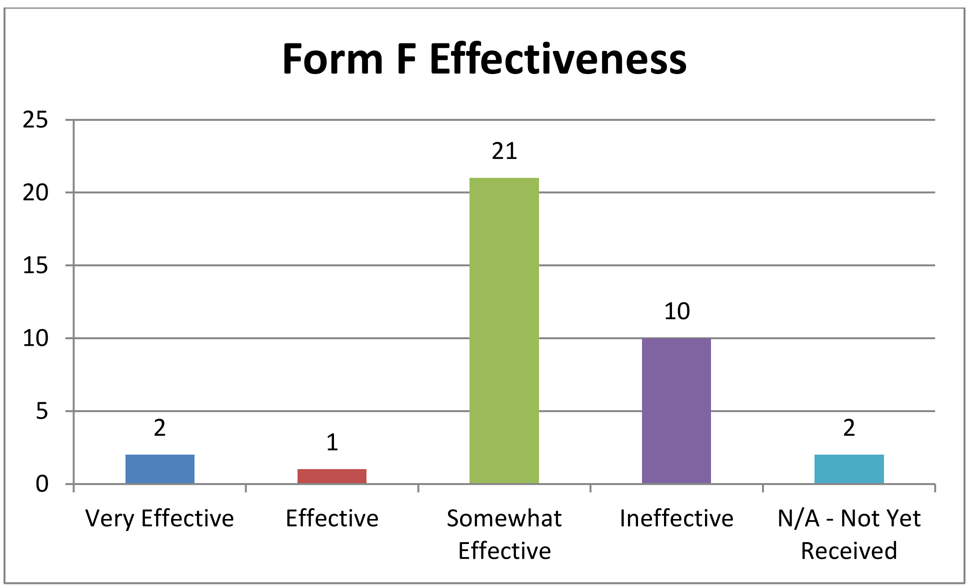
NAIC National Association *of* Insurance Commissioners

To: **Christy Neighbors, Chair of the Group Solvency Issues (E) Working Group**
From: **NAIC Staff**
Date: **June 1, 2016**
RE: **Form F Effectiveness Survey Results**

On May 20, 2016 the Group Solvency Issues (E) Working Group conducted a survey of all state insurance departments to gather feedback on the effectiveness of the Form F (Enterprise Risk Report) reporting process. Responses were received from 36 different jurisdictions. This memo summarizes the responses received to each of questions included in the survey.

1. **Please select from the responses below to indicate your state's evaluation of the overall effectiveness of the Form F reporting process.**
    a. **Very effective, with most all groups providing valuable information on enterprise risks, including those emerging from non-insurance operations (where relevant)**
    b. **Effective, with a majority of groups providing valuable information on enterprise risks, including those emerging from non-insurance operations (where relevant)**
    c. **Somewhat effective, with some groups providing valuable information on enterprise risks, including those emerging from non-insurance operations (where relevant)**
    d. **Ineffective, with very limited information provided on enterprise risks**



As indicated in the table above, 21 states (58% of respondents) indicated that the Form F reporting process is currently only Somewhat Effective. The next most common response was Ineffective, which was selected by 10 states (28% of respondents). Two states selected Very Effective, one state chose Effective and two states indicated that they had not yet received a Form F filing.

2. **If the answer to #1 was Effective, Somewhat Effective, or Ineffective, please describe why.**

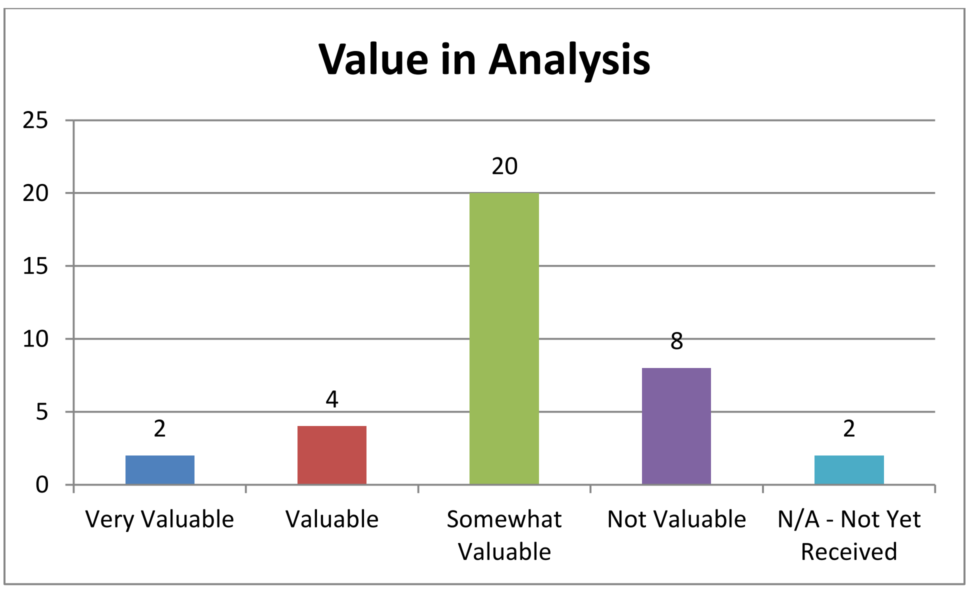
A wide range of responses were received to explain the limited effectiveness of Form F reporting, including the following:

- Many filers answer "No Changes" or "None" in responding to the topics listed in Item 1 of the report and indicate that no enterprise risks have been identified

- Many filers do not provide much (if any) information on non-insurance enterprise risks
    - Filings are often presented at the insurer level or perspective, as opposed to addressing all enterprise risks (including non-insurance risks) at the Ultimate Controlling Person (UCP) level
- Many filers appear to treat exercise as merely a compliance requirement that must be filed, as opposed to a tool to communicate important information on risk exposures to regulators
- Many larger insurance groups limit their filing to referencing publicly available information (e.g. SEC filings, news releases and MD&As), limiting the insight provided
- Some filers provide reference to a long list of generic risks that could impact all insurers, without providing additional detail regarding their specific exposures
- As the Form F does not require reporting on the group's ERM processes, the information presented on enterprise risks may have limited value
- Some regulators indicated that initial filings provided very limited value, but have now improved to a certain extent due to conversations between the regulator and the group

3. Please select from the responses below to indicate your state's evaluation of the overall value and utility of the Form F reports in regulatory analysis efforts.

a. Very valuable and used as an integral part of our regulatory analysis efforts.
b. Valuable and used in our regulatory analysis efforts.
c. Somewhat valuable and sometimes used in our regulatory analysis efforts.
d. Not valuable, rarely used in our regulatory analysis efforts.

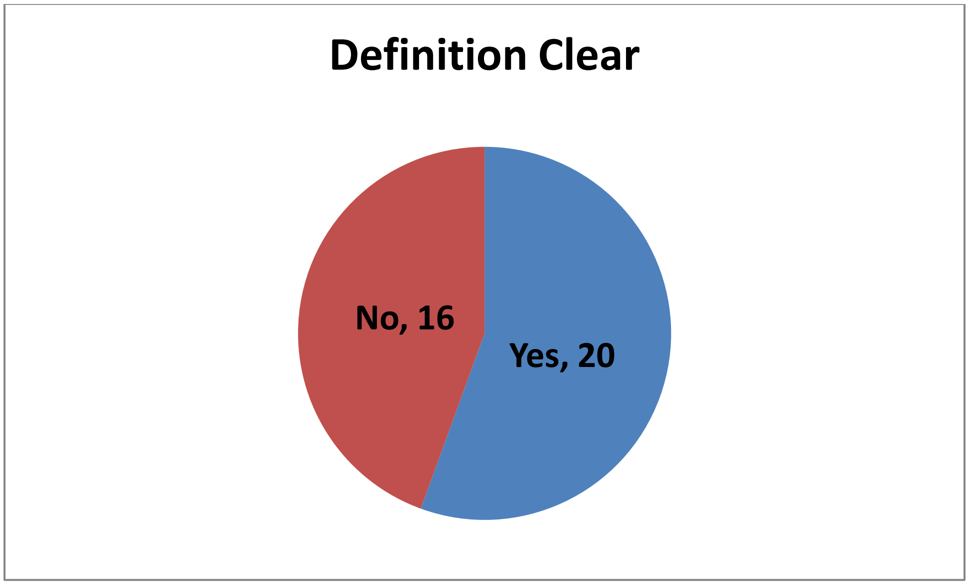


As indicated in the table above, 20 states (56% of respondents) indicated that the Form F reporting process is currently only 'Somewhat Valuable' to financial analysis efforts. The next most common response was 'Not Valuable', which was selected by 8 states (22% of respondents). Four states selected 'Valuable', two states chose 'Very Valuable' and two states indicated that they had not yet received a Form F filing.

4. If the answer to #3 was Valuable, Somewhat Valuable, or Not Valuable, please describe why.

A wide range of responses were received to explain the limited effectiveness of Form F reporting, the vast majority of which were consistent with the responses provided under #2 above.

5. Do you feel that the definition of enterprise risk (see excerpt from Model #440) is sufficiently clear to require groups to bring all relevant risks, especially non-insurance company enterprise risks, to the attention of regulators? (Y or N)



Of the respondents, 20 states (56%) indicated that the definition of Enterprise Risk is sufficiently clear, whereas 16 states (44%) indicated that it is not sufficiently clear.

6. If the answer to #5 is no, please discuss why and suggest potential improvements?

A wide range of responses were received from states that selected ‘No’ in responding to whether the definition of Enterprise Risk was sufficiently clear to bring all relevant risks to the attention of regulators, including the following suggested improvements:

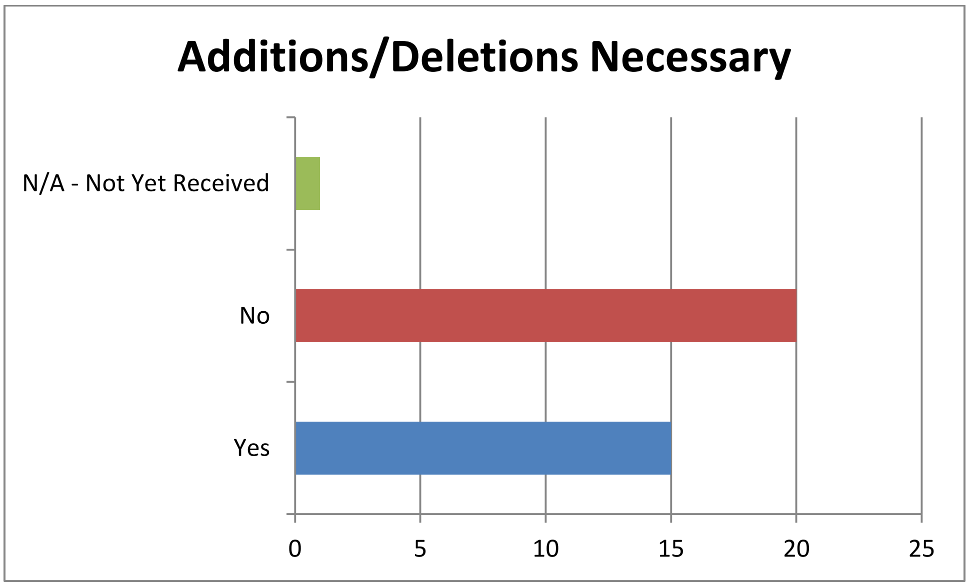
- The definition should be enhanced to clarify that all activities of the UCP (including non-insurance operations) can be enterprise risks and should be reported through Form F
- The definition and supporting guidance should be enhanced to describe more significant prospective risks and anticipated developments that should be reported, particularly for non-insurance exposures
- As the definition does not adequately capture what is commonly understood as enterprise risk, we would suggest using language more aligned with the COSO definition
- Recommend modifying the language in the definition stating “if not remedied promptly, is likely to have a material adverse effect” to something like “if not effectively mitigated or remediated may have an adverse effect”
- The phrase “if not remediated promptly” can be construed to omit risks the company feels are remedied or managed and may lead to significant risks not being reported
- The term “any event” is limiting and could be replaced by something more inclusive, including more examples of situations or risk events that should be reported
- The use of the term “material” is not clear within the definition and may lead to different interpretations on what should be reported

7. Which of the areas of enterprise risk highlighted in Item 1 of Form F reporting template (see excerpt from Model #450) provide the greatest value or information to regulators?

Regulators indicated that most (if not all) of the areas highlighted in Item 1 can provide significant value, depending upon how the filing is interpreted and completed. The areas commonly identified as being the most beneficial included the following:

- Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system
- Business plan of the insurance holding company system and summarized strategies for next 12 months;
- Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system
- Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year
- Identification of insurance holding company system capital resources and material distribution patterns
- Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

8. Are there any areas of enterprise risk that should be added to or deleted from Item 1 of the Form F reporting template or otherwise clarified? (Y or N)



As shown above, 20 states (56% of respondents) indicated that the areas of enterprise risk highlighted in Item 1 of Form F were sufficient, whereas 15 states (42% of respondents) indicated that additions to or deletions from Item 1 would be beneficial and one state did not offer a response.

9. If yes, please elaborate and describe any needed additions, deletions or improvements

Respondents provided a wide-range of responses to this question, including a list of potential additions or adjustments as well as items to be considered for deletion.

Suggested additions/adjustments included the following:

- Update the areas listed under Item 1 to be more specific and require a written response
- Add risks in the holding company's IT system that, in the opinion of senior management, could adversely affect the insurance holding company system
- Have the group differentiate between no inherent material risks or a list of these inherent risks that the group has a process to promptly remediate would be helpful, including what the remediation is

- Add a section specific to Corporate Governance risks associated with change in management and /or philosophy would be helpful
- We would add or modify Item 1 elements to specifically indicate the company's means of addressing non-insurance operations and to also reference the ORSA Summary Report, which is not publicly available, if applicable, to provide better insight into the company's ERM
- Item 1 of the Form F should require that a holding company describe its ERM framework
- Item 1 should require the company to provide a narrative response to each of the items listed
- Although, a response of "no" (i.e. no enterprise risk) may be appropriate for many of the areas listed under Item 1, the Registrant should be encouraged to expand on areas assessed, when arriving at the response of "no," so the Department can adequately assess the completeness, appropriateness and thoughtfulness of the response
- Identify any material non-insurance risks that have the potential to adversely affect the insurance holding company system
- Add emphasis or clarification indicating that the responses should be provided at the UCP/Enterprise level as opposed to the insurance holding company level
- Group questions into general areas of risk i.e. financial, operations, compliance, market, macroeconomic risks, etc, or some guidance on what types of risks are expected in each question.
- The question on business plan needs to specify the exact detail needed. This will help avoid, "yes we have a plan", or getting only a short "proforma" income statement with no narrative, which is of limited use

Suggested deletions included the following:
- Rather than having the reporting entity report on the ten categories for Item 1, we recommend that we limit the categories to no more than five. For example: acquisitions/disposal, capital resources, guarantees and business plan could be combined under strategy.
- Several of the areas listed under Item 1, including the third (changes to shareholders) and seventh (HC capital resources), may be duplicative with Form B reporting requirements and should be considered for deletion
- Several of the areas listed under Item 1 may be addressed in more detail in an ORSA Summary Report for those groups that are subject to that filing requirement. Therefore, regulators should consider exempting ORSA filers from the Form F reporting requirements.
- We recommend removing the question regarding identification of material concerns of the insurance holding company system raised by the supervisory college because regulators should already be aware of those concerns

10. Please compare and contrast the information provided by groups in their Form F vs. their ORSA Summary Report, if your state has received both filings from a particular group. For example, please provide comments on the following:
   a. The level at which reports are provided (e.g. UCP, Insurance Holding Company, etc.)
   b. The scope of entities covered by the reports (e.g. insurers, non-insurance subsidiaries, non-insurance affiliates, holding companies, etc.);
   c. The types of risks/issues highlighted in the reports (e.g. insurance risks vs. non-insurance enterprise risks); and
   d. If your state can't provide input in this area, please describe why (e.g. haven't adopted ORSA, haven't yet received ORSA reports, not a lead state for ORSA groups, etc.).

22 states (58% of respondents) indicated they had not yet had an opportunity to compare information reported through the Form F and ORSA due to various factors. From the other 14 states (42% of respondents) a wide range of responses were received, which have been summarized as follows:

- Level at Which Reports are Provided - Filers took different approaches and the experiences of states in this area was inconsistent. Some filers argued that non-insurance entities are excluded from the scope of the ORSA as it applies to group-wide insurance operations.

- The Scope of Entities Covered by the Reports – Again, states reported inconsistent results in this area with some Form F filings and ORSA Summary Reports covering all entities under the UCP (including non-insurance entities) and others limiting their scope to insurance entities. As noted above, some filers argued that the ORSA only applies to insurance operations.

- Types of Risks/Issues Highlighted in the Reports – Most respondents indicated that ORSA reports have provided much more information and detail on individual risks than the Form F. However, several respondents indicated that neither of the two reports is providing a detailed assessment of non-insurance risks that can impact the insurance operations beyond general "market risks."

- Other Comments Received:
  - ORSA reports generally provide more value than the Form F, but aren't required of all groups.
  - Information contained within the ORSA reports is generally more valuable as the statute and guidance manual requires specific topics to be discussed including identification, prioritization, and assessment of risks.
  - ORSA reports are primarily limited to insurers and insurance risk, whereas Form Fs are supposed to include contagion risks and non-insurance risks as they relate to the Insurance Holding Company System and are filed on behalf of the UCP. However, the reports we are currently receiving don't necessarily take this approach.

11. Please provide additional suggestions your state has identified to improve the Form F reporting process, if any.

In addition to the suggestions made in response to questions discussed above, a number of additional suggestions and recommendations were received from states in responding to this question, including the following:

- We recommend that a comprehensive instruction/guidance as well as examples for each of the category in Item 1 be provided to assist smaller companies in providing meaningful and valuation information in their Form Fs.
- Form F should only be required of groups that do not file an ORSA. Consideration should be given to adding questions to the holding company analysis related to the analysis of Form F (ERM) for non ORSA filers.
- Clarity as to what is expected, perhaps with a few examples would be helpful for the Form F instructions. Also, the instructions should focus on the 9 branded risk categories, given that the financial analyst has to transcribe the Form F information received into the branded risks matrix that we all use. Additionally, the Form F material could be added to the financial analysis and examiners handbook as suggestions for meeting topics to discuss with insurers. The regulator is more likely to get a comprehensive dialogue face to face, where the regulator can get clarification, than in a written document.
- In our experience so far, those responses which have been deemed to be inadequate require pressure on filer to provide sufficient levels of detail. We have had varying levels of success so far.
- Add a signature block with contact information to the Form F Report format to suggest that this report is to come from the Ultimate Controlling Party rather than the lead insurer. This would provide the regulator direct access to the appropriate party to contact for further information or feedback, as is available on the Forms B, C, and D.
- We need to develop a strategy or process on how to instruct the respondents to correctly complete the Form F so that is actually useful to them and to the regulators.
- Branded Risk categories may be helpful to add as part of Item 1 to assist in completion of the Insurer Profile Summaries and Risk Focused field examinations. Separate from the Form F filing, our

Department submits: 1) a request for a Business Plan and projections, and 2), a Branded Risk questionnaire, to our domestic insurers each year. The questionnaire asks the company to discuss their Business Plan in relation to the 9 Branded Risk categories

- It is recommended that the definition of Enterprise Risk be revised to include language regarding the risks that non-insurance affiliates and subsidiaries pose on insurance entities in a holding company system. These risks are the real reason for the Form F filing. This language could also be included in Section 4, which refers to material risks to insurers in a holding company system but does not specifically target the non-insurance entities.
- Consider having NAIC create and maintain a NAIC Guidance Manual (Manual) or Best Practices Guide (Guide) for insurance groups to illustrate how to adequately respond to the Form F items. The Manual or Guide could provide examples of complete and thoughtful responses. Additionally, the proposed Manual or Guide could inform the registrant that for insurance groups that provide an ORSA Summary Report, the internal assessment that takes place to populate the Form F should include all activities within the holding company system, which is much broader in scope than the ORSA (i.e. typically focused on the insurance operations). In fact, the insurance group should be prepared to discuss how the Form F considered items not discussed or contemplated within the ORSA Summary Report. The registrant is also encouraged to reference specific pages or sections of the ORSA Summary Report for insurance operation considerations, similar to how it references responses in the SEC filings. The proposed Manual or Guide could also discuss how to address situations where the SEC filing disclosures do not provide sufficient detail to adequately and completely address the Form F items, so supplemental disclosure is encouraged.
- A reference guide that includes examples of an acceptable response to each reporting requirement would be helpful. This could provide the analyst additional insight into what to look for in a response.
- The Form F filing appears to be focused on notifying a state insurance regulatory agency of any possible immediate concerns that may threaten a company and/or its affiliates. If this is the intended purpose it should be made clear to the reporting entities so that there is less room for interpretation of the filing and to eliminate any duplicative reporting. We don't find the Form F checklist necessary, as the included items are duplicative of work performed in the level 1 checklist.
- Form F needs its own section in the Model Law, as opposed to being combined with the Form B section. Combining them makes it difficult to know how much of Section 4, if any, applies to Form F. This will help avoid the Form F being filed as part of Form B (attached in the same PDF), and the problematic issues associated with that. It will also allow Form F to get its own instructions, separate from Form B.
- Instructions for Form F should require respondents to include the questions and their numbering sequence on the completed form, (similar to Form B). This will help avoid filings where the only words on the paper are, a) None; b) None; c) None.
- Form F needs a signature and certification page at the end of the form, similar to Form B. This is pretty important to establish authenticity etc.
- The purpose of "Obligation to Report" in Item 2 is not clear. Theoretically, few will submit a Form F with no enterprise risks since risk exists in every company. That being said, it may be best to include this statement in the signature & certification section at the end (if added). That way, it becomes a verifying statement for all respondents, not just those with little to say.