



TO: Kevin Fry, Chair, Valuation of Securities (E) Task Force
 Members of the Valuation of Securities (E) Task Force

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CC: Eric Kolchinsky, Director, NAIC Structured Securities Group (SSG) and Capital Markets Bureau

RE: Addition of United States International Development Finance Corporation to the Purposes and Procedures Manual U.S. Government Full Faith and Credit – Filing Exempt List

DATE: September 3, 2021

Summary – An industry participant requested that the SVO add the U.S. International Development Finance Corporation to the “U.S. Government Full Faith and Credit – Filing Exempt” list in Part One of the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (the “P&P”).

In October 2018 the Better Utilization of Investments Leading to Development (“BUILD”) Act was signed into law. The BUILD Act reorganized and merged existing United State government development finance and aid programs, the U.S. Overseas Private Investment Corporation (“OPIC”) and the Development Credit Authority of the United Stated Agency for International Development (“USAID”), into a new agency called the U.S. International Development Finance Corporation (“DFC”). The purposed of the DFC is to facilitate the participation of private sector capital and skills in the economic development of less developed countries and countries transitioning to market economies, while advancing U.S. foreign policy interests. It is authorized to do so by making loans or guaranties according to terms and conditions specified in the BUILD Act.

Pursuant to the BUILD Act, the support provided by the DFC shall, and existing support provided by OPIC and USAID shall continue, to constitute obligations of the United States, and the full faith and credit of the United States is thereby pledged for the full payment and performance of such obligations. The DFC is authorized to borrow from the U.S. Treasury to fulfill such obligations of the United States.

Based on this express full faith and credit, the SVO recommends adding the DFC to the “U.S. Government Full Faith and Credit – Filing Exempt” list in Part One of the P&P. We recommend maintaining OPIC and USAID on the list even though they have been subsumed by the DFC, because certain obligations of those agencies may still be outstanding.

For the avoidance of doubt, any security issued by an entity on the “U.S. Government Full Faith and Credit – Filing Exempt” list shall be filed with the SVO if the security is not *fully* guaranteed by the U.S. government. For certain entities on the list, statute may require parties other than the U.S. government full faith and credit guarantor to bear a risk of loss equal to a specified percentage of the guaranteed

support. For example, the BUILD Act requires parties to a project to bear the risk of loss in an amount of at least 20 percent of the guaranteed support of the DFC. If an insurance company, as investor, is the party bearing that risk of loss, meaning the securities it purchased are not fully guaranteed by the DFC or another entity on the list, it would need to file those securities with the SVO.

The P&P explains that the SVO has no compliance mechanism for these U.S. Government Obligations and encourages insurers which are uncertain about the Filing Exempt status of a security to either file it with the SVO or use the Regulatory Treatment Analysis Service (RTAS) – Emerging Investment Vehicle process. (P&P Part One, Paragraphs 75-76).

Proposed Amendment - The text changes to include the DFC on the “U.S. Government Full Faith and Credit – Filing Exempt” list is shown below with additions in red underline and deletions in ~~red strikethrough~~, as it would appear in the 2021 P&P Manual format.

PART ONE

POLICIES OF THE NAIC VALUATION OF SECURITIES (E) TASK FORCE

FILING EXEMPTION FOR U.S. GOVERNMENT SECURITIES

Initial Filing Conventions and Documentation

66. U.S. Government Securities Required to Be Filed with the SVO – U.S.

Government debt that is not issued by, or guaranteed or insured by, those entities listed in below are subject to the filing exemption when rated by an NAIC CRP, otherwise, they must be filed with the SVO.

SVO Publishing Conventions for Filing Exempt U.S. Government Securities

67. U.S. Treasury Obligations – U.S. Treasury Obligations are added to the VOS Process automatically, and they appear in the VOS Product. The NAIC Designation is **NAIC 1** and the NAIC Designation Category is **NAIC 1.A**.

Other Filing Exempt U.S. Government Securities

68. A single entry is in the AVS+ Products in its normal CUSIP sequence, followed by the description “All Issues” for the securities listed below.

69. Because these securities are Filing Exempt, CUSIP numbers are not published in the AVS+ Products. The securities should, however, be reported with a CUSIP in the appropriate section of Schedule D. The NAIC Designation is **NAIC 1** and the NAIC Designation Category is **NAIC 1.A**.

Filing Requirements for U.S. Government Securities

70. No filing is required for the securities deemed exempt from filing below unless a state insurance department has specifically requested the SVO to evaluate an exempt security.

71. For U.S. Government Securities required to be filed with the SVO, the reporting insurance company shall submit:

- A prospectus of the security that includes a description of the U.S. government program under which it is issued; and
- Appropriate evidence that the security or other obligation is backed by the U.S. government, an agency of the U.S. government or a U.S. government sponsored enterprise.

72. A variety of documents are acceptable as evidence that the issuer in question has some degree of support from the U.S. government. A copy of the legislation that created the entity or the program is acceptable as evidence of government support. Additionally, a copy of the guaranty or insurance policy for the transaction is also good evidence of government support. Another acceptable form of evidence is evidence of an NAIC CRP rating with a copy of the rating rationale memorandum discussing the role of U.S. government support. Oftentimes, the prospectus for the security describes in sufficient detail the relationship of the entity to the U.S. government, its agency or its government-sponsored enterprise.

73. It is not enough to merely establish a relationship between the U.S. government and the entity. It is necessary to provide materials that specifically describe all of the financial terms of the obligation and the manner in which the U.S. government will pay the obligation.

Subsequent Filing

74. No subsequent report (i.e., an annual update filing) is required for non-exempt U.S. government securities. However, a material credit events filing is required for nonexempt U.S. government securities if:

- The legislation authorizing the program has been rescinded;
- The transaction terms and/or the transaction documents have been waived, amended or modified; or
- If the legal commitment of the U.S. government, U.S. government agency or U.S. government sponsored entity has been allowed to lapse or has been withdrawn.

Filing Exemption for Direct Claims on, or Backed by Full Faith and Credit of, the United States

75. This section defines what the NAIC deems to be U.S. Government Obligations. They are not required to be filed with the SVO.

NOTE: Because these filing exemption provisions are set forth without any compliance mechanism, the SVO will not be able to verify whether insurers have filed all securities that are required to be filed with the SVO. State insurance department regulators may wish to create their own compliance mechanisms to protect any interests they may have relative to their domiciliary insurers.

76. The SVO does not have responsibility for determining whether specific securities should be filing exempt. An insurer who is uncertain whether a specific security qualifies for exemption should not contact the SVO for guidance, but should either file the security with the SVO or use the RTAS – Emerging Investment Vehicle Service process and obtain an opinion on exemption for that security.

Definitions

77. **U.S. Government Obligation** – All direct claims (including securities, loans, and leases) on, and the portions of claims that are directly and unconditionally issued, guaranteed or insured by the U.S. Government or its agencies.

78. **U.S. Government Agency** – An instrumentality of the U.S. Government the debt Obligations of which are fully guaranteed or insured as to the timely payment of principal and interest by the full faith and credit of the U.S. Government. This category includes in addition to direct claims on, and the portions of claims that are directly and unconditionally guaranteed by, the U.S. Government agencies listed below, claims collateralized by securities issued or guaranteed by the U.S. Government agencies listed below for which a positive margin of collateral is maintained on a daily basis, fully taking

into account any change in the insurance company's exposure to the obligor or counterparty under a claim in relation to the market value of the collateral held in support of that claim.

U.S. Government Full Faith and Credit – Filing Exempt

Army and Air Force Exchange Service (AAFES)
 Commodity Credit Corporation (CCC)
 Export–Import Bank of the United States (EXIM Bank)
 Farmers Home Administration (FmHA) – Certificates of Beneficial Ownership
 Federal Deposit Insurance Corporation (FDIC)
 Federal Housing Administration (FHA)
 General Services Administration (GSA)
 Government National Mortgage Association (GNMA)
 National Credit Union Administration (NCUA)
 Overseas Private Investment Corp (OPIC)
 Small Business Administration (SBA)

U.S. Agency for International Development (USAID)
 U.S. Department of Agriculture (USDA)
 U.S. Department of Health and Human Services (HHS)
 U.S. Department of Housing and Urban Development (HUD)
 U.S. Department of the Treasury
 U.S. Department of Veterans Affairs (VA)
[U.S. International Development Finance Corporation \(DFC\)](#)
 U.S. Maritime Administration (MARAD)
 Washington Metropolitan Area Transit Authority

Filing Exemption for Other U.S. Government Obligations

79. Obligations issued and either guaranteed or insured, as to the timely payment of principal and interest, by the government agencies or government-sponsored enterprises listed below are filing exempt. They are not backed by the full faith and credit of the U.S. Government. The filing exemption here is based on an analytical judgment that the combined creditworthiness of the entity itself and U.S. government support for that entity provides confidence that the issuer will be able to pay its obligation on a full and timely basis at the level of an **NAIC 1** quality designation and an NAIC Designation Category of **NAIC 1.A**. For the avoidance of doubt, preferred stock or similar securities of the government agencies or government-sponsored enterprises listed below are not considered guaranteed or insured and hence are not subject of this section.

Filing Exempt Other U.S. Government Obligations if issued and either fully guaranteed or insured by:

Federal Agricultural Mortgage Corporation (Farmer Mac)
 Federal Farm Credit Banks (FFCB)
 Federal Financing Bank (FFB)
 Federal Home Loan Banks (FHLB)
 Federal Home Loan Mortgage Corporation (Freddie Mac)
 Federal National Mortgage Association (Fannie Mae)

Financing Corporation (FICO)
Resolution Funding Corporation (REFCorp)
Tennessee Valley Authority (TVA)

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to US Gov List.docx