



National Association *of* Insurance Commissioners

Summary of Findings and Determination

**Japan:
Financial Services Agency (FSA)**

Approved By:

Qualified Jurisdiction (E) Working Group	November 21, 2014
Reinsurance (E) Task Force	December 11, 2014
Executive (EX) Committee and Plenary	December 16, 2014

I. Evaluation of Financial Services Agency of Japan

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 Financial Services Agency of Japan (FSA). It is the recommendation of the Working Group that the NAIC recognize the FSA as a Qualified Jurisdiction and place it on the *NAIC List of Qualified Jurisdictions*, to be effective as of January 1, 2015, after which the FSA will be re-evaluated every five years. Further, the Working Group recommends that California be designated the Lead State for purposes of regulatory cooperation and information sharing with the FSA. 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 revised *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. The purpose of the Qualified Jurisdiction Process is to provide a documented evaluation process for creating and maintaining an NAIC list of jurisdictions recommended for recognition by the states as Qualified Jurisdictions. Toward this end, the Qualified Jurisdiction Process designates key elements believed to be basic building blocks for sound (re)insurance regulation. Each jurisdiction under consideration to be included on the *NAIC List of Qualified Jurisdictions* is requested to submit detailed information in support of these criteria. In addition, the NAIC review will also rely on publicly available reports evaluating the reinsurance regulatory practices of each jurisdiction.

The NAIC formally invited the FSA to participate in a review under the Qualified Jurisdiction Process by letter dated April 21, 2014, which was accepted by the FSA on May 8, 2014. Notice of the FSA’s agreement to participate in the review procedure was sent to the Federal Insurance Office (FIO) and the United States Trade Representative (USTR) on May 12, 2014. The NAIC issued public notice on its website of the FSA’s participation in the evaluation process, and requested interested parties to submit public comments with respect to the FSA by the close of business June 11, 2014. The Working Group received one comment letter by the close of the comment period, which was supportive of designating the FSA as a Qualified Jurisdiction.

The Working Group met in regulator-to-regulator session on October 15, 2014, to review initial findings prepared by NAIC staff to determine whether the FSA should be approved as a Qualified Jurisdiction for a 5-year period. The Working Group requested additional supplementary information from the FSA with respect to specific questions raised during this meeting, which the FSA provided to the Working Group on November 12, 2014. The Working Group provided the FSA with the Preliminary Evaluation Report on November 17, 2014, and the FSA provided a response to the initial findings and determination on

November 21, 2014. This response was considered by the Working Group in the preparation of the Final Evaluation Report, which the Working Group approved as of November 21, 2014.

III. Review of Evaluation Materials

Under the requirements of the Qualified Jurisdiction Process, the Working Group performed an initial evaluation of the FSA's regulatory system by using the information identified in Section A through Section G of the Evaluation Methodology (Evaluation Materials). The Working Group began by undertaking a review of the most recent Detailed Assessment of Observance on Insurance Core Principles under the International Monetary Fund (IMF)/World Bank Financial Sector Assessment Program (FSAP Report), Report on Observance for Standards and Codes (ROSC), and any other publicly available information regarding the laws, regulations, practices and procedures applicable to the reinsurance supervisory system.

The Working Group also reviewed information the FSA provided relative to Section A through Section G of the Evaluation Methodology. The Working Group's review was focused on how Japan's laws, regulations, administrative practices and procedures, and regulatory authorities regulate the financial solvency of its domestic reinsurers in comparison to key principles underlying the U.S. financial solvency framework and other factors set forth in the Evaluation Methodology.

The Working Group considered the following information with respect to the evaluation of the FSA:

1. *Japan: Financial Sector Assessment Program—Detailed Assessment of Observance of Insurance Core Principles, August 2012 (International Monetary Fund Country Report No. 12/228).*
2. *EIOPA Advice to the European Commission: Equivalence assessment of the Japanese supervisory system in relation to Article 172 of the Solvency II Directive (former Consultation Paper no. 5/2011).*
3. *Enforcement of Foreign Judgments 2013: Japan (Law Business Research Ltd, 2012).*
4. *Comment letters from interested parties received pursuant to notice. (Confidential)*
5. *JFSA's legislative and supervisory update as of July 2014. (Confidential)*
6. *JFSA comments regarding Sections C – G. (Confidential)*
7. *Memorandum to NAIC from outside counsel dated September 12, 2014. (Confidential)*
8. *NAIC Staff Workpapers on Initial Review and Findings dated September 30, 2014. (Confidential)*
9. *JFSA's additional information regarding NAIC's questions, November 12, 2014. (Confidential)*
10. *JFSA's response to Preliminary Evaluation Report, November 21, 2014. (Confidential)*

IV. Standard of Review

The evaluation is intended as an outcomes-based comparison to financial solvency regulation under the NAIC Accreditation Program, adherence to international supervisory standards and relevant international guidance for recognition of reinsurance supervision. 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, that the jurisdiction's demonstrated practices and procedures with respect to reinsurance supervision are consistent with its reinsurance supervisory system, and that the jurisdiction's laws and practices satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Models.

V. Summary of Findings and Recommendation

The Working Group finds that it has performed the required review of the Evaluation Materials, including review of the publicly available information, and that the FSA provided the Working Group with information relative to Section A through Section G of the Evaluation Methodology to update and supplement the identified public information. The Working Group further finds that interested parties were given an opportunity to comment on the FSA's application and that no objections to granting the FSA Qualified Jurisdiction status were received from interested parties. Further, appropriate notice was provided to the FIO and the USTR. Based on the information provided by the FSA and the review of the Evaluation Materials, the Working Group has determined that there is no indication that Japan fails to adequately and promptly enforce final U.S. judgments and arbitration awards.

Finally, the Working Group notes that the FSA and the California Department of Insurance are signatories to the IAIS Multilateral Memorandum of Understanding (MMoU), and that California has consented to act as the Lead State for purposes of regulatory cooperation and information sharing under the Qualified Jurisdiction Process, and further that the FSA has consented to the designation of California as the Lead State. This Lead State designation for purposes of regulatory cooperation and information sharing should not be confused with the Lead State designation by the Reinsurance Financial Analysis (E) Working Group for individual certified reinsurers for passporting purposes.

The Working Group has reached the conclusion that the FSA's reinsurance supervisory system achieves a level of effectiveness in financial solvency regulation that is acceptable for purposes of reinsurance collateral reduction, that the FSA's demonstrated practices and procedures with respect to reinsurance supervision are 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 recognize the FSA as a Qualified Jurisdiction with respect to reinsurance companies regulated by the FSA, and place it on the *NAIC List of Qualified Jurisdictions*, to be effective as of January 1, 2015. This designation as a Qualified Jurisdiction shall be valid for five years (absent a material change in circumstances), after which the FSA will be re-evaluated under the provisions of the Qualified Jurisdiction Process.