

October 4, 2019

Director Chlora Lindley-Myers, Chair
Reinsurance (E) Task Force
National Association of Insurance Commissioners
c/o Mr. Jake Stultz
Via e-mail jstultz@naic.org

Re: NAIC Request for Comments on Draft Process for Evaluating Qualified and Reciprocal Jurisdictions

Dear Director Lindley-Myers:

The Reinsurance Association of America (RAA) and the American Property and Casualty Insurance Association (APCIA) appreciate the opportunity to submit comments on the NAIC's exposure draft of its Process for Evaluating Qualified and Reciprocal Jurisdictions.

The Reinsurance Association of America (RAA) is a national trade association representing reinsurance companies doing business in the United States. RAA membership is diverse, including reinsurance underwriters and intermediaries licensed in the U.S. and those that conduct business on a cross-border basis. The RAA also has life reinsurance affiliates.

Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

NAMIC membership includes more than 1,400 member companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC member companies write \$268 billion in annual premiums. Our members account for 59 percent of homeowners, 46 percent of automobile, and 29 percent of the business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

We appreciate the swift action on the part of the Reinsurance Task Force to prepare a revised draft of its Process for Developing and Maintaining the NAIC List of Qualified Jurisdictions (now renamed the Process for Evaluating Qualified and Reciprocal Jurisdictions) to reflect the recently adopted 2019 revisions to the NAIC Credit for Reinsurance Model Law and Model Regulation. This is another important step in the implementation process for the U.S./EU and U.S./UK covered agreements and in the NAIC's expressed goal to revise the credit for reinsurance framework in the

U.S. to create an equal playing field for all reinsurers that meet the legal requirements and commitments from the new category of “Reciprocal Jurisdictions.” The Process for Evaluating Qualified and Reciprocal Jurisdictions provides the framework through which U.S. and non-U.S. jurisdictions will be evaluated as Reciprocal Jurisdictions, principles for that evaluation and a structure for review of Reciprocal Jurisdiction status.

At a high level, the exposure draft makes the necessary changes to implement the changes reflected in the Credit for Reinsurance Model Law and Regulation. We appreciate the changes with respect to treatment of jurisdictions subject to an in-force covered agreement as well as those relevant to the treatment of U.S. NAIC-accredited jurisdictions and other non-U.S. jurisdictions seeking Reciprocal Jurisdiction status. That said, we ask RTF to consider the following comments:

Enforcement/Evaluation Process

As set forth in Section III (12), the Reciprocal Jurisdiction itself is obligated to provide notice to the Qualified Jurisdiction Working Group (QJWG) of a material change in their law that might affect their status as a Reciprocal Jurisdiction. Self-reporting without any enforcement mechanism is ineffective. At a minimum, a process should be specified for a dialogue between the QJWG and the Reciprocal Jurisdiction to address any issues once they have been identified. The framework should provide a mechanism for potential suspension of a Qualified or Reciprocal Jurisdiction’s status if it fails to bring a material detrimental change in their supervisory system to the attention of the QJWG and the matter cannot be promptly resolved. Suspension would continue while the matter is being fully evaluated by the QJWG and would be lifted upon resolution of the matter. With respect to jurisdictions subject to an in-force covered agreement, the framework should include a process for notification to relevant supervisory authorities for evaluation (such as the Joint Committee as specified in the U.S./EU and U.S./UK covered agreements).

In addition, the process for re-evaluation of the Reciprocal Jurisdiction’s status should be clearly set forth in the framework. We appreciate that the QJWG has moved away from reevaluation at specified time periods; however, the process followed by the QJWG should have some greater detail, including clear direction on how U.S. companies experiencing issues in a foreign jurisdiction may bring those to the attention of the Working Group. The framework does not specify a mechanism for companies to directly raise their concerns with the QJWG. While a U.S. jurisdiction (i.e. a company’s domestic regulator) can notify the QJWG of material changes to a Reciprocal Jurisdiction’s supervisory system as set forth in Section III (12) b, we recommend that the right of a U.S. company to bring an issue directly to the attention of the QJWG, any time they experience a serious issue, should be formally recognized in the Process document.

In addition, the framework does not provide immediacy to the review and suspension process for a Reciprocal or Qualified Jurisdiction. No timelines are specified in Section III (12) or elsewhere. The QJWG should consider adding timelines to Section III (12) b for notice by the jurisdiction of the adoption of a material adverse change, the time period in which a decision to re-evaluate or not will be made, with written reports relating to that decision whatever the outcome, and adding a timeframe for when suspensions and revocations take effect, as well as reinstatement upon proof that the law in question has been withdrawn.

Points of Clarification

Sections III (13) c iii and III (13) d address the commitments that a Reciprocal Jurisdiction not subject to an in-force covered agreement must make through a written conformation letter. With respect to the bullet point addressing recognition of the U.S. approach to group supervision we suggest the following clarifying revision:

The Qualified Jurisdiction must recognize the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by its competent regulatory authority that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another U.S. jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, ~~as~~ by the applicable U.S. regulator, and will not be subject to group supervision, at the level of the worldwide parent undertaking of the insurance or reinsurance group, by the Qualified Jurisdiction;

In addition, in Section III (13) (c) (v) there is reference to Qualified Jurisdiction having “been granted an exemption” from state collateral requirements. We suggest that this phrase be edited to read “been granted relief” from state collateral requirements.

Conclusion

We appreciate the opportunity to offer comments and work with the NAIC to effectively implement revisions to framework for evaluating Qualified and Reciprocal Jurisdictions consistent with the U.S./EU and U.S./UK covered agreements and as reflected in the 2019 revisions to the NAIC Credit for Reinsurance Model Law and Regulation. Please do not hesitate to contact us with any questions or concerns.

Sincerely,

Reinsurance Association of America (RAA)
American Property Casualty Insurance Association (APCIA)
National Association of Mutual Insurance Companies (NAMIC)