



National Association of Insurance Commissioners

Summary of Findings and Determination

BERMUDA MONETARY AUTHORITY

Re-Evaluation of Qualified Jurisdiction

Issued for Public Comment By:

Qualified Jurisdiction (E) Working Group

October 7, 2019

I. Re-Evaluation of Bermuda Monetary 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 the Bermuda Monetary Authority (BMA), the lead insurance regulatory supervisor for Bermuda. It is the recommendation of the Working Group that the NAIC re-approve the BMA 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 the BMA's status as a Qualified Jurisdiction only be applicable to (re)insurers of Class 3A, Class 3B and Class 4, and long-term insurers of Class C, Class D and Class E, which is consistent with the original approval of the BMA as a Qualified Jurisdiction. Finally, the Working Group recommends that Florida be the Lead State for purposes of regulatory cooperation and information sharing with the BMA. 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 the BMA 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 the BMA 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].

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.

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 received a presentation from NAIC staff on whether the BMA should be re-approved as a Qualified Jurisdiction. The Working Group considered the following information with respect to the re-evaluation of the BMA:

1. *2015 EIOPA Advice to the European Commission: Equivalence assessment of the Bermudian supervisory system in relation to articles 172, 227 and 260 of the Solvency II Directive, (EIOPA-BoS-15/042).*
2. *BMA Power Point Presentation on Group and Commercial Insurer Supervision (Confidential).*
3. *BMA Power Point Presentation on Legal Entity/Group Supervision Framework (Confidential).*
4. *BMA NAIC Qualified Jurisdiction Assessment: Summary of Appendices A & B, September 30, 2019 (Confidential).*
5. *Bermuda Response to Section D—Regulatory Cooperation and Information Sharing (Confidential).*
6. *Bermuda Response to Section E—History of Performance of Domestic Reinsurers (Confidential).*
7. *Bermuda Response to Section F—Enforcement of Final U.S. Judgments (Confidential).*
8. *Bermuda Response to Section G—Solvent Schemes of Arrangement (Confidential).*
9. *International Association of Insurance Supervisors Thematic Self-Assessment and Peer Review on Reinsurance and Macroprudential Surveillance (ICPs 13 and 24), September 19, 2016 (Confidential).*
10. *Enforcement of Judgments and Arbitral Awards in Bermuda: Overview (September 1, 2019, Marshall Diel & Myers Limited).*

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 public documentation that the Working Group would consider to be relevant to this determination. It should be noted that the BMA's last FSAP report was in 2008; therefore, the BMA supplied additional information (described above) to provide the Working

Group with an accurate understanding of its supervisory regulatory regime deemed equal to the level of an IMF FSAP report. The Working Group also reviewed a confidential self-assessment and peer review on the BMA prepared by the International Association of Insurance Supervisors. In addition, the Working Group considered 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 the BMA'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 the BMA'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 the BMA 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. Further, the Working Group recommends that the BMA's status as a Qualified Jurisdiction continues to be only applicable to (re)insurers of Class 3A, Class 3B and Class 4, and long-term insurers of Class C, Class D and Class E.