documentation that the Working Group would consider to be relevant to this determination. In addition, the Working Group would consider its past experience in working with the Qualified Jurisdiction and any certified reinsurers domiciled in the Qualified Jurisdiction.

IV. Summary of Findings and Recommendation

Upon review of the available information, the Working Group has reached the conclusion that FINMA's reinsurance supervisory system continues to achieve a level of effectiveness in financial solvency

regulation that is acceptable for purposes of reinsurance collateral reduction, that FINMA's demonstrated practices and procedures with respect to reinsurance supervision continue to be consistent with its reinsurance supervisory system, and that its laws and practices satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Models.

Therefore, it is the recommendation of the Working Group that the NAIC continue to recognize FINMA as a Qualified Jurisdiction and place it on the *NAIC List of Qualified Jurisdictions*, with such re-evaluation to be effective as of January 1, 2020.