



ENSTAR (US) Inc.

Comments to Restructuring Mechanisms (E) Working Group

July 12, 2024

Dear Director Elizabeth Kelleher Dwyer and Commissioner Glen Mulready:

Thank you for the working group's continued efforts to provide background and guidance on the regulatory perspective of restructuring mechanisms including insurance business transfers (IBT) and corporate divisions. We recognize that the subject matter has continued to develop over the course of this process and we look forward to the inclusion of the additional states that have adopted IBT legislation in the white paper. Since the adoption of the NCOIL Insurance Business Transfer Model Act in 2020 we have seen several states use it as the foundation for their own legislation, including Illinois, Georgia, and the bill introduced in Texas. NCOIL has also adopted a Division Model Act. We believe it would be helpful to provide additional focus on these model acts, which will likely continue to be utilized by US states.

Additionally, the inclusion of the NAIC's work updating the Property & Casualty Guaranty Fund Model Act (#540) will be valuable to states not only in understanding the interoperability of restructuring mechanisms and guaranty funds but also for states looking for more information on why the updated NAIC model should be enacted.

We would also encourage the working group to further develop its guidance on the subject of run-off, or to consider developing a separate guidance document to study it in the future. Run-off is a subject that almost all insurers will be faced with addressing over the course of their business. It is a subject that is difficult to cover with a single approach, as most insurers will hold some amount of run-off business, often immaterial to the total scope of their operations, and manage it in the normal course of business. However, some active insurers may reach levels of run-off that exceed their ongoing business, and others may choose to place their entire operations into a state of run-off. Furthermore, professional run-off specialists, such as Enstar Group, are involved in actively acquiring business which is in a state of run-off, growing their insurance portfolios without new business being written. Although restructuring mechanisms are useful for the run-off industry they are only



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one part of it, and we would encourage the working group to consider whether it would be more appropriate to address the subject of run-off directly and include references to restructuring mechanisms rather than the reverse, as structured in these documents.

We note that the review of the global frameworks that predated IBT legislation in the US was a critical component for the development of IBT legislation by the first US states to pass the legislation and for the NCOIL Model Act. However, it may be less beneficial to regulators in the future who are reviewing transactions designed and proposed under US state laws. As such, it may be helpful to limit some information to footnote or appendix to better emphasize the portions of the document most relevant to regulatory review of US restructuring mechanisms.

We also note that the newly included section of the white paper specific to Virginia law discusses the transfer between Providence Washington Insurance Company (PWIC) and Yosemite Insurance Company, which at the time were both wholly-owned subsidiaries of Enstar Group. We believe it would be helpful to the narrative to expand on the history of the transaction and the business transferred. PWIC originally acquired that business through a Loss Portfolio Transfer Agreement with Reciprocal of America, which was in receivership. As part of that transfer and assumption of claims in 2014, the Bureau of Insurance, State Corporation Commission of the Commonwealth of Virginia approved the transaction, in accordance with the same section of the Virginia Code referenced in the text. We would be happy to provide more details on that transaction for the benefit of the working group should you wish to further develop that section of the document.

Sincerely,

A handwritten signature in blue ink that reads "R J Redpath".

Robert Redpath
Senior Vice President
Regulatory & Technical Director

A handwritten signature in blue ink that reads "James Mills".

James Mills
Vice President, Corporate Counsel
Regulatory Relations