

Summary of Findings and Determination

**Canada Office of the
Superintendent of Financial Institutions (OSFI)**

***Evaluation as a Jurisdiction that
Recognizes and Accepts the
U.S. Group Capital Calculation***

Issued for Public Comment By:

Mutual Recognition of Jurisdictions (E) Working Group

October 24, 2024

I. Executive Summary & Recommendation

The Mutual Recognition of Jurisdictions (E) Working Group of the National Association of Insurance Commissioners (NAIC) has completed this Summary of Findings and Determination with respect to the evaluation of the Canada Office of the Superintendent of Financial Institutions (OSFI) as a jurisdiction that Recognizes and Accepts the U.S. Group Capital Calculation (“Recognize and Accept Jurisdiction”). It is the recommendation of the Working Group that the NAIC approve the OSFI as a Recognize and Accept Jurisdiction and place it on the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation*, to be effective immediately. Finally, the Working Group recommends that the Department of Insurance and Financial Services for the State of Michigan (DIFS) be the Lead State for purposes of regulatory cooperation and information sharing with the OSFI. These recommendations are based on the following analysis:

II. Procedural History

The Working Group is responsible for overseeing the process for evaluating jurisdictions and maintaining a listing of jurisdictions that meet the NAIC requirements for recognizing and accepting the US approach to the Group Capital Calculation (GCC). As background, on December 9, 2020, the NAIC adopted revisions to the NAIC *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). These revisions implement the GCC filing requirements for insurance groups at the level of the ultimate controlling person for the purpose of evaluating solvency at the group level. The revisions specifically provide that the requirement to file the NAIC’s GCC applies to U.S.-based groups, while a group headquartered outside the U.S. is exempt from the GCC (subject to limited exceptions) if its groupwide supervisor “recognizes and accepts” the GCC for U.S. groups doing business in that jurisdiction. Likewise, a U.S. group subject to a group capital calculation specified by the Federal Reserve Board is exempt from the GCC. This process codifies the concepts of mutual recognition and one group/one group-wide supervisor. To further implement the GCC provisions of Model #440 and Model #450, the Working Group adopted the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation* (Recognize and Accept Process) on December 15, 2021.

Section 4L(2) of Model #440 provides two ways a non-U.S. jurisdiction may meet the standards for its insurance groups to be exempt from the GCC:

- (a) If the jurisdiction has been determined to be a Reciprocal Jurisdiction for purposes of credit for reinsurance, which includes a requirement that the jurisdiction “recognizes the U.S. state regulatory approach to group supervision and group capital” or
- (b) If the jurisdiction has otherwise been determined to recognize and accept the GCC by procedures specified in regulation.

As of this date, the only jurisdictions that have been deemed to meet the standards are the current Reciprocal Jurisdictions (European Union member states, United Kingdom, Bermuda, Japan, and Switzerland).

On November 9, 2023, the DIFS requested that the Working Group perform a review of the OSFI under the NAIC Recognize and Accept Process, and further that the DIFS agreed to act as the Lead State. The relevant provisions with respect to the review procedure are summarized, as follows:

- The Working Group will follow the Procedure for Evaluation of Non-U.S. Jurisdictions as set forth in paragraph 8 of the Recognize and Accept Process. This will include public notice on the NAIC website, and consideration of public comments from state regulators, U.S. insurance groups, and any other interested parties. Relevant U.S. state and federal authorities will be notified of the Working Group’s decision to evaluate the OSFI.
- Following these public actions, the Working Group will prepare a Preliminary Evaluation Report and Final Evaluation Report in regulator-to-regulator session, followed by a public Summary of Findings and Determination recommending that the OSFI be included on the list of Recognize and Accept Jurisdictions.
- The Working Group may rely on written confirmation by the OSFI that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction. This may be done by signature to the letter template found in the Appendix of the Process. The Working Group will perform a due diligence review of available public and confidential documents to confirm that to the best of its determination the representations in the written confirmation are true and accurate.
- Finally, the OSFI and Michigan must have a memorandum of understanding to share applicable information with each other, which Michigan as the lead state would share with other NAIC states. Both the OSFI and DIFS are signatories to the IAIS Multilateral Memorandum of Understanding, which we have concluded to be satisfactory for these purposes.
- Upon the NAIC’s adoption of an affirmative recommendation with respect to the Summary of Findings and Determination, the OSFI will be added to the NAIC List of Recognize and Accept Jurisdictions. Once approved, a Recognize and Accept Jurisdiction is subject to periodic annual review under an abbreviated process.

To conduct the review, NAIC staff reviewed any public information that was available, focusing on the *June 2019 International Monetary Fund (IMF) Financial System Stability Assessment (FSAP)* and the *January 2020 IMF FSAP Technical Note—Insurance Sector: Regulation and Supervision*. During the review, it was noted that the domestic financial regulator for insurance companies that are domiciled in Quebec is the Quebec Autorité des marchés financiers (AMF), while any companies domiciled in any of the other nine Canadian provinces are regulated by OSFI. The scope of this review only covers OSFI.

The review that was conducted only focused on any issues that would cause the jurisdiction to not meet the standards in Model #440 and Model #450 pertaining to the ability to recognize and accept the U.S. approach to the group capital calculation. During review of the IMF reports, there were no issues noted that would cause any concerns for the OSFI. In addition to the review performed by NAIC staff, the Working Group received a letter from OSFI dated April 9, 2024, confirming the following requirements in the Recognize and Accept Process:

- OSFI recognizes the U.S. state regulatory approach to group supervision and group capital, and confirms that that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction.
- Information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to a lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and OSFI, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.
- OSFI will immediately notify the NAIC upon any changes to the assurances provided in this letter.

III. Summary of Findings and Recommendation

Therefore, it is the recommendation of the Mutual Recognition of Jurisdictions (E) Working Group that the NAIC recognize the OSFI as a Recognize and Accept Jurisdiction and place it on the *NAIC List of Jurisdictions that Recognize and Accept the Group Capital Calculation*, to be effective immediately. Finally, the Working Group recommends that the Department of Insurance and Financial Services for the State of Michigan (DIFS) be the Lead State for purposes of regulatory cooperation and information sharing with the OSFI.