



Date: 7/28/21

*2021 Summer National Meeting
Columbus, Ohio*

FINANCIAL CONDITION (E) COMMITTEE

Saturday, August 14, 2021

4:15 – 5:15 p.m.

Greater Columbus Convention Center—Union Station Ballroom—Level 1

ROLL CALL

Scott A. White, Chair	Virginia	Russell Toal	New Mexico
Michael Conway, Vice Chair	Colorado	Linda A. Lacewell	New York
Dana Popish Severinghaus	Illinois	Judith L. French	Ohio
Amy L. Beard	Indiana	Raymond G. Farmer	South Carolina
Eric A. Cioppa	Maine	Doug Slape	Texas
Mike Chaney	Mississippi	Mark Afable	Wisconsin
Chlora Lindley-Myers	Missouri	Jeff Rude	Wyoming
Marlene Caride	New Jersey		

NAIC Support Staff: Dan Daveline/Julie Gann/Bruce Jenson

AGENDA

1. Consider Adoption of its July 8 and Spring National Meeting Minutes
—*Commissioner Scott A. White (VA)* Attachment One
2. Consider Adoption of its Task Force and Working Group Reports
—*Commissioner Scott A. White (VA)*
 - A. Accounting Practices and Procedures (E) Task Force Attachment Two
 - B. Capital Adequacy (E) Task Force Attachment Three
 - C. Examination Oversight (E) Task Force Attachment Four
 - D. Financial Stability (E) Task Force Attachment Five
 - E. Receivership and Insolvency (E) Task Force Attachment Six
 - F. Reinsurance (E) Task Force Attachment Seven
 - G. Risk Retention Group (E) Task Force Attachment Eight
 - H. Valuation of Securities (E) Task Force Attachment Nine
 - I. Group Capital Calculation (E) Working Group Attachment Ten
 - J. Group Solvency Issues (E) Working Group Attachment Eleven
 - K. Mortgage Guaranty Insurance (E) Working Group Attachment Twelve
 - L. Mutual Recognition (E) Working Group Attachment Thirteen
 - M. NAIC/American Institute of Certified Public Accountants (AICPA)
(E) Working Group Attachment Fourteen
 - N. National Treatment and Coordination (E) Working Group Attachment Fifteen
3. Consider Adoption of a Referral to the Statutory Accounting Principles
(E) Working Group—*Commissioner Scott A. White (VA)* Attachment Sixteen



**NATIONAL MEETING
SUMMER 2021**

4. Consider Adoption of Revisions to the Process for Evaluating Qualified and Reciprocal Jurisdictions—*Chlora Lindley-Myers (MO)* and *John Rehagen (MO)* Attachment Seventeen
5. Consider Adoption of Revised Charges for the Renamed Macroprudential (E) Working Group—*Commissioner Scott A. White (VA)* Attachment Eighteen
6. Adjournment

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Draft: 7/13/21

Financial Condition (E) Committee
Virtual Meeting
July 8, 2021

The Financial Condition (E) Committee met July 8, 2021. The following Committee members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair, (CO); Dana Popish Severinghaus and Eric Moser (IL); Eric A. Cioppa (ME); Chlora Lindley-Myers represented by John Rehagen (MO); Mike Chaney represented by Mark Cooley (MS); Marlene Caride (NJ); Russell Toal represented by Leatrice Geckler (NM); Linda A. Lacewell represented by My Chi To (NY); Judith L. French and Tom Botsko (OH); Raymond G. Farmer represented by Mike O'Shaul (SC); Doug Slape represented by Jamie Walker and James Kennedy (TX); and Jeff Rude (WY). Also participating were Philip Barlow (DC); and Mark Afable (WI).

1. Adopted Changes Model #440 and Model #450

Mr. Kennedy described how in 2020, the Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force was given the charge to provide recommendations for remedies to ensure the continuity of essential services and functions to an insurer in receivership by affiliated entities. This includes nonregulated entities and specifically for agreements with affiliated entities whose sole business purpose is to provide services to the insurance company. This charge came out of prior recommendations from the Receivership and Insolvency (E) Task Force as part of the Macroprudential Initiative (MPI) that identified continuation of essential services as an area where regulatory powers are implicit rather than explicit. He said the experiences of state insurance regulators have shown that receivers continue to be challenged by this issue as current remedies may not immediately address the need to continue services in receivership. He described how the NAIC adopted a Request for NAIC Model Law Development in 2020 to open the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) for this purpose and how the Working Group began meeting in 2020. He described how they first conducted a survey to identify recommendations for how to address this issue, including amendments to the models. The draft amendments to both models were exposed for public comment twice with subsequent revisions made to address comments. The amendments to Model #440 were exposed a third time following a final round of edits and in all discussions that was active participation by state insurance regulators and interested parties.

Mr. Kennedy described the specific changes to Model #440, which are within Section 5, Standards and Management of an Insurer Within an Insurance Holding Company System, and within Model #450 as found in Section 19, Transactions Subject to Prior Notice. They are specific to the provisions of affiliated cost sharing and management services agreements. He explained that includes requirements that the books and records of the insurer be updated to specifically include data of the insurer, being the property of the insurer. The data and records should be identifiable and capable of segregation—essentially, available to the receiver in the event of insolvency, including the systems necessary to access them. The data is specifically defined in Model #450. If the insurance commissioner deems the insurer to be in a statutorily defined hazardous financial condition, he or she may require a bond or deposit, limited in amount, after consideration of whether there are concerns about the affiliated party's ability to fulfill the contract in the event of a liquidation. The premiums are the property of the insurer, with any right of offset subject to receivership law. The affiliated entity is subject to jurisdiction of receivership court, and in certain circumstances, the insurance commissioner may require the affiliate to agree to this in writing. The models include provisions relating to indemnification of the insurer in the event of gross negligence or willful misconduct by the affiliate. Finally, in the event of receivership, including supervision and conservatorship, the rights of the insurer extend to the receiver or guaranty fund. Also, the affiliate will make available essential personnel. The affiliate will continue the services for a minimum period of time as specified in the agreement with timely payment for post-receivership work. Finally, the affiliate will maintain necessary systems, programs or infrastructure and make them available to the receiver or insurance commissioner for as long as the affiliate receives timely post-receivership payment unless released by the receiver, insurance commissioner, or receivership court.

Mr. Kennedy noted that the Working Group and the Task Force adopted the amendments on May 4 and May 20, respectively.

Mr. Kennedy made a motion, seconded by Commissioner Conway, to adopt the changes to Model #440 and Model #450 as presented to the Committee. The motion passed unanimously.

2. Adopted the Life RBC Bond Factors (2021-1L)

Mr. Botsko described how the proposed changes to the life risk-based capital (RBC) bond factors have had a difficult road to get to this point. He noted that after years of discussion, state insurance regulators believed they have reached an acceptable set of factors that will be effective for the 2021 reporting period. He described how state insurance regulators had learned many things from this process, including to have a more inclusive discussion about what assumptions to consider in the model for the analysis. He described how the American Academy of Actuaries (Academy) and Moody's each prepared a set of life RBC bond factors from their individual models. While each set of factors provided a similar impact to the total RBC for the companies, there were some slight differences. He said that as is the case with many models, some are informative, but most are wrong. However, in this case, state insurance regulators believed the results of each model provided a better reflection of the risks associated with bonds for RBC purposes. He described how the adopted factors by both the Life Risk-Based Capital (E) Working Group and Capital Adequacy (E) Task Force represent years of discussion and work by state insurance regulators, the Academy, and industry. He stated that state insurance regulators agree that these factors are a better reflection of bond risk for the robust set of bond categories.

Mr. Botsko repeated that state insurance regulators learned many important things from this process. One item in particular is to spend more time determining the specifics of the analysis, as well as discussing the assumptions with industry before beginning the modeling procedure (or analysis) for projects. While regulators have shared potential projects in the past, state insurance regulators learned that for projects of this nature, they need to have better discussions with all involved parties, particularly in the early stages. He stated that while the various parties involved may not agree on everything, they need to reach a consensus and move forward. He stated that as the RBC working groups continue with their current and future projects, they will provide transparent processes and analysis to all parties involved. While these groups believe they have done this in the past, they will make a better effort to achieve this. Mr. Barlow described the degree of work involved but the good product that resulted. He noted they had two viable alternatives, and while they went with the proposal submitted by Moody's, there was overlap in the methods and the assumptions, although ultimately the one selected was based upon the assumptions and not methods.

Commissioner White provided a special thanks to Mr. Botsko; the chair of the Life Risk-Based Capital (E) Working Group, Mr. Barlow; all the members of that Working Group; members of the Academy; and members of the industry who helped to complete this project. He stated that while the project has taken some time, he appreciates the effort from the people involved.

Commissioner Caride made a motion, seconded by Commissioner Rude, to adopt the proposed changes to the life RBC bond factors as presented to the Committee. The motion passed unanimously.

Having no further business, the Financial Condition (E) Committee adjourned.

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Draft Pending Adoption

Attachment One

Draft: 4/19/21

Financial Condition (E) Committee
Virtual 2021 Spring National Meeting
April 13, 2021

The Financial Condition (E) Committee met April 13, 2021. The following Committee members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair, represented by Rolf Kaumann (CO); Dana Popsh Severinghaus (IL); Stephen W. Robertson represented by Roy Eft (IN); Eric A. Cioppa (ME); Chlora Lindley-Myers represented by Shannon Schmoeger (MO); Mike Chaney represented by David Browning (MS); Marlene Caride (NJ); Russell Toal (NM); Linda A. Lacewell represented by My Chi To (NY); Judith L. French (OH); Raymond G. Farmer represented by Michael Shull (SC); Doug Slape, Jamie Walker and James Kennedy (TX); Mark Afable (WI); and Jeff Rude (WY). Also participating were: Russ Galbraith (AR); James J. Donelon (LA); and Glen Mulready (OK).

1. Adopted its March 8 and 2020 Fall National Meeting Minutes

Commissioner White said the Committee met March 8 and took the following actions: 1) adopted a request for extension from the Mortgage Guaranty Insurance (E) Working Group; 2) adopted a new charge for the Qualified Jurisdiction (E) Working Group and a change to reposition the Working Group to report directly to the Committee; and 3) adopted proposed recommendations to the Financial Regulation Standards and Accreditation (F) Committee with respect to the group capital calculation (GCC) and the liquidity stress test (LST).

Commissioner Rude made a motion, seconded by Commissioner Caride, to adopt the Committee's March 8 (Attachment One), and Dec. 8, 2020, (*see NAIC Proceedings – Fall 2020, Financial Condition (E) Committee*) minutes. The motion passed unanimously.

2. Adopted the Reports of its Task Forces and Working Groups

Commissioner White stated that items adopted within the Committee's task force and working group reports that are considered technical, noncontroversial, and not significant by NAIC standards—i.e., they do not include model laws, model regulations, model guidelines or items considered to be controversial—will be considered for adoption by the Executive (EX) Committee and Plenary through the Financial Condition (E) Committee's technical changes report process. Pursuant to this process, which was adopted by the NAIC in 2009, a listing of the various technical changes will be sent to NAIC members shortly after completion of the Fall National Meeting, and the members will have 10 days to comment with respect to those items. If no objections are received with respect to an item, the technical changes will be considered adopted by the NAIC membership and effective immediately.

Superintendent Toal made a motion, seconded by Commissioner Caride, to adopt the following task force and working group reports: Accounting Practices and Procedures (E) Task Force; Capital Adequacy (E) Task Force; Examination Oversight (E) Task Force; Financial Stability (E) Task Force; Receivership and Insolvency (E) Task Force; Reinsurance (E) Task Force; Risk Retention Group (E) Task Force; Valuation of Securities (E) Task Force; Group Capital Calculation (E) Working Group (Attachment Two); Group Solvency Issues (E) Working Group (Attachment Three); Mortgage Guaranty Insurance (E) Working Group (Attachment Four); and National Treatment and Coordination (E) Working Group (Attachment Five).

The Financial Analysis (E) Working Group met Jan. 27, Feb. 24, and March 17 in regulator-to-regulator sessions, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss letter responses and financial results. Additionally, the Valuation Analysis (E) Working Group met March 25 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss valuation items related to specific companies. Finally, the Risk-Focused Surveillance (E) Working Group met March 24 in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings.

3. Adopted the Guideline for Definition of Reciprocal State in Receivership Laws

Mr. Kennedy noted that the Receivership and Insolvency (E) Task Force adopted the Guideline for Definition of Reciprocal State in Receivership Laws as a possible option to effectuate the recognition of receiverships that affect multiple states. He highlighted that this was one of the recommendations that was derived from the Macroprudential Initiative (MPI) on recovery

and resolution from the referral from the Financial Stability (E) Task Force. He described how receivership laws typically provide for a stay of actions on the attachment of assets of an insurance company when it is placed into liquidation in a reciprocal state. In many states, the definition of reciprocal state is based upon receivership language originally drafted in the late 1970s, and it is more restrictive than the Part A Accreditation Standards. As a result, in some cases, a court may not stay a litigation when an insurance company is placed into liquidation in another state. The Guideline's definition of reciprocal state is consistent with the definition in accreditation standards; and because it is a guideline, it is optional and would not have to be adopted in all states but rather is for those states looking to update their laws in this area. Mr. Kennedy stated that in November 2020, it was exposed for public comment, and there were no comments submitted.

Commissioner Caride made a motion, seconded by Mr. Kaumann, to adopt the Guideline for Definition of Reciprocal State in Receivership Laws (Attachment Six). The motion passed unanimously.

4. Adopted a Charge for the New Receiver's Handbook (E) Subgroup

Mr. Kennedy stated that the Receivership and Insolvency (E) Task Force adopted amended 2021 charges that include the formation of the new Receiver's Handbook (E) Subgroup. He stated that it has been over 10 years since the *Receiver's Handbook for Insurance Company Insolvencies* (Handbook) was formally reviewed for updates, and the state insurance regulators have identified several areas where it is outdated. He noted how the new Subgroup would be charged with reviewing and drafting revisions to the Handbook. The timeline would extend through the 2022 Fall National Meeting, as this project could take some time.

Superintendent Toal made a motion, seconded by Commissioner Caride, to adopt a charge for the new Receiver's Handbook (E) Subgroup (Attachment Seven). The motion passed unanimously.

5. Adopted Changes to SSAP No. 71

Commissioner White stated that the last item on the agenda is an issue that has received a considerable amount of discussion within the Statutory Accounting Principles (E) Working Group over the last couple years. He stated that unlike the premium refund issue from 2020, where the Committee overturned the adoption of a position and suggested that the issue be redrafted, he does not believe that should occur for this particular issue. He stated that the reason for this was that it was his understanding that the vast majority of the life insurance industry is very much opposed to the practice that has apparently been used by what we think is a handful of companies. The reason being is they believe it gives those handful of companies an unfair competitive advantage over the rest of the industry that has been abiding by *Statement of Statutory Accounting Principles (SSAP) No. 71—Policy Acquisition Costs and Commissions* ever since its inception, as well as even dating back before at least the 1990s according to Commissioner White's staff. He suggested that if the Committee does not adopt this item, his understanding is that it would force the Working Group to change the entire SSAP No. 71 to allow all commissions and related acquisition costs to be deferred and amortized over time. The reason this would be required is that is essentially what the handful of companies are doing today, while the rest of the industry expenses these costs at the inception of the contract in accordance with statutory accounting principles (SAP). Commissioner White summarized that this would require the Working Group to go back and basically adopt U.S. Generally Accepted Accounting Principles (GAAP) for this particular issue, even though this is one of the biggest differences between SAP and U.S. GAAP. He noted that even if the Committee adopts the issue, it still needs to be adopted by the Executive (EX) Committee and Plenary. He also noted that he already recommended that this issue not be taken up by the Executive (EX) Committee and Plenary at the Spring National Meeting, but rather the Executive (EX) Committee and Plenary consider taking it up either at the Summer National Meeting or during an interim call of the Executive (EX) Committee and Plenary.

Ms. Walker noted that included in the materials is a document that provides an overview of the levelized commission agenda item 2019-24 from the Working Group, which modifies SSAP No. 71 through a clarification. She discussed how the Working Group began discussion on the issue in August 2019, and on March 15, 2021, the Working Group adopted nonsubstantive revisions illustrated at the end of the attachment, with an effective date of Dec. 31, 2021. The Working Group vote was 13 states in favor and one state opposed. On March 23, 2021, the Accounting Practices and Procedures (E) Task Force adopted the Working Group's revisions without modification. The vote was 41 members in favor and two opposed (LA and OK).

Ms. Walker discussed that although U.S. GAAP and SAP calculate acquisition costs in a similar manner, one major financial reporting difference between the two is that U.S. GAAP capitalizes acquisition costs and expenses them over time to match revenues and expenses while SAP expenses policy acquisitions costs as incurred. This accounting treatment is in line with the

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Attachment One

SAP Statement of Concepts, particularly the recognition concept. This concept specifically identifies that accounting treatments that defer expense recognition are not generally acceptable under SAP.

Ms. Walker noted that this agenda item was initiated because some reporting entities are using third parties to pay their sales commission costs without recognizing the full liability to repay the third parties, as required under SSAP No. 71. These entities have taken the position that their agreements are not funding agreements, as they pass on lapse risk to the third party. Ms. Walker discussed how the Working Group has noted that the revisions clarify the long-standing principles in SSAP No. 71, which have existed since even prior to codification. The nonsubstantive revisions emphasize the original principles that require full liability recognition for the commission paid on an insurer's behalf and any interest and fees incurred to date. Ms. Walker described how the Working Group noted that it is not permissible to pass insurance lapse risk to a non-insurance entity. Furthermore, as the commission is owed with the issuance of an insurance contract, the proper recognition shall continue to require recognition at the time the insurance contract is issued. Ms. Walker indicated that the Working Group confirmed that it is not permissible to utilize a third-party payer of sales commission as a means to defer recognition of commission expenses.

Ms. Walker described how if the agenda item is adopted, a small number of companies will have a material financial impact. She emphasized that because of the unfair competitive advantages that are perceived, and as the guidance is in line with the original intent of SSAP No. 71, the Working Group did not adopt grandfathering or transition provisions. She discussed how the Working Group has recommended that affected companies speak to their domiciliary states regarding potential permitted practices, as varied, for phasing in the financial impact. This approach was favored because the impact to the affected companies may vary, and it provides disclosure in Note 1 to ensure the comparability of all insurers with SAP. Ms. Walker noted that it is her understanding that most companies are not employing this practice and will not be affected by the agenda item's adoption.

Superintendent Toal suggested that the Committee should consider modifying the effective date from the current proposed year-end 2021 for another year to year-end 2022. Ms. Walker stated that the Working Group had already delayed the effective date from its usual practice of effective upon adoption for nonsubstantive items such as this, but the Working Group wanted to allow time for domestic states to work with any of their companies affected. She also described how a further delay was considered, but since the vast majority of the industry is complying, such a suggestion was rejected by the Working Group. Superintendent Toal questioned whether having less than six months allows enough time for companies to make the changes necessary. Commissioner Donelon repeated a comment that he indicated he has made in the past, which was that even though this was not a substantive change, the real-world impact to some companies was to the tune of hundreds of millions of dollars; therefore, grandfathering of the old contracts, perhaps on a phased-in approach, should be allowed. He described that he had been directed to some communication from the U.S. Securities and Exchange Commission (SEC) where this practice was uncovered as far back as 30 years ago. He described how such companies therefore may have been using this practice in good faith, or at least one they believed was appropriate, and they are being asked to record hundreds of millions of changes in surplus from this practice. He stated that for this reason, he and other commissioners have interceded in this process. Commissioner White described how he believes that Commissioner Donelon summarized that significant debate that has already appropriately occurred on this issue. Commissioner White described that everything he has been told is that this may have been taking place within a handful of companies, but that does not mean the state insurance regulators of those companies were aware of its existence in those companies. He described how this is not readable or identified in the financial statements since it is an unrecorded liability. He described how expensing these costs as incurred has been a bedrock principle within statutory accounting for years, even before SSAP No. 71 was adopted in 2001. He noted that he understands the argument for phasing in the impact, given that it could be material for some companies; however, the other side of that is the argument about the level playing field. He emphasizes what Ms. Walker said earlier about affected companies working with their domestic regulator about a permitted practice, which is disclosed in Note 1 of the financial statements. Commissioner Donelon stated that he believes from his experience as a commissioner for so many years that the term "permitted practice" certainly comes with a negative connotation. He stated that for the companies he has heard from, the affected companies are unwilling to pursue a permitted practice. However, he stated his appreciation for the time that the Committee and its subsidiary task forces and working groups have given to this issue.

Mr. Galbraith asked if it is possible to determine definitively if there were just a handful of companies and also whether the practice will definitively cease with all companies going forward on the same level playing field if the proposed changes are adopted. Commissioner White stated that he has heard no evidence to the contrary that it was anything more than a handful of companies since he believes state insurance regulators would have heard from those companies that are affected, and he noted that he is aware of companies in only three states where this is an issue. He described how this is a difficult practice to identify since it is not recorded in the financial statements. He also stated that with the significant discussion, the industry appears to be very aware of the issue, and the vast majority of the industry is supportive of the clarification. He emphasized again therefore that this issue boils down to having a level playing field.

Commissioner Mulready stated his support for the comments made by Commissioner Donelon, noting that his concerns have never been about the issue but rather the implementation. He stated his understanding that grandfathering may be difficult, but a delayed effective date, as suggested by Superintendent Toal, should be considered. Commissioner White responded that he believes that point was debated at the Working Group and the Accounting Practices and Procedures (E) Task Force. Commissioner Mulready noted that as a result of these discussions, Oklahoma had sent communication to all of its domestics to determine if other insurers are affected, and he suggested that he is sure other states are likely doing the same thing. Commissioner White stated his support for that practice, noting that it allows the domestic regulator to determine what is best for any affected companies. Wayne Goodwin, former North Carolina Insurance Commissioner, stated that he had previously submitted comments on this issue, noting slippery slope concerns with what could happen if it is implemented as quickly as is suggested since those concerns affect consumers. He stated his support for comments from Commissioner Donelon, Commissioner Mulready and Mr. Galbraith, and he noted concern about the potential impact on smaller carriers.

Superintendent Toal stated that he wants to be clear in the idea of moving to a level playing field, and he is not objecting to the policy, rather his objection was with the limited time to implement, particularly given that state insurance regulators do not know the number of companies affected. Commissioner White responded that his deputy refers to the issue that arises from this practice as illusory surplus, and if in fact there are millions in unrecorded liabilities, that indicates information should be available to solvency regulators and indicates a level of concern. Ms. Walker stated that she believes this is a consumer protection issue, and her highest responsibility is ensuring that carriers can pay policyholder claims as they come due. She stated that when she hears some of the concerns that are being stated, as the domiciliary regulator, she needs the companies to come speak to her so that the two can work out a practice that takes care of consumers while considering the concerns of the company. She stated that the Accounting Practices and Procedures Task Force is trying to adopt some disclosures to gather information on companies, but that depends upon accurate completion by the company, something that may not occur given this particular accounting practice of expensing commissions as they are incurred, which is a fundamental bedrock of statutory accounting that differs from other standards. She noted that there was discussion of trying to obtain more data on the companies using this practice, but the companies did not come forward to their state insurance regulator even though that was requested. So, while a complete scope is not known, the Working Group and the Task Force did not receive information from state insurance regulators that are on the Task Force or follow it. Ms. Walker also noted that the current proposed effective date of year-end 2021 is already a delay. Mr. Slape suggested that if this is going to have hundreds of millions of impacts on a handful of companies, that is illusory surplus, and that raises questions about the solvency of such insurers using this practice. Therefore, it could have an impact on this small number of companies. Mr. Slape stated that the reference to SEC action may not be accurate, as he believes the facts indicate that the company was in worse financial condition after entering into these transactions. In essence, these companies are borrowing money, paying interest on that borrowed money, then competing against other companies that are following the current accounting requirements. Mr. Slape noted that this is not a new issue; this is the first thing that a state insurance regulator learns about regarding the differences between SAP and U.S. GAAP.

Lynn Kelley (Delaware Life Insurance Company), on behalf of interested parties, stated that this is an issue that has been discussed for some time, and she appreciates the ongoing discussions of the Committee and NAIC staff that have worked with Delaware Life. She strongly advocated for additional time to work through this implementation because Delaware Life still believes there are unanswered questions with regard to the calculations. She stated that Delaware Life has advocated all along for an extended effective date. She stated that Delaware Life maintains that this is a substantive change and believes that it has applied SSAP No. 71 in good faith, with all prior financial statements subject to examination and audit. Terrance Corbett (Guggenheim Life and Annuity Company) stated that the accounting for levelized commissions has been presented as a solvency issue, whereby companies have unrecorded liabilities for future commission payments. If this is the case, the liability is deemed necessary for policyholder protection, so how would the Committee be comfortable with any persistency commissions being recorded over time when all insurers have policy experience to be used as a basis for estimating the liability for these future expected commission payments. Therefore, the obligating event, which is defined by one of three essential characteristics in *SSAP No. 5R—Liabilities, Contingencies and Impairments of Assets*, has not occurred until the policy anniversary date. Mr. Corbett noted that paragraph 2 of SSAP No. 71, which contains no proposed modifications to the definition of a liability, determine when that liability has been incurred. The proposed changes to levelized commissions with a link to persistency are contradictory to paragraph 2. Commissions that are paid and earned according to persistency, which is a long-standing insurance element, should be treated in a consistent manner to ensure comparability among reporting entities. Guggenheim believes the proposed changes to SSAP No. 71 sets a dangerous precedence for the need to accrue for other liabilities for other predictable future expenses. Ms. Walker noted that the expense is incurred for the first year when the policy is written. So, even if the funding agreement allows the company to pay the sales agent in the future, that does not allow the company to defer expenses the first year of the policy. She stated that by deferring, and not recording the liability, and making the statement that it is not due until after the period is contrary and has a different assumption. The assumption that one does

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Attachment One

not have to book the liability until the policy is still in effect ignores the fact that the policy is currently in effect. As long as the policy is in effect, that amount will be owed. Therefore, you are not to adjust the liability down until the policy lapses or is cancelled. Using a funding agreement simply changes the timing of when the payment is due and does not affect if there should be an expense. Mr. Slape said these are not persistency commissions because in those situations the agent is paid a commission in future years for when that policy stays in force. These are referred to as renewal commissions, and they are reported on the future anniversary date, but the first-year commission must be expensed immediately up front regardless of the existence of a funding agreement since that is a loan. Mr. Slape stated that he takes issue with the statement that these funding agreements provide for a persistency commission.

Roger Sevigny (Sevigny Consulting), as a former state insurance regulator, asked for common sense to prevail. He stated that what he keeps hearing is a lack of information, and he asked that the work be slowed down. Commissioner Donelon stated that with respect to the companies referred to, they are owned by wealthy owners and some of the largest insurers in the world. Commissioner White stated that the debate has been vigorous, and he reminded everyone that even if the Committee votes to adopt the proposal, it will still need to be considered by the Executive (EX) Committee and Plenary. He stated that he has recommended that the Executive (EX) Committee and Plenary not consider this at this meeting, but rather at the Summer National Meeting or during an interim meeting before that date.

Ms. Walker made a motion, seconded by Superintendent Cioppa, to adopt the nonsubstantive changes to SSAP No. 71 (Attachment Eight). The motion passed with Mississippi, New Mexico and South Carolina dissenting.

Having no further business, the Financial Condition (E) Committee adjourned.

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Attachment Two

Draft: 8/4/21

Accounting Practices and Procedures (E) Task Force
Virtual Meeting (*in lieu of meeting at the 2021 Summer National Meeting*)
July 27, 2021

The Accounting Practices and Procedures (E) Task Force met July 27, 2021. The following Task Force members participated: Doug Slape, Chair, represented by Jamie Walker (TX); Trinidad Navarro, Vice Chair, represented by Rylynn Brown (DE); Lori K. Wing-Heier and David Phifer (AK); Jim L. Ridling represented by Sheila Travis (AL); Evan G. Daniels represented by Kurt Regner (AZ); Alan McClain represented by Mel Anderson (AR); Ricardo Lara represented by Kim Hudson (CA); Andrew N. Mais represented by William Arfanis and Kathy Belfi (CT); Karima M. Woods represented by N. Kevin Brown (DC); David Altmaier represented by Virginia Christy (FL); Doug Ommen represented by Kevin Clark (IA); Dean L. Cameron represented by Eric Fletcher (ID); Amy L. Beard represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Russell Coy (KY); James J. Donelon represented by Melissa Gibson (LA); Gary D. Anderson represented by John Turchi (MA); Eric A. Cioppa and Vanessa Sullivan (ME); Anita G. Fox represented by Judy Weaver (MI); Grace Arnold represented by Kathleen Orth (MN); Chlora Lindley-Myers represented by Shannon Schmoeger (MO); Mike Causey represented by Monique Smith (NC); Jon Godfread represented by Matt Fischer (ND); Eric Dunning represented by Justin Schrader (NE); Chris Nicolopoulos represented by Doug Bartlett (NH); Linda A. Laceywell represented by Bob Kasinow (NY); Judith L. French represented by Dale Bruggeman (OH); Glen Mulready represented by Eli Snowbarger (OK); Jessica K. Altman represented by Kimberly Rankin (PA); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Raymond G. Farmer represented by Daniel Morris (SC); Carter Lawrence represented by Hui Wattanaskolpant (TN); Jonathan T. Pike represented by Jake Garn (UT); Scott A. White represented by Doug Stolte and David Smith (VA); Michael S. Pieciak represented by Karen Ducharme and Dan Petterson (VT); Mike Kreidler represented by Tim Hays (WA); Mark Afable represented by Amy Malm (WI); James A. Dodrill represented by Jamie Taylor (WV); and Jeff Rude represented by Linda Johnson (WY).

1. Adopted its Spring National Meeting Minutes

Ms. Walker directed the members to the Task Force's 2021 Spring National Meeting minutes. Ms. Malm made a motion, seconded by Ms. Weaver, to adopt the Task Force's March 23 minutes (*see NAIC Proceedings – Spring 2021, Accounting Practices and Procedures (E) Task Force*). The motion passed unanimously.

2. Adopted the Report of the Statutory Accounting Principles (E) Working Group

Mr. Bruggeman provided the report of the Statutory Accounting Principles (E) Working Group, which conducted e-votes that concluded July 20, July 12, April 20. The Working Group also met May 20.

Mr. Bruggeman stated that during the July 20 e-vote, the Working Group exposed agenda item 2021-10: *Statement of Statutory Accounting Principles (SSAP) No. 32R—Clarification of Effective Call Price* for a public comment period ending Aug. 6. He said that during the July 12 e-vote, the Working Group adopted its May 20, April 20, and Spring National Meeting minutes.

Mr. Bruggeman provided the action for the May 20 meeting. Mr. Bruggeman stated that the Working Group adopted the following nonsubstantive revisions to statutory accounting guidance:

- A. *SSAP No. 26R—Bonds*: Revisions reject *Accounting Standards Update (ASU) 2020-08, Codification Improvements to Subtopic 310-20, Receivables – Nonrefundable Fees and Other Costs* for statutory accounting. (Ref #2021-02)
- B. *SSAP No. 47—Uninsured Plans*: Revisions reject *ASU 2021-02, Franchisors – Revenue from Contracts with Customers* for statutory accounting. (Ref #2021-08)
- C. *SSAP No. 103R—Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*: Revisions incorporate disclosure elements and a data-capture template for where an entity has transferred assets but retains economic interest within the reporting entity, its related parties, or another member within the holding company group. (Ref #2021-03)

Draft Pending Adoption

Attachment Two

- D. Adopted agenda items supporting disaggregated product identifiers to be used for each separate account product reported in the general interrogatories. This adoption does not result in statutory revisions, but it is reflected in the Working Group recommendation to support blanks proposal 2021-03BWG. (Ref #2020-37 and Ref #2020-38)
- E. *Interpretation (INT) 20-01: ASU 2020-04 – Reference Rate Reform*: This interpretation provides optional guidance, allowing for the continuation of certain existing hedge relationships and thus does not require hedge dedesignation for derivative instruments affected by changes to interest/reference rates due to reference rate reform. This interpretation is all-encompassing for “any hedging relationships” within the scope of INT 20-01 and captures all hedging transaction types, regardless of if the transaction occurred bilaterally or through a central clearing party. (Ref #2021-01)
- F. *INT 21-01: Accounting for Cryptocurrencies*: This interpretation clarifies that directly held cryptocurrencies neither meet the definition of cash in *SSAP No. 2R—Cash, Cash Equivalents, Drafts and Short-Term Investments* nor when directly held, meet the definition of an admitted asset per *SSAP No. 4—Assets and Nonadmitted Assets*. (Ref #2021-05)
- G. *Appendix D—Nonapplicable GAAP Pronouncements*: Revisions reject *ASU 2020-11, Financial Services – Insurance: Effective Date and Early Application* as not applicable for statutory accounting. (Ref #2021-07)
- H. Adopted the following editorial revisions (Ref #2021-06EP):
 - 1. *SSAP No. 53—Property Casualty Contracts—Premiums*: Revisions retitle to *SSAP No. 53—Property and Casualty Contracts—Premiums*.
 - 2. *SSAP No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*: Revisions correct grammatical errors in paragraph 54.
 - 3. *SSAP Glossary*: Revisions remove the footnote in the Glossary title and replace it as an opening paragraph with updated verbiage.

Mr. Bruggeman stated that the Working Group exposed the substantive proposed bond definition to be used for all securities in determining whether they qualify for reporting on Schedule D, Part 1 – Long-Term Bonds. The definition intends to reflect principal concepts to ensure appropriate consideration on whether a structure qualifies as an issuer credit obligation or an asset-backed security (ABS) prior to reporting as a bond. The public comment period for this agenda item ended July 15. (Ref #2019-21)

Mr. Bruggeman stated that the Working Group exposed nonsubstantive revisions to *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* and *SSAP No. 97* to indicate that the equity method valuation reference in *SSAP No. 97* can result in a negative equity valuation and to limit the statutory adjustments match in *SSAP No. 97*, paragraph 9. The exposure requests public comments on language suggested by interested parties that foreign insurance subsidiary, controlled and affiliated entities (SCAs) shall stop at zero (and thus not be subject to negative equity valuations) when applying paragraph 9 adjustments in cases where the foreign insurance subsidiary is not engaged in providing services to, or holding assets on behalf of, U.S. insurers. The public comment period for this agenda item ended July 15. (Ref #2021-04)

Mr. Bruggeman stated that the Working Group adopted a response to the Life Risk-Based Capital (E) Working Group on its referral request to consider accounting and reporting aspects of an American Council of Life Insurers (ACLI) proposal to modify the treatment of real estate in the life risk-based capital (RBC) formula. The adopted response identifies concerns on the reliability and consistency of fair value data to be considered before allowing reporting entities to reduce RBC through the reported fair value of real estate.

Mr. Bruggeman stated that the Working Group received an update on the following projects and referrals:

- A. The Working Group directed a referral to be sent to the Life Actuarial (A) Task Force seeking input regarding whether the Task Force would consider changes to the reserve framework of fixed indexed annuity products, as its response will likely directly influence the accounting options for derivatives hedging these products. (Ref #2020-36)

Draft Pending Adoption

Attachment Two

- B. *SSAP No. 107—Risk-Sharing Provisions of the Affordable Care Act*: The Working Group directed NAIC staff to develop additional revisions that expand the guidance to address the diversity in state Affordable Care Act (ACA) reinsurance programs identified in the industry comments. (Ref #2021-09)
- C. *INT 20-10: Reporting Nonconforming Credit Tenant Loans*: Contingently exposed nonsubstantive revisions in anticipation of a Valuation of Securities (E) Task Force proposal to revise filing exempt (FE) requirements for credit tenant loans (CTLs). Subsequent to the Working Group meeting, on May 24, the Task Force did not expose the anticipated revisions. Instead, the Task Force exposed edits to clarify that the reference to mortgage loans in the CTL definition pertains to items in scope of *SSAP No. 37—Mortgage Loans* and that the *Accounting Practices and Procedures Manual (AP&P Manual)* determines investment accounting and reporting. With this Task Force action, the revisions to INT 20-10 were not exposed. It is anticipated that the Working Group will review INT 20-10 after the Task Force concludes actions after their exposure.
- D. Received a response from the Valuation of Securities (E) Task Force regarding CTLs and information regarding Securities Valuation Office (SVO) filings received.

Mr. Bruggeman stated that during the April 20 e-vote, the Working Group voted to update exposed agenda item 2021-03: SSAP No. 103R – Disclosures to reflect interested parties’ preliminary comments. While minor revisions were proposed to SSAP No. 103R disclosures, the primary changes from the original agenda item were reflected in the data capture template, which include instructions, updated capture fields, and column descriptions.

Mr. Bruggeman made a motion, seconded by Mr. Eft to adopt the report of the Statutory Accounting Principles (E) Working Group (Attachment One). The motion passed unanimously.

3. Adopted the Report of the Blanks (E) Working Group

Mr. Garn provided the report of the Blanks (E) Working Group, which met July 22, 2021.

Mr. Garn stated the working Group adopted its May 26 minutes, which included the following action:

- A. Mr. Garn stated the Working Group adopted its editorial listing and eight blanks proposals:
 - 1. 2021-01 – add reference to health care receivables line in the Asset page.
 - 2. 2021-02BWG – add questions to the General Interrogatories, Part 1 regarding depository institution holding companies as it pertains to the group capital calculation (GCC).
 - 3. 2021-03BWG – add category lines to the Separate Accounts General Interrogatories for additional granularity.
 - 4. 2021-04BWG – add a General Interrogatory to identify insurers that utilize third parties to pay agent commissions in which the amounts advanced by the third parties are not settled in full within 90 days.
 - 5. 2021-05BWG – modify Note 17B(4) to reflect changes made by the Statutory Accounting Principles (E) Working Group reference number SAPWG 2021-03 regarding transferred assets.
 - 6. 2021-06BWG – add crosschecks to the long-term care (LTC) reporting forms to gain consistency.
 - 7. 2021-07BWG – add additional line categories to capture collateral type data for all residential mortgage-backed securities (RMBS), commercial mortgage-backed securities (CMBS), and loan-backed and structured securities (LBSS) regardless of reporting category.
 - 8. 2021-08BWG – add a new supplement Mortgage Guaranty Insurance Exhibit to capture more information from mortgage guaranty insurers.
- B. Exposed five proposals for public comment.

Mr. Garn stated that the Working Group adopted its editorial listing and 2021-10BWG – remove language in quarterly General Interrogatories Part 1, line 4.1 that requires filing of a quarterly merger/history form. The annual form shall still be required.

Draft Pending Adoption

Attachment Two

Mr. Garn stated that the Working Group adopted Health Actuarial Statement of Opinion Guidance for the 2021 reporting year.

Mr. Garn said the Working Group deferred four proposals for additional discussion for a 90-day public comment period ending Oct. 22.

Mr. Garn made a motion, seconded by Ms. Smith to adopt the report of the Blanks (E) Working Group (Attachment Two). The motion passed unanimously.

4. Adopted its 2022 Proposed Charges

Ms. Walker directed the Task Force to its 2022 proposed charges, noting that the proposed charges were previously distributed and are unchanged from last year.

Ms. Orth made a motion, seconded by Mr. Bruggeman, to adopt the Task Force's 2022 proposed charges (Attachment Three). The motion passed unanimously.

5. Adopted Revisions to the Model Audit Rule Implementation Guide

Mr. Stolte, chair of the NAIC/American Institute of Certified Public Accountants (AICPA) (E) Working Group, introduced the proposed additions to the NAIC's *Model Audit Rule Implementation Guide*. He noted that the revisions, shown as tracked revisions beginning on page 10, were adopted via an e-vote of the NAIC/AICPA (E) Working Group that concluded May 17. He stated that the updated version of the Implementation Guide has been posted to the NAIC website with plans to be included in the 2022 publication of the AP&P Manual. In accordance with the instructions on page 1 of the *Model Audit Rule Implementation Guide*, the changes are subject to review and adoption by the Task Force.

Mr. Stolte stated that no comments were received during the Working Group's last exposure of proposed changes. The revisions have been proposed to facilitate the collection of additional information on the external audit firm's lead engagement partner through the "Communication of Internal Control Related Matters Noted in an Audit" filing provided to each insurer's domestic regulator/NAIC each year.

Mr. Stolte stated that the purpose of the additional information is to allow for regulatory review and verification of compliance with audit partner rotation and qualification requirements. He said the information is being proposed for collection through the internal control letter as it receives confidential treatment from the NAIC and regulators, which preserves the lead audit partner's personal information. The changes are proposed to be effective for audits as of Dec. 31, 2021, and thereafter.

Mr. Stolte made a motion, seconded by Mr. Hudson to adopt the revisions to the *Model Audit Rule Implementation Guide* (Attachment Four). The motion passed unanimously.

Having no further business, the Accounting Practices and Procedures (E) Task Force adjourned.

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Draft: 8/2/21

Capital Adequacy (E) Task Force
Virtual Meeting (*in lieu of meeting at the 2021 Summer National Meeting*)
July 28, 2021

The Capital Adequacy (E) Task Force met July 28, 2021. The following Task Force members participated: Judith L. French, Chair, represented by Tom Botsko (OH); Doug Slape, Vice Chair, represented by Rachel Hemphill (TX); Lori K. Wing-Heier represented by David Phifer (AK); Jim L. Ridling represented by Shelia Travis (AL); Ricardo Lara represented by Perry Kupferman (CA); Andrew N. Mais represented by Wanchin Chou (CT); Karima M. Woods represented by Philip Barlow (DC); David Altmaier represented by Virginia Christy and Robert Ridenour (FL); Doug Ommen represented by Mike Yanacheak (IA); Dana Popish Severinghaus represented by Kevin Fry (IL); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Russell Coy (KY); Grace Arnold represented by John Robinson (MN); Chlora Lindley-Myers represented by John Rehagen and William Leung (MO); Eric Dunning represented Lindsay Crawford (NE); Marlene Caride represented by Diana Sherman (NJ); Glen Mulready (OK); Raymond G. Farmer represented by Michael Shull (SC); Mike Kreidler represented by Steve Drutz (WA); and Mark Afable represented by Amy Malm (WI).

1. Adopted its June 30, April 29 and Spring National Meeting Minutes

The Task Force met June 30, April 29 and March 23. During its June 30 meeting, the Task Force adopted the following proposals: 1) 2021-04-CA (investment income in health underwriting factors); 2) 2021-07-CA (receivables for securities factors); 3) 2021-06-L (real estate factors); 4) 2021-08-P (property and casualty bond factors); 5) 2021-09-H (health bond factors); 6) 2021-11-L (life bond factors); and 7) 2021-13-L (longevity risk factors and instructions). Mr. Barlow noted that a typo on the second page of the June 30 minutes, end of the paragraph for item 5, should reflect 2.4 as the factor for the first 50 assets and not 2.9. During its April 29 meeting, the Task Force took the following action: 1) adopted the real estate structure; 2) adopted the managed care credit incentives; 3) adopted the credit risk instruction modification; 4) adopted its working agenda and working group reports; and 5) exposed the receivables for securities factors and investment income in health underwriting factors, with comments due May 21 and May 28, respectively.

Mr. Barlow made a motion, seconded by Mr. Chou to adopt the Task Force's June 30 (Attachment One), April 29 (Attachment Two), and Spring National Meeting (*see NAIC Proceedings – Spring 2021, Capital Adequacy (E) Task Force*) minutes. The motion passed unanimously.

2. Adopted the Reports and Minutes of its Working Groups

a. Health Risk-Based Capital (E) Working Group

Mr. Drutz noted some items of interest from the Health Risk-Based Capital (E) Working Group's July 12 minutes, which is continued discussion on investment income in the underwriting risk charge and re-evaluating the bond factors. The Working Group also adopted its 2021 newsletter and 2020 health risk-based capital (RBC) statistics.

b. Life Risk-Based Capital (E) Working Group

Mr. Barlow said that the Life Risk-Based Capital (E) Working Group met July 21 and took the following action: 1) adopted various minutes reflecting a busy last quarter; 2) adopted the life RBC newsletter; and 3) the 2020 life and fraternal RBC statistics.

c. Catastrophe Risk (E) Subgroup

Mr. Chou noted that the Catastrophe Risk (E) Subgroup met July 15 and took the following action: 1) adopted its June 1 and April 26 minutes; 2) adopted its working agenda items; 3) heard an update from its Catastrophe Model Technical Review Ad Hoc Group; and 4) heard a presentation from AIR Worldwide regarding the wildfire model.

d. Property and Casualty Risk-Based Capital (E) Working Group

Mr. Botsko said that the Property and Casualty Risk-Based Capital (E) Working Group met July 22 and took the following action: 1) adopted its June 9 and April 27 minutes; 2) adopted the Catastrophe Risk (E) Subgroup's July 15 minutes; 3) adopted its 2021 property/casualty (P/C) RBC newsletter; 4) adopted its 2020 P/C RBC statistics; 5) adopted its 2021 working agenda;

and 6) heard an update on different projects related to calibrating various components of the underwriting risk and reserve risk from the American Academy of Actuaries (Academy).

Ms. Hemphill made a motion, seconded by Mr. Chou, to adopt the reports of the Health Risk-Based Capital (E) Working Group (Attachment Three), the Life Risk-Based Capital (E) Working Group (Attachment Four), and the Property and Casualty Risk-Based Capital (E) Working Group (Attachment Five). The motion passed unanimously.

3. Adopted Proposal 2021-04-CA

Mr. Drutz said the Task Force adopted proposal 2021-04-CA (Modified for Rounding) June 30. The proposal revised the underwriting risk for the investment income adjustment, which carried the factor to four decimal places. During implementation, NAIC staff noted a system constraint in which all ratios reported in a column must round to the same number of decimal places. This includes the underwriting risk claims ratio and managed care discount factor, (Lines 12 and 15 in health and Lines 9 and 12 in P/C and life).

Mr. Drutz made a motion, seconded by Mr. Leung, to adopt proposal 2021-04-CA (Modified for Rounding) (Attachment Six). The motion passed unanimously. Mr. Botsko added that the rounding made a small negligible difference.

4. Adopted its Working Agenda

Mr. Barlow noted that the life section of the working agenda removed several items that were previously adopted by its Working Group, modified the description regarding longevity risk transfers, and added two new items regarding guidance on the potential impact of the bond factor changes and reviewing companies in action level to determine its drivers.

Mr. Drutz said that the health section of the working agenda clarified the description regarding investment income by including a process for reviewing investment income, as well as determining the frequency of adjustments and if other lines of business are affected.

Mr. Chou reported that the Catastrophe Risk (E) Subgroup received a referral from the Climate and Resiliency (EX) Task Force and will make that referral a priority for 2022.

Mr. Botsko said the cP/C items were updated to reflect recent adoptions, and the expected completion dates were updated for 2022. He also said that the Task Force items were also updated with recent adoption information, and the expected completion dates were also updated.

Mr. Chou made a motion, seconded by Mr. Leung, to adopt its working agenda (Attachment Six). The motion passed unanimously.

5. Discussed Other Matters

Mr. Botsko said he wanted to thank Randy Milquet (WI) for his dedication to the Property and Casualty Risk-Based Capital (E) Working Group and various RBC-related ad hoc groups, as well as for his participation with the Capital Adequacy (E) Task Force. Mr. Botsko said will be greatly missed.

Mr. Barlow added that John Robinson (MN) is also retiring and wanted to thank him for his dedication and participation with the Life Risk-Based Capital (E) Working Group and the Capital Adequacy (E) Task Force.

Having no further business, the Capital Adequacy (E) Task Force adjourned.

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*Virtual Meeting
(in lieu of meeting at the 2021 Summer National Meeting)*

EXAMINATION OVERSIGHT (E) TASK FORCE

Thursday, August 5, 2021

11:00 a.m. – 12:00 p.m. ET / 10:00 – 11:00 a.m. CT / 9:00 – 10:00 a.m. MT / 8:00 – 9:00 a.m. PT

Meeting Summary Report

The Examination Oversight (E) Task Force met Aug. 5, 2021. During this meeting, the Task Force:

1. Adopted its Spring National Meeting minutes.
2. Adopted the report of the Electronic Workpaper (E) Working Group, which met July 13 and April 28 in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings.
3. Adopted the report of the Financial Analysis Solvency Tools (E) Working Group, which met June 21 in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings.
4. Adopted the report of the Financial Examiners Coordination (E) Working Group, which met Aug. 3 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings.
5. Adopted the report of the Financial Examiners Handbook (E) Technical Group, which met July 28 and took the following action:
 - A. Discussed and prioritized its 2021 project list.
 - B. Received an update on related NAIC working group activities that will affect examination guidance.
6. Adopted the report of the Information Technology (IT) Examination (E) Working Group, which met April 19 and took the following action:
 - A. Received a referral from the Chief Financial Regulator Forum requesting the development of a mechanism for departments of insurance (DOIs) to respond to emerging cyber vulnerabilities or exposures during the period in between full scope exams.
 - B. Received a referral from the Receivership Financial Analysis (E) Working Group requesting additional guidance for evaluating the quality and portability of policyholder data to ensure the ability to transfer such data in the event of receivership or liquidation.

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*Virtual Meeting
(in lieu of meeting at the 2021 Summer National Meeting)*

FINANCIAL STABILITY (E) TASK FORCE

Tuesday, July 27, 2021

11:00 a.m. – 12:00 p.m. ET / 10:00 – 11:00 a.m. CT / 9:00 – 10:00 a.m. MT / 8:00 – 9:00 a.m. PT

Meeting Summary Report

The Financial Stability (E) Task Force met July 27, 2021. During this meeting, the Task Force:

1. Adopted its May 12 and Feb. 21 minutes.
2. Heard an update on Liquidity Stress Test (LST) Framework lead state guidance.
3. Adopted the Liquidity Assessment (E) Subgroup’s revised mission and charges.
4. Heard an international update.
5. Heard a Macroprudential risk assessment update.

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Draft Pending Adoption

Attachment Six

Draft: 8/3/21

Receivership and Insolvency (E) Task Force
Virtual Meeting (*in lieu of meeting at the 2021 Summer National Meeting*)
July 27, 2021

The Receivership and Insolvency (E) Task Force met July 27, 2021. The following Task Force members participated: Doug Slape, Chair, represented by James Kennedy (TX); James J. Donelon, Vice Chair, represented by Nick Lorusso (LA); Michael Conway and Rolf Kaumann (CO); Andrew N. Mais represented by Jared Kosky (CT); David Altmaier represented by Toma Wilkerson (FL); Colin M. Hayashida represented by Patrick P. Lo (HI); Dana Popish Severinghaus represented by Kevin Baldwin (IL); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Bill Clark (KY); Gary D. Anderson represented by Cara Toomey (MA); Eric A. Cioppa represented by Robert Wake (ME); Anita G. Fox represented by James Gerber (MI); Chlora Lindley-Myers and Shelley Forrest (MO); Mike Causey represented by Jeff Trendel (NC); Eric Dunning and Lindsay Crawford (NE); Russell Toal (NM); Glen Mulready represented by Donna Wilson (OK); Jessica K. Altman represented by Laura Lyon Slaymaker (PA); Elizabeth Kelleher Dwyer represented by Matt Gendron (RI); and Raymond G. Farmer represented by Daniel Morris (SC).

1. Adopted its May 20 Minutes

The Task Force met May 20 and took the following action: 1) adopted its March 12 minutes; and 2) adopted amendments to the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450).

Superintendent Toal made a motion, seconded by Mr. Baldwin, to adopt the Task Force's May 20 minutes (Attachment One). The motion passed unanimously.

2. Adopted the Report of the Receivership Financial Analysis (E) Working Group

Ms. Wilson said the Receivership Financial Analysis (E) Working Group met March 1, in lieu of the Spring National Meeting, in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss companies in receivership. The Working Group plans to meet Aug. 5, in lieu of the Summer National Meeting, in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings.

Ms. Wilson made a motion, seconded by Mr. Kaumann, to adopt the Working Group's report. The motion passed unanimously.

3. Adopt the Report of the Receiver's Handbook (E) Subgroup

Mr. Baldwin said the Receiver's Handbook (E) Subgroup met June 14 and May 26. During these meetings, the Subgroup formed drafting groups to begin work on developing edits to each chapter of the *Receiver's Handbook for Insurance Company Insolvencies* (Handbook) to make it more user friendly and concise without diminishing its value to seasoned and new receivers. The drafting group has begun work drafting revisions to the first chapter.

Superintendent Toal made a motion, seconded by Ms. Wilson, to adopt the Subgroup's report (Attachment Three). The motion passed unanimously.

4. Adopted the Report of the Receivership Law (E) Working Group

Mr. Baldwin said the Receivership Law (E) Working Group met May 4 to adopt amendments to Model #440 and Model #450. The amendments address the Working Group's charge related to the continuation of essential services by affiliates of an insurer in receivership, as well as receiver's access to data and records held by affiliates belonging to the insurer in receivership. Given that the work of the Receiver's Handbook (E) Subgroup has begun, the Working Group recommended the development of guidance related to the model changes by the Subgroup as part of its charge to update the Handbook. These actions complete the Working Group's current charge related to the Macroprudential Initiative (MPI).

Mr. Baldwin made a motion, seconded by Ms. Slaymaker, to adopt the Working Group's report (Attachment Two). The motion passed unanimously.

Draft Pending Adoption

Attachment Six

Mr. Kennedy said that once the Executive (EX) Committee and Plenary adopts the amendments to Models #440 and #450, the Financial Standards and Accreditation (F) Committee will ask the Task Force for a recommendation regarding the accreditation requirement for these models, which have a “substantially similar” standard. He said that NAIC staff will send out a memo requesting input from members after the Summer National Meeting.

Mr. Wake recommended that the Task Force continue to monitor the Penn Treaty Network America Insurance Company liquidation, given the recent opinion from the Pennsylvania court.

5. Adopt its 2022 Proposed Charges

Mr. Kennedy discussed the 2022 proposed charges of the Task Force and its working groups and subgroup. The proposed charges would remain the same, with one exception. The charges of the Receivership Law (E) Working Group related to the MPI will be deleted, as this has been completed.

Superintendent Toal made a motion, seconded by Ms. Wilson, to adopt the Task Force’s 2022 proposed charges (Attachment Four). The motion passed unanimously.

6. Heard an Update on International Resolution Activities

Mr. Kennedy said the International Association of Insurance Supervisors (IAIS) Resolution Working Group completed the *Application Paper on Resolution Powers and Planning*. The Working Group will begin work on an application paper on policyholder protection schemes in September.

7. Heard an Update on the Status of MPI Recommendations

a. Training and Outreach to State Insurance Departments

Mr. Kennedy said the Task Force will plan more training on receivership matters to educate state insurance departments, specifically their legal and legislative staff. He said the NAIC staff will include new model and guideline amendments in upcoming meetings with legislative liaisons. He asked for volunteers from Task Force members to present on these topics during zone meetings in the fall.

b. Monitor the Work of Other NAIC Groups

Mr. Kennedy said the Group Solvency Issues (E) Working Group is in the process of reviewing comments on draft updates to financial analysis guidance, including guidance regarding crisis management groups, recovery planning, and resolution planning for internationally active insurance groups (IAIGs). The Working Group is meeting Aug. 4, and will hear from commentators on the draft guidance.

Having no further business, the Receivership and Insolvency (E) Task Force adjourned.

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*Virtual Meeting
(in lieu of meeting at the 2021 Summer National Meeting)*

REINSURANCE (E) TASK FORCE

Tuesday, July 27, 2021

4:00 – 5:30 p.m. ET / 3:00 – 4:30 p.m. CT / 2:00 – 3:30 p.m. MT / 1:00 – 2:30 p.m. PT

Meeting Summary Report

The Reinsurance (E) Task Force met July 27, 2021. During this meeting, the Task Force:

1. Adopted its Spring National Meeting minutes.
2. Adopted the 2022 proposed charges of the Task Force and the Reinsurance Financial Analysis (E) Working Group, which remain unchanged from 2021.
3. Adopted the report of the Reinsurance Financial Analysis (E) Working Group. The Working Group met April 13 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings, to discuss proposed revisions to the *Reinsurance Financial Analysis (E) Working Group Procedures Manual*.
4. Adopted revisions to the *Process for Evaluating Qualified and Reciprocal Jurisdictions*.
5. Discussed the draft *ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers*.
6. Discussed the Republic of Korea application to become a qualified jurisdiction.
7. Received a status report on the states' implementation of the 2019 revisions to the *Credit for Reinsurance Model Law (#785)*, the *Credit for Reinsurance Model Regulation (#786)*, and the implementation of *Term and Universal Life Insurance Reserve Financing Model Regulation (#787)*.

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*Virtual Meeting
(in lieu of meeting at the 2021 Summer National Meeting)*

RISK RETENTION GROUP (E) TASK FORCE

Monday, July 26, 2021

3:00 – 4:00 p.m. ET / 2:00 – 3:00 p.m. CT / 1:00 – 2:00 p.m. MT / 12:00 – 1:00 p.m. PT

Meeting Summary Report

The Risk Retention Group (E) Task Force met July 26, 2021. During this meeting, the Task Force:

1. Adopted its May 25 minutes, which included the following action:
 - A. Discussed the results of the 2021 risk retention group (RRG) survey, which was conducted to identify what is working well and what areas the Task Force can improve related to the non-domiciliary and domiciliary regulation of RRGs.
 - B. Discussed the applicability of revisions to the *Insurance Holding Company System Model Act* (#440) and the *Insurance Holding Company System Regulation with Reporting Forms and Instructions* (#450) as an accreditation standard for RRGs.
 - C. Referred an update to the quarterly non-troubled company procedures for RRGs to the Financial Analysis Solvency Tools (E) Working Group.
2. Adopted its 2022 proposed charges, which remain unchanged from the 2021 charges.
3. Discussed the RRG task list and determined to start work on two items. One item is to draft instructions and guidance for the NAIC Uniform Risk Retention Group Registration Form. The second item is to start work on an information sharing template that can be prepared and shared by a domiciliary state prior to the development of an insurer profile summary.

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*Virtual Meeting
(in lieu of meeting at the 2021 Summer National Meeting)*

VALUATION OF SECURITIES (E) TASK FORCE

Thursday, July 15, 2021

11:00 a.m. – 12:00 p.m. ET / 10:00 – 11:00 a.m. CT / 9:00 – 10:00 a.m. MT / 8:00 – 9:00 a.m. PT

Meeting Summary Report

The Valuation of Securities (E) Task Force met July 15, 2021. During this meeting, the Task Force:

1. Adopted its May 24 and Spring National Meeting minutes, which included the following action:
 - a. Adopted an amendment to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* (P&P Manual) to require the filing of private rating letter rationale reports with the Securities Valuation Office (SVO) beginning Jan. 1, 2022, which was exposed for a 30-day public comment period ending May 12. The amendment included provisions for deferring and waiving the submission for private letter rating securities in certain situations.
 - b. Discussed a proposed amendment to the P&P Manual to permit filing exemption (FE) for credit tenant loan (CTL) and ground lease financing (GLF) transactions. The Task Force directed SVO staff to prepare a new amendment to the P&P Manual following the suggestions proposed by the Statutory Accounting Principles (E) Working Group chairs permitting CTL and GLF transactions that are securities to be FE and expose it for a 30-day public comment period ending June 28.
 - c. Discussed the SVO's response to the Statutory Accounting Principles (E) Working Group referral to the SVO on CTLs.
2. Adopted its 2022 proposed charges.
3. Adopted an amendment to the P&P Manual to add additional instructions for the review of funds to clarify guidance for fund leverage and the use of derivatives, which was exposed for a 30-day public comment period ending July 1.
4. Adopted an amendment to the P&P Manual to permit securities that are CTL-like and GLF-like transactions to use NAIC credit rating provider (CRP) ratings through FE if they are structured as securities, which was exposed for a 30-day public comment period ending June 28.
5. Adopted an amendment to the P&P Manual to conform guidance to the Statutory Accounting Principles (E) Working Group's adopted change to *Statement of Statutory Accounting Principles (SSAP) No. 105R—Working Capital Finance Investments*, which was exposed for a 45-day public comment period ending Jan. 18.
6. Received an amendment to the P&P Manual to permit the SVO to rely on the parent entity's rating for an unrated and unguaranteed subsidiary in a working capital finance investment (WCFI) program, which was exposed for a 30-day public comment period ending Aug. 16. The Task Force also directed the SVO to refer the amendment to the Statutory Accounting Principles (E) Working Group for comment.
7. Received NAIC staff reports on:
 - a. Projects before the Statutory Accounting Principles (E) Working Group.



- b. The status of the Structured Securities Group's (SSG's) financial modeling request for proposal (RFP) and implementation of the adopted changes for legacy/non-legacy residential mortgage-backed securities (RMBS) and commercial mortgage-backed securities (CMBS).

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Draft: 8/3/21

Group Capital Calculation (E) Working Group
Virtual Meeting (*in lieu of meeting at the 2021 Summer National Meeting*)
July 26, 2021

The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met July 26, 2021. The following Working Group members participated: John Rehagen, Chair (MO); Kathy Belfi, Vice Chair (CT); Susan Bernard (CA); Philip Barlow (DC); Ray Spudeck and Virginia Christy (FL); Carrie Mears (IA); Susan Berry (IL); Roy Eft (IN); Christopher Joyce (MA); Judy Weaver and Steve Mayhew (MI); Barbara Carey (MN); Jessica Price (NC); Justin Schrader (NE); David Wolf (NJ); Bob Kasinow (NY); Dale Bruggeman (OH); Greg Lathrop (OR); Kimberly Rankin (PA); Hui Wattanaskolpant (TN); Amy Garcia (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI). Also participating was: Tom Botsko (OH).

1. Adopted its May 27, May 17, April 27, and March 10 Minutes

During its May 27, May 17, April 27, and March 10 meetings, the Working Group took the following action: 1) adopted a revised template for use in the 2021 group capital calculation (GCC) trial implementation, including changes to gather data on a stress scenario; 2) adopted clarifying edits to the GCC instructions that will be used for the 2021 GCC trial implementation; and 3) exposed proposed changes to the *Financial Analysis Handbook* (Handbook) for the GCC.

Mr. Eft made a motion, seconded by Mr. Schrader, to adopt the Working Group's May 27 (Attachment Two-A), May 17 (Attachment Two-B), April 27 (Attachment Two-C), and March 10 (*see NAIC Proceedings – Spring 2021, Financial Condition (E) Committee, Attachment Two*) minutes. The motion passed unanimously.

2. Exposed Draft Maintenance Documents

Mr. Rehagen suggested that the Working Group develop certain maintenance documents related to the GCC and directed participants to draft documents that could meet such needs. He described how these documents would allow the same kind of process as used by other groups, which is to allow anyone (state insurance regulator, industry, consumer, etc.) that wants to present proposed changes to the GCC to do so by first completing a form. He noted that the specific forms developed involved NAIC staff basically taking similar forms for risk-based capital (RBC) forms and updating them for what would be needed for the GCC.

Mr. Rehagen suggested that the main purpose of these forms is to establish some rules so that everyone understands the timeline for when changes need to be adopted by the Working Group to be effective that year. He noted that initially, the forms use the same dates as used for RBC, which means that any change to the template must be adopted by April 30, and all other changes need to be adopted by June 30.

The Working Group agreed to expose GCC maintenance documents for a 60-day public comment period ending Sept. 24.

3. Exposed a Draft Referral to the Capital Adequacy (E) Task Force

Mr. Rehagen directed participants to a draft referral to the Capital Adequacy (E) Task Force. He described that the main purpose of the referral is to make the RBC working groups aware of differences between the GCC and RBC and whether RBC working groups believe making changes to RBC for consistency would be appropriate.

Dan Daveline (NAIC) provided more details regarding differences between the GCC and RBC as documented in the draft memorandum. He described how in developing the GCC, most of the discussions were revolved around the treatment of non-insurance and non-financial related entities to achieve consistency between the GCC and RBC. Specifically, the desire by all parties is for the same GCC treatment, whether entities are owned by an insurer or by a sister company. Mr. Daveline noted that in the end, the GCC adopted a factor that mirrored the result within the RBC post-covariance factor. He stated that because of that, there were fewer differences between the GCC and RBC than what was originally envisioned, but he noted how NAIC staff still believe it is appropriate to present a list of such items to the extent that RBC working groups want to consider changes for consistency purposes. He described how there are three types of entities for consideration, but ultimately, the question is whether the RBC working groups want to modify their formulas to be more consistent with the GCC.

Mr. Daveline described that the first item on the list deals with how the GCC treats insurance companies, most of which are foreign insurance companies. The GCC brings in the minimum capital required by the regulator for a foreign insurance company. This is to show respect for the authority of that regulator, as state insurance regulators would like to receive a

reciprocal response on the U.S. basis, but also because this is the most relevant measure of capital at risk. Mr. Daveline noted that the second item on the list is similar in terms of the GCC treatment, but it pertains to other regulated entities such as banks. The last item on the list shows how the GCC treats other financial entities such as asset managers, investment advisors, and other financial entities. In the GCC, a factor is applied to their average revenues, while in RBC, a different factor is applied to the book/adjusted carrying value (BACV) for these entities. Mr. Daveline pointed out that as has been argued in the past, the RBC approach of using BACV as the base instead of average revenue may make more sense since RBC pertains to directly owned subsidiaries where the BACV may be the most relevant measure.

Mariana Gomez-Vock (American Council of Life Insurers—ACLI) noted support for a memo that summarizes the differences between the GCC and RBC. However, the ACLI expressed concern regarding whether the RBC groups should modify the RBC formulas to be more consistent with the GCC when a trial implementation of the GCC has not yet been completed. Specifically, she noted that the GCC approach for investment advisors and asset managers is new and has never been tested before. Therefore, she suggested removing the last sentence in the second paragraph of the memo so that the adoption of the GCC approach would not be proposed for considerations by the RBC working groups. Mr. Daveline stated that it is not going to be problematic to have this sentence stricken if the Working Group agreed. Mr. Eft agreed with striking this sentence, and the Working Group is not opposed; therefore, it was stricken as requested.

Mr. Botsko, chair of the Capital Adequacy (E) Task Force, stated his appreciation for the groups responsible for the GCC and RBC sharing information on a regular basis. Acknowledging many parallels between the two, he considered it extremely important to be consistent with each other as much as possible. Except for those items with different approaches where appropriate, both groups should take into consideration those items that could be changed by either the GCC or RBC and determine whether their formulas are appropriate.

Lou Felice (NAIC) recommended identifying categories in RBC that are different from the GCC and having an actual structure of formulas ready for those areas that could be changed for consistency purposes.

The Working Group agreed to expose the draft referral document for a 90-day public comment period ending Oct. 25.

4. Discussed Other Matters

The trial implementation is approaching its deadline at the end of the week. NAIC staff can be reached for questions. The draft Handbook guidance is being exposed for comment. Once comments are received, there will likely be another call. NAIC staff may make additional edits based on comments, run them by the state insurance regulators or the drafting group, and re-expose them again.

Having no further business, the Group Capital Calculation (E) Working Group adjourned.

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*Virtual Meeting
(in lieu of meeting at the 2021 Summer National Meeting)*

GROUP SOLVENCY ISSUES (E) WORKING GROUP

Wednesday, August 4, 2021

11:00 a.m. – 12:00 p.m. ET / 10:00 – 11:00 a.m. CT / 9:00 – 10:00 a.m. MT / 8:00 – 9:00 a.m. PT

Meeting Summary Report

The Group Solvency Issues (E) Working Group met Aug. 4, 2021. During this meeting, the Working Group:

1. Discussed comments received on the exposure of proposed revisions to the NAIC's *Financial Analysis Handbook* to incorporate elements of the International Association of Insurance Supervisors' (IAIS) Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) deemed appropriate for the U.S. system of insurance regulation. The Working Group discussed comments received from each of the following groups:
 - A. American Council of Life Insurers (ACLI).
 - B. America's Health Insurance Plans (AHIP).
 - C. American Property Casualty Insurance Association (APCIA).
 - D. Blue Cross and Blue Shield Association (BCBSA).
 - E. Iowa Department of Insurance (DOI).

As a result of the discussions, the drafting group members that developed the initial revisions were asked to consider the comments received and state insurance regulator opinions expressed during the meeting in developing an updated draft for the Working Group to consider later this year.

2. Received an update on the status of drafting efforts to proposed revisions to the NAIC's *Financial Condition Examiners Handbook* and *NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual* to incorporate elements of IAIS ComFrame deemed appropriate for the U.S. system of insurance regulation. The update stated that drafting efforts are currently underway and that the documents will be presented to the Working Group for consideration later this year.
3. Discussed the IAIS' public consultation on a revised *Application Paper on Supervisory Colleges* that ends on Aug. 24. Working Group members were encouraged to provide comments on the paper to the International Insurance Relations (G) Committee, which will accumulate state insurance regulator comments for submission in an NAIC letter.

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Date: 6/8/21

Mortgage Guaranty Insurance (E) Working Group
Virtual Meeting
May 18, 2021

The Mortgage Guaranty Insurance (E) Working Group of the Financial Condition (E) Committee met May 18, 2021. The following Working Group members participated: Kevin Conley, Chair, Jackie Obusek and Richard Kohan (NC); Kurt Regner (AZ); Monica Macaluso (CA); Robert Ballard (FL); Jay Buschmann (MO); Michael Campanelli (NY); Melissa Greiner (PA); Chris Miller (TX); and Amy Malm (WI).

1. Update on the State Regulatory Mortgage Insurance Capital Standard Model (SRMICS)

Mr. Conley commented that the mortgage insurers will be required to file the SRMICS on a direct basis and tabulate it within the schedules of the mortgage guaranty annual supplement (supplement), which will be available to all state insurance regulators as a monitoring tool. He indicated that SRMICS would not provide the ability to take regulatory action, similar to risk-based capital (RBC). Mr. Conley commented that the plan is to leave all the Milliman risk-based components in place. He commented that in the fall of 2019, when the mortgage insurers were asked to run the SRMICS against their 2018 data, the output did not create a high enough standard, which would necessitate state insurance regulators to default to the 25:1 risk-to-capital rule. Mr. Conley indicated that he used 10 years of data from his domestics to run stress scenarios to determine a change in the base rate. As a result of the stress testing, the base rate changed from 0.55 to 1.1. He indicated the Milliman was agnostic about the base rate as it knew it would require calibration to get it just right.

Mr. Conley stated that North Carolina is proposing to remove the 1% expense margin. Further, he indicated that SRMICS will follow the Private Mortgage Insurer Eligibility Requirements (PMIERS) by removing explicit premium credits and scaling down the seasoning factors. He stated that SRMICS is capital-based focusing on reserves, whereas PMIERS is an asset-based formula. He commented that seasoning factors are required as reserves are booked and the mortgage insurer recognizes potential losses as the book years age. Mr. Conley commented that the economic factors require input from Moody's Investors Service regarding the home price index and from the U.S. Bureau of Labor Statistics (BLS) for the consumer price index. He stated that he updated all the economic factors for each state and quarter for 2019 and 2020. Mr. Conley commented that William Meers (Arch Mortgage Insurance) confirmed the economic factors. Mr. Conley indicated that the updated SRMICS factors would be emailed to the mortgage insurers by the end of the week. The mortgage insurers would complete SRMICS based on 2020 data. Further, he indicated there would be no need to complete the premium credit triangle. Mr. Conley indicated that the goal is to put in place a capital standard that is less stringent than PMIERS.

The mortgage insurers agreed on returning the completed SRMICS to the Working Group by June 30. Tony Shore (Essent Guaranty) commented that the vintage earned premium table remains in the supplement. However, he said it is not being used in SRMICS. Mr. Conley commented that the Supplement will require the mortgage insurers to tabulate earned premiums on a book year basis historically for 20 years. He commented further that because the two-year premium credit is being removed, state insurance regulators would have access to premium growth and can project ultimate premium in order to tabulate future inflows. Mr. Shore commented that a non-historical aggregate value would serve the same purpose.

Since SRMICS will be used as a tool to assess capital, rather than integrating it into RBC, Ed Hartman (Genworth Financial) questioned how state insurance regulators would use SRMICS. Mr. Conley commented that there was discussion on relaxing the contingency reserve requirements with the reliance on SRMICS. Further, he commented that this is not being proposed now; it may be considered once state insurance regulators are more comfortable with the results of SRMICS. Mr. Conley commented that once the SRMICS filings are received and reviewed, he will provide the next steps to the Working Group.

Having no further business, the Mortgage Guaranty Insurance (E) Working Group adjourned.

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Draft: 6/8/21

Mortgage Guaranty Insurance (E) Working Group
E-Vote
April 9, 2021

The Mortgage Guaranty Insurance (E) Working Group of the Financial Condition (E) Committee conducted an e-vote that concluded April 9, 2021. The following Working Group members participated: Kevin Conley, Chair (NC); Kurt Regner (AZ); Monica Macaluso (CA); Robert Ballard (FL); John Rehagen (MO); Margot Small (NY); Melissa Greiner (PA); Chris Miller (TX); and Amy Malm (WI).

1. Adopted the Mortgage Guaranty Insurance Exhibit and Instructions

The Working Group conducted an e-vote to consider adoption of the 2020 Mortgage Guaranty Insurance Exhibit and Instructions. The motion passed with a majority of members voting in favor of adopting.

Having no further business, the Mortgage Guaranty Insurance (E) Working Group adjourned.

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*Virtual Meeting***JOINT MEETING OF THE MUTUAL RECOGNITION OF JURISDICTIONS (E) WORKING GROUP AND
THE GROUP CAPITAL CALCULATION (E) WORKING GROUP**

Tuesday, July 20, 2021

4:30 – 5:30 p.m. ET / 3:30 – 4:30 p.m. CT / 2:20 – 3:30 p.m. MT / 1:30 – 2:30 p.m. PT

Summary Report

The Mutual Recognition of Jurisdictions (E) Working Group met in a joint session with the Group Capital Calculation (E) Working Group July 20, 2021. During this meeting, the Working Groups:

1. Discussed the draft *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation*. The Mutual Recognition of Jurisdictions (E) Working Group voted to expose the document for a 30-day public comment period ending Aug. 20.

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Draft: 5/20/21

NAIC/American Institute of Certified Public Accountants (AICPA) (E) Working Group
E-Vote
May 17, 2021

The NAIC/AICPA (E) Working Group of the Financial Condition (E) Committee conducted an e-vote that concluded May 17, 2021. The following Working Group members participated: Laura Clements (CA); Rylynn Brown (DE); Kevin Clark (IA); Judy Weaver (MI); Shannon Schmoeger (MO); Doug Bartlett (NH); Dale Bruggeman (OH); and Greg Lathrop (OR).

1. Adopted Revisions to the Implementation Guide

The Working Group recently developed and exposed proposed revisions to the NAIC's *Implementation Guide for the Annual Financial Reporting Model Regulation* (Implementation Guide) to facilitate the collection of information on the engagement partner leading the annual external audit of insurance entities. The revisions request that the lead engagement partner's name and start date be provided in the annual internal control letter filed with the domestic insurance department to facilitate a review of engagement partner rotation and qualification requirements.

The motion passed with a majority of the Working Group members voting in favor of adopting the revisions and referring the updated Implementation Guide to the Accounting Practices and Procedures (E) Task Force for inclusion in the 2022 publication of the NAIC's *Accounting Practices and Procedures Manual* (AP&P Manual).

Having no further business, the NAIC/AICPA (E) Working Group adjourned.

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Draft: 7/15/21

National Treatment and Coordination (E) Working Group
Virtual Meeting
July 14, 2021

The National Treatment and Coordination (E) Working Group of the Financial Condition (E) Committee met July 14, 2021. The following Working Group members participated: Debbie Doggett, Co-Chair (MO); Linda Johnson, Co-Chair (WY); Cindy Hathaway (CO); Joan Nakano and William Mitchell (CT); Alisa Pritchard (DE); Jason Reynolds (FL); Stewart Guerin and Mike Boutwell (LA); Kari Leonard (MT); Ursula Almada (NM); Cameron Piatt (OH); Greg Lathrop (OR); Cressinda Bybee (PA); Amy Garcia (TX); Jay Sueoka (UT); Ron Pastuch (WA); and Amy Malm (WI).

1. Adopted its May 13 Minutes

Ms. Doggett noted a few items for correction on the minutes: 1) items 1 and 2 need to be changed from adopted to discussed; and 2) item 5 includes a typo for “stipulates” to be changed to “stipulate.”

Mr. Lathrop made a motion, seconded by Mr. Piatt, to adopt the Working Group’s May 13 minutes with edits. The motion passed unanimously.

2. Adopted Proposal 2021-01 (Primary Application and Instructions)

Ms. Doggett summarized the comments received on proposal 2021-01 to modify the primary application for start-up company applications. Pennsylvania submitted comments that were incorporated into the current proposal, which included: 1) changing the order on Form 2 for Company Type and Sub-Type to mirror the order on the NAIC company code application form; 2) using the most current Form 3 Lines of Business form; and 3) including the word “notification” on page 51 of the materials.

Ms. Doggett added that further modifications were made to the instructions included on the agenda to indicate that if an application is deemed incomplete, a status will be provided by the application state with an explanation and instructions that the Applicant Company will be allowed to withdraw its application. She added that as work continues on the development of the electronic application, the instructions may be modified to include those enhancements, and those changes will be brought before the Working Group for consideration.

Mr. Piatt made a motion, seconded by Mr. Guerin, to adopt the proposal 2021-01 (Attachment 1) with suggested wording. The motion passed unanimously.

3. Adopted Proposal 2021-02 (Redomestication Application and Instructions)

Ms. Johnson summarized that proposal 2021-02 is in conjunction with the changes made to the primary application, to separate the redomestication application into its own application. She added that no comments were received on this proposal during the comment period.

Mr. Guerin made a motion, seconded by Mr. Lathrop, to adopt proposal 2021-02 (Attachment 2). The motion passed unanimously.

4. Adopted Proposal 2021-05 (Form A Review Guidance)

Ms. Doggett summarized the purpose of proposal 2021-05 to add additional guidance when reviewing the articles of incorporation and limited partnership agreements for complex Form A transactions to determine the ultimate controlling party when not evident in the Form A filing regarding private equity type entities.

Mr. Guerin made a motion, seconded by Ms. Nakano, to adopt proposal 2021-05 (Attachment 3). The motion passed unanimously.

5. Exposed Proposal 2021-06 (Disclaimer Form)

Ms. Johnson said the purpose of proposal 2021-06 is to provide a template for a disclaimer of affiliation or control of an individual, resulting from a survey conducted last fall regarding the primary application, where several states indicated that they allow a disclaimer in lieu of a biographical affidavit. This uniform template will be identified as Form 9, and it will be exposed for a 45-day public comment period ending Aug. 30. Ms. Johnson also noted that prior to exposure, clarifying language will be included in the heading of the proposal to identify that the use of this form is just for individuals.

6. Heard Updates on Ad Hoc Groups

Jane Barr (NAIC) said the NAIC is currently working on negotiations with third-party vendors to assist with the development of the electronic applications. She added that she will provide an update on the next scheduled meeting tentatively scheduled for mid-September.

Crystal Brown (NAIC) reported that the Surplus Lines Drafting Group met June 28 to review and discuss domestic surplus line statutes and regulations and comments submitted on a recent survey to develop a reference chart for industry and state use.

7. Discussed Other Matters

Ms. Barr said she received an email asking states to consider moving towards the elimination of hard copy requirements for their public records. With the development of the electronic application and tools available to the state insurance regulators, the need for hard copies could be greatly reduced. For those states whose statutes reference hard copy required, they may want to consider changing their wording to reference “original” since the term “original” could mean electronic filing.

Ms. Johnson said a Company Licensing Forum call will be scheduled for Aug. 25 to discuss these requirements. Ms. Barr added that she has been requested to add the new risk retention group (RRG) forms to the Forum agenda for those states that may be unaware of their existence.

The next Working Group meeting is tentatively set for September.

Having no further business, the National Treatment and Coordination (E) Working Group adjourned.

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NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

MEMORANDUM

TO: Dale Bruggeman (OH), Chair, Statutory Accounting Principles (E) Working Group
Carrie Mears (IA), Vice-Chair, Statutory Accounting Principles (E) Working Group

FROM: Commissioner Scott A. White (VA), Chair, Financial Condition (E) Committee

DATE: July 22, 2021

RE: Terminology Change – Substantive and Nonsubstantive

In response to the discussion on *SSAP No. 71—Policy Acquisition Costs and Commissions*, it has been highlighted that the statutory accounting terminology of “substantive” and “nonsubstantive” to describe statutory accounting revisions being considered by the Statutory Accounting Principles (E) Working Group to the *Accounting Practices and Procedures Manual (AP&P Manual)* could be misunderstood by those who are not familiar with the specific definitions and intended application of those terms. To avoid the incorrect perception that these terms may reflect the degree of financial impact to companies based on their common usage, the Financial Condition (E) Committee requests that the Statutory Accounting Principles consider updating these terms to prevent future misunderstandings.

The Financial Condition (E) Committee understands the terms “substantive” and “nonsubstantive” were crafted as part of the statutory accounting principles (SAP) codification, which was finalized in 1998, and were intended to be simple, concise terms to differentiate whether proposed revisions reflect new SAP concepts (substantive) or clarification of existing SAP concepts (nonsubstantive). The source location for the definitions and classification criteria of these terms is the *NAIC Policy Statement on Maintenance of Statutory Accounting Principles*, but it is noted that the terms and definitions are referred to throughout SAP guidance, other policy statements, issue papers, and agenda items.

Pursuant to this Committee request, the Working Group should consider eliminating “substantive” and “nonsubstantive” and instead refer to the type of revisions in accordance with the general nature in which those terms were intended to reflect. As such, a revision that would have previously been considered “substantive” could be referred to as a “New SAP Concept” and a revision that would have previously been considered as “nonsubstantive” could be referred to as a “SAP Clarification.” The Committee is not proposing that the Working Group reassess the classification criteria but is simply requesting terminology changes to prevent future misinterpretations or assessments by others. As such, unless the Working Group believes further revisions are necessary, statutory revisions that would have been previously classified as “nonsubstantive” are anticipated to continue to fall within that definition and be captured under the new terminology as a “SAP Clarification.”

To illustrate the intent of this request, draft revisions are presented for Working Group consideration. The Working Group should feel welcome to modify these draft revisions as deemed appropriate to best reflect this requested change.

Executive Office | 444 North Capitol Street NW | Suite 700 | Washington, DC 20001 | (202) 471-3990

Central Office | 1100 Walnut Street | Suite 1500 | Kansas City, MO 64106-2197 | (816) 842-3600

Capital Markets & Investment Analysis Office | One New York Plaza | Suite 4210 | New York, NY 10004 | (212) 398-9000

www.naic.com



NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

If you have any questions on this request, please contact Commissioner Scott A. White, Chair of the Financial Condition (E) Committee or Dan Daveline, NAIC staff.

c: Julie Gann, Robin Marcotte, Jim Pinegar, Jake Stultz, Fatima Sediqzad

[https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/Stat Acctg_Statutory_Referrals/2021/E to SAPWG - Terminology.docx](https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/Stat%20Acctg_Statutory_Referrals/2021/E%20to%20SAPWG%20Terminology.docx)



NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Potential Revisions to the Policy Statement:

NAIC Policy Statement on Maintenance of Statutory Accounting Principles

1. Statutory accounting principles (SAP) provide the basis for insurers to prepare financial statements to be filed with and utilized by state insurance departments for financial regulation purposes. Accuracy and completeness of such filings are critical to meaningful solvency monitoring. Accordingly, maintenance of SAP guidance for changes in the industry and changes in regulatory concerns is vital to preserving the usefulness of SAP financial statements.

2. The promulgation of new or revised SAP guidance by the NAIC ultimately requires action of the entire NAIC membership. Responsibility for proposing new or revised SAP guidance will be delegated through the NAIC committee structure to the Accounting Practices and Procedures (E) Task Force (Task Force). The Task Force will charge the Statutory Accounting Principles (E) Working Group (Working Group) with the exclusive responsibility to develop and propose new statements of statutory accounting principles (SSAPs), to revise existing SSAPs, and to issue interpretations.

Composition of the Statutory Accounting Principles (E) Working Group

3. The chair of the Task Force shall determine membership of the Working Group subject to approval by the Financial Condition (E) Committee. The Working Group shall be limited in size to no more than 15 members and will include representation from the four zones of the NAIC. Membership shall be vested in the state (until such time as the membership may be changed) but continuity of individuals, to the extent possible, is extremely desirable.

Development of New SSAPs or New SAP Concepts¹ in an Existing SSAP ~~Substantively Revised SSAPs~~

4. New SSAPs will be developed to address, but will not be limited to: 1) concepts not previously addressed by a SSAP and that do not fit within the scope of an existing SSAP; 2) concepts that fit within the scope of an existing SSAP, but the Working Group elects to supersede existing SSAPs and 3) existing concepts that warrant significant revisions. ~~Substantively revised~~ New SAP concepts to existing SSAPs will be developed to address, but will not be limited to: 1) concepts that fit within the accounting topic of an existing SSAP, but have not been addressed by the Working Group; 2) changes to the valuation and/or measurement of an existing SSAP; and 3) modifications to the overall application of existing SSAPs. The decision to undertake development of a new SSAP or ~~substantively a new SAP concept in an existing~~ revised SSAP will rest with the Working Group. New SSAPs or ~~substantively new SAP concept in an existing~~ revised SSAPs will have a specified effective date.

5. Research and drafting of new SSAP or ~~substantially a new SAP concept in an existing~~ revised SSAPs will be performed by NAIC staff under the direction and supervision of the Working Group which may enlist the assistance of interested parties and/or consultants with requisite technical expertise as needed or desired. The first step in developing new SSAPs and ~~substantively new SAP concepts in existing~~ revised SSAPs will commonly be the drafting of an issue paper, which will contain a summary of the issue, a summary conclusion, discussion, and a relevant literature section. Public comments will be solicited on an issue



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paper (at least one exposure period), and at least one public hearing will be held before the issue paper is converted to a SSAP. Upon approval by the Working Group, all proposed SSAPs will be exposed for public comment for a period commensurate with the length of the draft and the complexities of the issue(s). After a hearing of comments, adoption of new SSAPs or new SAP concepts in existing~~substantively revised~~ SSAPs (including any amendments from exposure) may be made by simple majority. If no comments are received during the public comment period, the Working Group may adopt the proposal collectively (one motion/vote) with other non-contested positions after the opportunity is given during the hearing to separately discuss the proposal. All new SSAPs and substantively revised~~new SAP concepts in existing~~ SSAPs must be on the agenda for at least one public hearing before presentation to the Task Force for consideration. Adoption by the Task Force, its parent and the NAIC membership shall be governed by the NAIC bylaws.

6. The Working Group may, by a super majority vote (7 out of 10 members, 8 out of 11 or 12, 9 out of 13, 10 out of 14, and 11 out of 15) elect to: 1) combine the IP and SSAP process, resulting in concurrent exposure of the two documents; 2) expose and adopt revisions to a SSAP prior to the drafting/adoption of the related IP; and/or 3) forego completion of an IP and only proceed with a new SSAP or new SAP concepts in an existing ~~revisions to a substantively revised~~ SSAP.

7. If accounting guidance, reserving standards, asset valuation standards, or any other standards or rules affecting accounting practices and procedures are first developed by other NAIC working groups, task forces, subcommittees, or committees, such proposed guidance, standards or rules shall be presented to the Working Group for consideration. In cases where such guidance has already been subjected to substantial due process (e.g., public comment periods and/or public hearings), the Working Group may elect to shorten comment periods and/or eliminate public hearings, and in such cases, will notify the Task Force of these actions.

Development of SAP Clarifications¹ ~~Nonsubstantive Revisions to SSAPs~~

8. SAP clarifications ~~Nonsubstantive revisions to SAP~~ will be developed to address, but will not be limited to: 1) clarification of the intent or application of existing SSAPs; 2) new disclosures and modification of existing disclosures; 3) revisions that do not change the intent of existing guidance; and 4) revisions to *Appendix A—Excerpts of NAIC Model Laws* to reflect amendments to NAIC adopted model laws and regulations. Research and drafting of SAP clarification ~~nonsubstantive~~ revisions will be performed by NAIC staff under the direction and supervision of the Working Group. Public comment will be solicited on ~~nonsubstantive these~~ revisions, and the item will be included on the agenda for at least one public hearing before the Working Group adopts ~~nonsubstantive~~ revisions. ~~Nonsubstantive~~ SAP clarification revisions are considered effective immediately after adoption by the Working Group, unless the Working Group incorporates a specific effective date. If comments are not received during the public comment period, the Working Group may adopt the proposal collectively (one motion/vote) with other “non-contested” positions after opportunity is given during the hearing to separately discuss the proposal. At its discretion, the Working Group may request that an issue paper be drafted for ~~nonsubstantive~~ SAP clarification revisions in order to capture historical discussion and adopted revisions. Adoption of ~~nonsubstantive these~~ revisions by the Task Force, its parent and the NAIC membership shall be governed by the NAIC bylaws.

New Footnote 1: Prior to (adoption date), the term used to describe a new SAP concept was “substantive” and the term used to describe a SAP clarification was “nonsubstantive.” The new



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terms will be reflected in materials to describe revisions to statutory accounting principles on a prospective basis and historical documents will not be updated to reflect the revised terms.

Development of Interpretations to SSAPs and Referencing Interpretations Within SSAPs

Interpretations Which DO NOT Amend, Supersede or Conflict with Existing SSAPs

9. Interpretations may be developed to address issues requiring timely application or clarification of existing SAP, which shall not amend, supersede or conflict with effective SSAPs. Issues being considered as an interpretation must be discussed at no less than two open meetings. (Original introduction of the issue when the Working Group identifies the intent to address the issue as an “interpretation” during a public discussion is considered the first open meeting discussion.) The process must allow opportunity for interested parties to provide comments, but as interpretations are intended to provide timely responses to questions of application or interpretation and clarification of guidance, no minimum exposure timeframe is required.

10. As these interpretations do not amend, supersede or conflict with existing SSAP guidance, the interpretation is effective upon Working Group adoption unless specifically stated otherwise. The voting requirement to adopt an interpretation of this type is a simple majority. The Working Group shall report the adopted interpretation to the Accounting Practices and Procedures (E) Task Force as part of its public report during the next NAIC national meeting (or earlier if applicable). Interpretations can be overturned, amended or deferred by a two-thirds majority of the Task Force membership. For clarification, a two-thirds majority of the Task Force requires two-thirds of the entire Task Force membership, not just those electing to vote. Additionally, interpretations can be overturned, amended, deferred, or referred to either the Task Force and/or the Working Group by a simple majority of the Financial Condition (E) Committee.

Interpretations Which Amend, Supersede or Conflict with Existing SSAPs

11. In certain circumstances such as catastrophes and other time-sensitive issues requiring immediate, temporary statutory accounting guidance, the Working Group may adopt an interpretation which creates new SAP or conflicts with existing SSAPs. Historically, these interpretations temporarily modified statutory accounting principles and/or specific disclosures were developed in response to nationally significant events (e.g., Hurricane Sandy, September 11, 2001). (Examples of time-sensitive issues that have previously provided INT exceptions to SAP include the transition from LIBOR and special situations such as the federal TALF program.) Interpretations that conflict with existing SSAPs shall be temporary and restricted to circumstances arising from the need to issue guidance for circumstances requiring immediate guidance. In order to adopt an interpretation that creates new SAP or conflicts with existing SSAPs, the Working Group must have 67% of its members voting (10 out of 15 members) with a super majority (7 out of 10, 8 out of 11 or 12, 9 out of 13, 10 out of 14, or 11 out of 15) supporting adoption.

- a. These interpretations are effective upon Working Group adoption, unless stated otherwise, and shall be reported to the Accounting Practices and Procedures (E) Task Force as part of its public report during the next NAIC national meeting (or earlier if applicable). In circumstances where the Working Group adopts an interpretation (which creates new SAP or conflicts with



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existing SSAPs) that is controversial in nature (i.e., due to regulator or industry feedback or could have a policy level impact), the Working Group may elect to postpone the effective date until the item has been discussed by the Task Force and the Financial Condition (E) Committee and both have had an opportunity to review the interpretation.

- b. These interpretations can be overturned, amended or deferred by a two-thirds majority of the Task Force membership. For clarification, a two-thirds majority of the Task Force requires two-thirds of the entire Task Force membership, not just those electing to vote. Additionally, interpretations can be overturned, amended, deferred, or referred to either the Task Force and/or the Working Group by a simple majority of the Financial Condition (E) Committee.

12. As new SSAPs are developed, it is essential to review and, if necessary, update the status of interpretations related to SSAPs that are being replaced and/or new SSAPs being developed. The following options are available to the Working Group when a SSAP with existing interpretations is replaced:

- a. **Interpretation of the new SSAP** - If the Working Group would like to maintain the interpretation, the new SSAP can be added to the list of statements interpreted by the interpretation. In addition, the status section of the new SSAP will list the interpretation number next to the heading "Interpreted by."
- b. **Nullification** - When an interpretation is nullified by a subsequent SSAP or superseded by another interpretation, the interpretation is deemed no longer technically helpful, is shaded and moved to Appendix H (Superseded SSAPs and Nullified Interpretations), and the reason for the change is noted beneath the interpretation title. The status section of the SSAP describes the impact of the new guidance and the effect on the interpretation (for example, nullifies, incorporated in the new SSAP with paragraph reference, etc.).
- c. **Incorporation** - When an interpretation is incorporated into a new SSAP, the Working Group can choose from the following two options:
 - i. If the interpretation only interprets one SSAP, then the interpretation is listed as being nullified under the "affects" section of the SSAP and is not referenced under the "interpreted by" section of the status page of the SSAP.
 - ii. If the interpretation references additional SSAPs, and the Working Group intends to maintain the guidance, the interpretation is unchanged (no nullification). The new SSAP (Summary of Issue section) reflects that the interpretation issue has been incorporated into the new statement.

Adopted by the Reinsurance (E) Task Force on July 27, 2021



Process for Evaluating Qualified and Reciprocal Jurisdictions

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I. Preamble

Purpose

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. In 2012, the NAIC Reinsurance (E) Task Force was charged to develop an NAIC process to evaluate the reinsurance supervisory systems of non-U.S. jurisdictions, for the purposes of developing and maintaining a list of jurisdictions recommended for recognition by the states as Qualified Jurisdictions. This charge was extended in 2019 to encompass the recognition of Reciprocal Jurisdictions in accordance with the 2019 amendments to the Credit for Reinsurance Models, including the maintenance of a list of recommended Reciprocal Jurisdictions. The purpose of the *Process for Evaluating Qualified and Reciprocal Jurisdictions* is to provide a documented evaluation process for creating and maintaining these NAIC lists.

Background

On November 6, 2011, the NAIC Executive (EX) Committee and Plenary adopted revisions to the Credit for Reinsurance Models. These revisions serve to reduce reinsurance collateral requirements for certified reinsurers that are licensed and domiciled in Qualified Jurisdictions. Under the previous version of the Credit for Reinsurance Models, in order for U.S. ceding insurers to receive reinsurance credit, the reinsurance was required to be ceded to U.S.-licensed reinsurers or secured by collateral representing 100% of U.S. liabilities for which the credit is recorded. When considering revisions to the Credit for Reinsurance Models, the Reinsurance (E) Task Force contemplated establishing an accreditation-like process, modeled on the current NAIC Financial Regulation Standards and Accreditation Program, to review the reinsurance supervisory systems of non-U.S. jurisdictions. Under the revised Credit for Reinsurance Models, the approval of Qualified Jurisdictions is left to the authority of the states; however, the models provide that a list of Qualified Jurisdictions will be created through the NAIC committee process, and that individual states must consider this list when approving jurisdictions.

The ~~enactment in 2010 of the~~ federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), enacted in 2010, Further, the Dodd-Frank Act authorizes the U.S. Treasury Secretary and the U.S. Trade Representative (USTR), jointly, to negotiate and enter into “covered agreements” on behalf of the United States. These are bilateral or multilateral agreements with foreign governments, authorities or regulators relating to insurance prudential measures, which can preempt contrary state insurance laws or regulatory measures. The Dodd-Frank Act also created the Federal Insurance Office (FIO), which has the following authority: (1) coordinate federal efforts and develop federal policy on prudential aspects of international insurance matters; (2) assist the Secretary of the U.S. Department of the Treasury in negotiating covered agreements ~~(as defined in the Dodd-Frank Act)~~; (3) determine whether the states’ insurance measures are preempted by covered agreements; and (4) consult with the states (including state insurance regulators) regarding insurance matters of national importance and prudential insurance matters of international importance. ~~Further, the Dodd-Frank Act authorizes the U.S. Treasury Secretary and the U.S. Trade Representative (USTR), jointly, to negotiate and enter into covered agreements on behalf of the United States.~~ It is the NAIC’s intention to communicate and coordinate with the FIO and related federal authorities as appropriate with respect to the evaluation of the reinsurance supervisory systems of non-U.S. jurisdictions.

On September 22, 2017, the United States and the European Union (EU) entered into the “*Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance.*” A similar agreement with the United Kingdom (UK) was signed on December 18, 2018. Both agreements (collectively referred to as the “Covered Agreements”) will require the states to eliminate reinsurance

collateral requirements for reinsurers licensed and domiciled in these jurisdictions within 60 months (five years) after signing or face potential federal preemption by the Federal Insurance Office (FIO) under the Dodd-Frank Act.

Reciprocal Jurisdictions

On June 25, 2019, the NAIC Executive (EX) Committee and Plenary adopted revisions to the Credit for Reinsurance Models. These revisions were intended to conform the Models to the relevant provisions of the Covered Agreements. The Covered Agreements would eliminate reinsurance collateral requirements for EU and UK reinsurers that maintain a minimum amount of own funds equivalent to \$250 million and a solvency capital requirement (SCR) of 100% under Solvency II, among other conditions. Conversely, U.S. reinsurers that maintain capital and surplus equivalent to 226 million euros with a risk-based capital (RBC) of 300% of authorized control level would not be required to maintain a local presence in order to do business in the EU or UK or post reinsurance collateral. Under the revised Credit for Reinsurance Models, jurisdictions that are subject to in-force ~~C~~covered ~~A~~agreements are considered to be Reciprocal Jurisdictions,¹ and reinsurers that have their head office or are domiciled in a Reciprocal Jurisdiction are not required to post reinsurance collateral if they meet all of the requirements of the Credit for Reinsurance Models.

Under the revised Credit for Reinsurance Models, not only are jurisdictions that are subject to Covered Agreements treated as Reciprocal Jurisdictions for reinsurance collateral purposes, but any other Qualified Jurisdictions ~~can~~ also ~~has a pathway to~~ qualify for collateral elimination as ~~a~~ Reciprocal Jurisdictions States that meet the requirements of the NAIC Financial Standards and Accreditation Program are also considered to be Reciprocal Jurisdictions.

The NAIC has updated and revised this ~~-~~*Process for Evaluating Qualified and Reciprocal Jurisdictions*~~-~~ to specify how Qualified Jurisdictions that recognize key NAIC solvency initiatives, including group supervision and group capital standards, and also meet the other requirements under the revised Credit for Reinsurance Models, will be recognized as Reciprocal Jurisdictions and receive similar treatment as that provided under the EU and UK Covered Agreements, including the elimination of reinsurance collateral and local presence requirements by the states.

¹ The hypothetical possibility that a future covered agreement might not relate to reinsurance is addressed in Section 2F(1)(a)(i) of Model #785, which limits automatic Reciprocal Jurisdiction status to a covered agreement that “addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.”

II. Principles for the Evaluation of Non-U.S. Jurisdictions

1. The NAIC model revisions applicable to certified reinsurers are intended to facilitate cross-border reinsurance transactions and enhance competition within the U.S. market, while ensuring that U.S. insurers and policyholders are adequately protected against the risk of insolvency. To be eligible for certification, a reinsurer must be domiciled and licensed in a Qualified Jurisdiction as determined by the domestic regulator of the ceding insurer. A Qualified Jurisdiction not subject to an in-force Covered Agreement under the Dodd-Frank Act may also be determined to be a Reciprocal Jurisdiction, and reinsurers that have their head office or are domiciled in any such Reciprocal Jurisdiction will not be required to post reinsurance collateral, provided they meet the minimum capital and financial strength requirements and comply with the other requirements of the Credit for Reinsurance Models.
2. The evaluation of non-U.S. jurisdictions as Qualified Jurisdictions and Reciprocal Jurisdictions will be conducted in accordance with the provisions of the Credit for Reinsurance Models and any other relevant guidance developed by the NAIC.
3. The evaluation of non-U.S. jurisdictions as Qualified Jurisdictions is intended as an outcomes-based comparison to financial solvency regulation under the NAIC Financial Regulation Standards and Accreditation Program (Accreditation Program), adherence to international supervisory standards, and relevant international guidance for recognition of reinsurance supervision. It is not intended as a prescriptive comparison to the NAIC Accreditation Program. In order for a Qualified Jurisdiction that is not subject to an in-force Covered Agreement to be evaluated as a Reciprocal Jurisdiction, that Qualified Jurisdiction must agree to recognize the states' approach to group supervision, including group capital, and other such requirements as provided under the Credit for Reinsurance Models.
4. The states shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system within the Qualified Jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled in the U.S. The determination of Qualified Jurisdiction status is based on the effectiveness of the entire reinsurance supervisory system within the jurisdiction.
5. Each state may evaluate a non-U.S. jurisdiction to determine if it is a Qualified Jurisdiction. A list of Qualified Jurisdictions will be published through the NAIC committee process. A state must consider this list in its determination of Qualified Jurisdictions, and if the state approves a jurisdiction not on this list, the state must thoroughly document the justification for approving this jurisdiction in accordance with the standards for approving Qualified Jurisdictions contained in the Credit for Reinsurance Models. The creation of this list does not constitute a delegation of regulatory authority to the NAIC. The regulatory authority to recognize a Qualified Jurisdiction resides solely in each state and the NAIC List of Qualified Jurisdictions is not binding on the states.
6. A list of Reciprocal Jurisdictions will be published through the NAIC committee process. Jurisdictions subject to an in-force Covered Agreement and states that meet the requirements of the NAIC Financial Standards and Accreditation Program are automatically included on the List of Reciprocal Jurisdictions. A state must consider this list in its determination of Reciprocal Jurisdiction status, and if the state approves a jurisdiction not on this list, the state must thoroughly document the justification for approving this jurisdiction in accordance with the standards for approving Reciprocal Jurisdictions contained in the Credit for Reinsurance Models. [Under the Credit for Reinsurance Model Law \(as adopted by a state\) the state must recognize the Reciprocal Jurisdiction status of jurisdictions subject to an in-force Covered Agreement.](#)

7. In order to facilitate multi-state recognition of assuming insurers and to encourage uniformity among the states, the NAIC has initiated a process called “passporting.” ~~as discussed more fully below in paragraph 15 of Section III under which the commissioner has the discretion to defer to another state’s determination that a jurisdiction is a Qualified or Reciprocal Jurisdiction. Passporting is based upon individual state regulatory authority, and states are encouraged to act in a uniform manner in order to facilitate the passporting process. States are also encouraged to utilize the passporting process to reduce the amount of documentation filed with the states and reduce duplicate filings. The NAIC Lists of Qualified and Reciprocal Jurisdictions are intended to facilitate the passporting process.~~
8. Both Qualified Jurisdictions and Reciprocal Jurisdictions ~~have~~ must agree to share information and cooperate with the state with respect to all applicable reinsurers domiciled within that jurisdiction, in accordance with the Credit for Reinsurance Models, as adopted by the state. Critical factors in the evaluation process include but are not limited to the history of performance by assuming insurers in the applicant jurisdiction and any documented evidence of substantial problems with the enforcement of final U.S. judgments in the applicant jurisdiction. A jurisdiction will not be a Qualified Jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.
9. The determination of Qualified Jurisdiction status can only be made with respect to the reinsurance supervisory system in existence and applied by a non-U.S. jurisdiction at the time of the evaluation.
10. The NAIC and the states will communicate and coordinate with the FIO, USTR and other relevant federal authorities as appropriate with respect to the evaluation of the reinsurance supervisory systems of non-U.S. jurisdictions.

III. Procedure for Evaluation of Non-U.S. Jurisdictions

1. Initiation of Evaluation of the Reinsurance Supervisory System of an Individual Jurisdiction.

- a. Priority will be given to requests from the states and from those jurisdictions specifically requesting an evaluation by the NAIC.
- b. Formal notification of the NAIC's intent to initiate the evaluation process will be sent by the NAIC to the reinsurance supervisory authority in the jurisdiction selected, with copies to the FIO and other relevant federal authorities as appropriate. The NAIC will issue public notice on the NAIC website upon confirmation that the jurisdiction is willing to participate in the evaluation process. The NAIC will at this time request public comments with respect to consideration of the jurisdiction as a Qualified Jurisdiction. The process of evaluation and all related documentation are private and confidential matters between the NAIC and the applicant jurisdiction, unless otherwise provided in this document, subject to a preliminary confidentiality and information sharing agreement between the NAIC, relevant states and the applicant jurisdiction.
- c. Relevant U.S. state and federal authorities will be notified of the NAIC's decision to evaluate a jurisdiction.

2. Evaluation of Jurisdiction

- a. Evaluation Materials. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will initiate evaluation of a jurisdiction's regulatory system by using the information identified in Section A through Section G of the Evaluation Methodology (Evaluation Materials). The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will begin by undertaking a review of the most recent Financial Sector Assessment Program (FSAP) Report prepared by the International Monetary Fund (IMF), including the Technical Note on Insurance Sector Supervision, and any other publicly available information regarding the laws, regulations, practices and procedures applicable to the reinsurance supervisory system. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will also invite each jurisdiction or its designee to provide information relative to Section A through Section G of the Evaluation Methodology in order to update, complete or supplement publicly available information. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group may also request or accept relevant information from reinsurers domiciled in the jurisdiction under review.
- b. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will notify the jurisdiction of any information upon which the Working Group is relying. In that communication, the NAIC will invite the supervisory authority to compare the materials identified by the NAIC to the materials described in Appendix A and Appendix B, and provide information required to update the identified public information or supplement the public information, as required, to address the topics identified in Section A through Section G of the Evaluation Methodology. The use of publicly available information (e.g., the FSAP Report and/or the Insurance Sector Technical Note) is intended to lessen the burden on applicant jurisdictions by requiring the production of information that is readily available, while still addressing substantive areas of inquiry detailed in the Evaluation Methodology. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group's review at this stage will be focused on how the jurisdiction'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 framework² and other factors set forth in the Evaluation Methodology.

- c. After reviewing the Evaluation Materials, the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group may request that the applicant jurisdiction submit supplemental information as necessary to determine whether the jurisdiction has sufficient authority to regulate the solvency of its reinsurers in an effective manner. The Working Group will address specific questions directly with the jurisdiction related to items detailed in the Evaluation Methodology that are not otherwise addressed in the Evaluation Materials.
- d. The NAIC will request that all responses from the jurisdiction being evaluated be provided in English. Any responses submitted with respect to a jurisdiction's laws and regulations should be provided by a person qualified in that jurisdiction to provide such analyses and, in the case of statutory analysis, qualified to provide such legal interpretations, to ensure that the jurisdiction is providing an accurate description.
- e. The NAIC does not intend to review confidential company-specific information in this process, and has focused the procedure on reviewing publicly available information. No confidential company-specific information shall be disclosed or disseminated during the course of the jurisdiction's evaluation unless specifically requested, subject to appropriate confidentiality safeguards addressed in a preliminary confidentiality and information-sharing agreement. If no such agreement is executed or the jurisdiction is unable to enter into such an agreement under its regulatory authority, the NAIC will not accept any confidential company-specific information.

3. NAIC Review of Evaluation Materials

- a. NAIC staff and/or outside consultants with the appropriate knowledge, experience and expertise will review the jurisdiction's Evaluation Materials.
- b. Expenses with respect to the evaluations will be absorbed within the NAIC budget. This will be periodically reviewed.
- c. Timeline for review. A project management approach will be developed with respect to the overall timeline applicable to each evaluation.
- d. Upon completing its review of the Evaluation Materials, the internal reviewer(s) will report initial findings to the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group, including any significant issues or concerns identified. This report will be included as part of the official documentation of the evaluation. Copies of the initial findings may also be made available to FIO and other relevant federal authorities subject to appropriate confidentiality and information-sharing agreements being in place.

4. Discretionary On-site Review

- a. The NAIC may ask the jurisdiction under consideration for the opportunity to perform an on-site review of the jurisdiction's reinsurance supervisory system. Factors that the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will consider in determining whether an on-site review is appropriate include the completeness of the information provided by the jurisdiction under review, the general familiarity of the jurisdiction by the NAIC staff or other state regulators participating in the review based on prior conduct or dealings with the jurisdiction, and the results of other evaluations

² The U.S. financial solvency framework is understood to refer to the key elements provided in the NAIC Financial Regulation Standards and Accreditation Program. Appendix A and Appendix B are derived from this framework.

performed by other regulatory or supervisory organizations. If the review is performed, it will be coordinated through the NAIC, utilizing personnel with the appropriate knowledge, experience and expertise. Individual states may also request that representatives from their state be added to the review team.

- b. The review team will communicate with the supervisory authority in advance of the on-site visit to clearly identify the objectives, expectations and procedures with respect to the review, as well as any significant issues or concerns identified within the review of the Evaluation Materials. Information to be considered during the on-site review includes, but is not limited to, the following:
 - i. Interviews with supervisory authority personnel.
 - ii. Review of organizational and personnel practices.
 - iii. Any additional information beneficial to gaining an understanding of document and communication flows.
- c. Upon completing the on-site review, the reviewer(s) will report initial findings to the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group, including any significant issues or concerns identified. This report will be included as part of the official documentation of the evaluation.

5. 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.

6. Additional Information to be Considered as Part of Evaluation

The NAIC may also consider information from sources other than the jurisdiction under review. This information includes:

- a. Documents, reports and information from appropriate international, U.S. federal and U.S. state authorities.
- b. Public comments from interested parties.
- c. Rating agency information.
- d. Any other relevant information.

7. Preliminary Evaluation Report

- a. NAIC staff and/or outside consultants will prepare a Preliminary Evaluation Report for review by the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group. This preliminary report will be private and confidential (i.e., may only be reviewed by Working Group members, designated NAIC staff, consultants, the states, the FIO and other relevant federal authorities that specifically request to be kept apprised of this information, provided that such entities have entered into a preliminary

confidentiality and information-sharing agreement with the foreign jurisdiction. Any outside consultants retained by the NAIC will be required to enter into a confidentiality and nondisclosure agreement.).

- b. The report will be prepared in a consistent style and format to be developed by NAIC staff. It will contain detailed advisory information and recommendations with respect to the evaluation of the jurisdiction's reinsurance supervisory system and the documented practices and procedures thereunder. The report will contain a recommendation as to whether the NAIC should recognize the jurisdiction as a Qualified Jurisdiction.
- c. All workpapers and reports, including supporting documentation and data, produced as part of the evaluation process are the property of the NAIC and shall be maintained at the NAIC Central Office. In the event that the NAIC shall come into possession of any confidential information, the information shall be held subject to a confidentiality and information-sharing agreement, which will outline the appropriate actions necessary to protect the confidentiality of such information.

8. Review of Preliminary Evaluation Report

- a. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group's review of the Preliminary Evaluation Report will be held in regulator-to-regulator session in accordance with the NAIC Policy Statement on Open Meetings.
- b. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will make a preliminary determination as to whether the jurisdiction under consideration satisfies the Standard of Review and is deemed acceptable to be included on the NAIC List of Qualified Jurisdictions. If the preliminary determination is that the jurisdiction should not be included on the NAIC List of Qualified Jurisdictions, the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will set forth its specific findings and identify those areas of concern with respect to this determination.
- c. The results of the Preliminary Evaluation Report will be immediately communicated in written form to the supervisory authority of the jurisdiction under review.

9. Opportunity to Respond to Preliminary Evaluation Report

- a. Upon receipt of the Preliminary Evaluation Report, the supervisory authority will have an opportunity to respond to the initial findings and determination. This is not intended to be a formal appeals process that would initiate U.S. state administrative due process requirements.
- b. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will consider any response, and will proceed to prepare its Final Evaluation Report. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will consider the Final Evaluation Report for approval in regulator-to-regulator session in accordance with the NAIC Policy Statement on Open Meetings. This report will be approved upon an affirmative vote of a majority of the members in attendance at this meeting.
- c. Upon approval of the Final Evaluation Report, the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will issue a public statement and a summary of its findings with respect to its determination. At this time, the Working Group will release the summary for public comment. The detailed report will be a confidential, regulator-only document. The report may be shared with any state indicating that it is considering relying on the NAIC List of Qualified Jurisdictions and has entered into a preliminary confidentiality and information-sharing agreement with the foreign jurisdiction.

10. NAIC Determination ~~Regarding~~ List of Qualified Jurisdictions

- a. Once the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group has adopted its Final Evaluation Report, it will submit the summary of its findings and its recommendation to the Reinsurance (E) Task Force at an open meeting. Upon approval by the Reinsurance (E) Task Force, the summary and recommendation will be submitted to the Executive (EX) Committee and Plenary, as well as to the FIO, USTR and other relevant federal authorities for consultation purposes. Upon approval as a Qualified Jurisdiction by the Executive (EX) Committee and Plenary, the jurisdiction will be added to the NAIC List of Qualified Jurisdictions. The NAIC will maintain the List of Qualified Jurisdictions on its public website and in other appropriate NAIC publications.
- b. In the event that a jurisdiction is not approved as a Qualified Jurisdiction, the supervisory authority will be eligible for reapplication at the discretion of the NAIC.
- c. Upon final adoption of the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group's determination with respect to a jurisdiction, the Final Evaluation Report will be made available to individual U.S. state insurance regulators upon request and confirmation that the information contained therein will remain confidential.

11. Memorandum of Understanding (MOU)

- a. A Qualified Jurisdiction must agree to share information and cooperate on a confidential basis with the U.S. state insurance regulatory authority with respect to all certified reinsurers domiciled within that jurisdiction.
- b. The International Association of Insurance Supervisors (IAIS) Multilateral Memorandum of Understanding (MMoU) is the recommended method under which a Qualified Jurisdiction will agree to share information and cooperate with U.S. state insurance regulatory authorities. However, until such time as a state has been approved as a signatory to the MMoU by the IAIS, the state may rely on an MOU entered into by a "Lead State" designated by the NAIC. This Lead State will act as a conduit for information between the Qualified Jurisdiction and other states that have certified a reinsurer domiciled and licensed in that jurisdiction, and will share information with these states consistent with the terms governing the further sharing of information included in the NAIC Master Information Sharing and Confidentiality Agreement, and, as applicable, in the applicable IAIS MMoU, or in a bilateral MOU between the Lead State and the Qualified Jurisdiction ~~and pursuant to the NAIC Master Information Sharing and Confidentiality Agreement~~. The jurisdiction must also confirm in writing that it is willing to permit this Lead State to act as the contact for purposes of obtaining information concerning its certified reinsurers, provided the that Lead State share that information with the other states requesting the information only in a manner consistent with the terms governing the further sharing of information included, as in the applicable, in the IAIS MMoU or bilateral MOU between the Lead State and the Qualified Jurisdiction.
- c. If a Qualified Jurisdiction has not been approved by the IAIS ~~for use of as a party to~~ as a party to the MMoU, it must enter into an MOU with a Lead State. The MOU ~~will also~~ must provide for appropriate confidentiality safeguards with respect to the information shared between the jurisdictions.
- d. The NAIC and the states will communicate and coordinate with the FIO, USTR and other relevant federal authorities as appropriate with respect to this process.

12. Process for Evaluation after Initial Approval

- a. The process for determining whether a non-U.S. jurisdiction is a Qualified Jurisdiction is ongoing and subject to periodic review. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will perform a yearly review of Qualified Jurisdictions to determine whether there have been any significant changes over the prior year that might affect their status as Qualified Jurisdictions. This yearly review shall follow such abbreviated process as may be determined by the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group to be appropriate. It shall include a review of the jurisdiction's status as a Reciprocal Jurisdiction if the jurisdiction has been recognized by the NAIC as a Reciprocal Jurisdiction through the process established in paragraph 13.
- b. Qualified Jurisdictions must provide the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group with notice of any material change in the applicable reinsurance supervisory system that may affect the status of the Qualified Jurisdiction. A U.S. jurisdiction should also notify the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group if it receives notice of any material change in the applicable reinsurance supervisory system, or any adverse developments with respect to enforcement of final U.S. judgments, that may affect the status of the Qualified Jurisdiction. U.S. ceding insurers may also initiate notice to the Mutual Recognition of Jurisdictions (E) Working Group if they receive notice of any material change in the applicable reinsurance supervisory system or any adverse developments with respect to enforcement of final U.S. judgments. Upon receipt of any such notice, the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will consider whether it is necessary to re-evaluate the status of the Qualified Jurisdiction. Any review will be conducted in accordance with the procedure set forth in paragraph 14.
- ~~e.a. If the Qualified Jurisdiction Working Group finds the jurisdiction to be out of compliance at any time with the requirements to be a Qualified Jurisdiction, the specific reasons will be documented in a report to the jurisdiction under review, and the status as a Qualified Jurisdiction may be placed on probation, suspended or revoked.~~
- ~~d.c.~~ The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will monitor those jurisdictions that have been approved as Qualified or Reciprocal Jurisdictions by individual states, but are not included on the applicable NAIC List ~~of Qualified Jurisdictions~~.

13. Review of Qualified Jurisdictions as Potential Reciprocal Jurisdictions

- a. In ~~undertaking the~~ evaluation of whether to designate a Qualified Jurisdiction as a Reciprocal Jurisdiction, the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group shall utilize such processes and procedures as outlined in the immediately-preceding paragraphs 1 – 12 of Section III. *Procedure for Evaluation of Non-U.S. Jurisdictions* such as the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group deems is appropriate. Specifically, the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will use processes and procedures outlined in paragraph 1 (*Initiation of Evaluation of the Reinsurance Supervisory System of an Individual Jurisdiction*), paragraph 3 (*NAIC Review of Evaluation Materials*), paragraph 7 (*Preliminary Evaluation Report*), paragraph 8 (*Review of Preliminary Evaluation Report*), paragraph 9 (*Opportunity to Respond to Preliminary Evaluation Report*), paragraph 10 (*NAIC Determination regarding List of Qualified Jurisdictions*), paragraph 11 (*Memorandum of Understanding*) and paragraph 12 (*Process for Evaluation after Initial Approval*), as modified for use with applicants for Reciprocal Jurisdiction status.

- b. A Qualified Jurisdiction may not be reviewed for inclusion on the NAIC List of Reciprocal Jurisdictions, unless it has undergone the *Evaluation Methodology* outlined in Section IV, and remains in good standing with the NAIC as a Qualified Jurisdiction. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group may, if it determines an extended review period to be appropriate after its initial approval of a new Qualified Jurisdiction, defer consideration of that jurisdiction as a possible Reciprocal Jurisdiction until there has been sufficient United States experience with that jurisdiction and its Certified Reinsurers that the Working Group believes it is appropriate to progress from collateral reduction to collateral elimination. Nothing in this process requires a finding that a Qualified Jurisdiction meets the standards for recognition as a Reciprocal Jurisdiction, and the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group may base ~~such recommendation~~ its determination on all relevant information, which may include factors not specifically included in this ~~process~~ for Evaluating Qualified and Reciprocal Jurisdictions.
- c. A list of Reciprocal Jurisdictions will be published through the NAIC committee process. Jurisdictions subject to an in-force ~~C~~ covered ~~a~~ Agreement and states that meet the requirements of the NAIC Financial Standards and Accreditation Program are automatically included on the NAIC List of Reciprocal Jurisdictions. In making its recommendation with respect to whether a Qualified Jurisdiction that is not automatically designated as a Reciprocal Jurisdiction should be added to the NAIC List of Reciprocal Jurisdictions, the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group shall undertake the following analysis in making its evaluation:
- i. The Qualified Jurisdiction must confirm that an insurer which has its head office or is domiciled in that jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as the same insurer would receive credit for reinsurance assumed by an assuming insurers domiciled in that jurisdiction ~~is received by United States ceding insurers~~;
 - ii. The Qualified Jurisdiction must confirm that it does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by that jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;
 - iii. 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 insurance groups that are domiciled or maintain their worldwide headquarters in ~~this state or a nother~~ jurisdiction accredited by the NAIC shall be subject only to their U.S. home jurisdiction's worldwide prudential insurance group supervision, including worldwide group governance, solvency and capital, and reporting, as applicable, and will not be subject to group supervision by the Qualified Jurisdiction at the level of the worldwide parent undertaking of the insurance or reinsurance group ~~by the Qualified Jurisdiction~~;
 - iv. The Qualified Jurisdiction must provide written confirmation by its competent regulatory authority that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the states in accordance with a memorandum of understanding or similar document between a state and the Qualified Jurisdiction, including but not limited to the IAIS MMoU or other multilateral memoranda of understanding coordinated by the NAIC This requirement may be satisfied by an MOU with a Lead State,

which shall provide for appropriate confidentiality safeguards with respect to the information shared between the jurisdictions, similar to the MOU requirement outlined in paragraph 11 of this section III; and

- v. The Qualified Jurisdiction must confirm that it will provide to the states on an annual basis confirmation that each eligible assuming insurer that is domiciled in the Qualified Jurisdiction continues to comply with the requirements set forth in in Section 9C(2) and (3) of Model #786; i.e., must maintain, on an ongoing basis, minimum capital and surplus of no less than \$250,000,000, and ~~maintains on an ongoing basis~~ the required minimum solvency or capital ratio, as applicable.
- d. In order to satisfy the requirements of subsection (c) above, the chief insurance supervisor of the Qualified Jurisdiction being evaluated as a Reciprocal Jurisdiction may provide the NAIC with a written letter confirming, as follows:

[Jurisdiction] is a Qualified Jurisdiction under the NAIC *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786), and is currently in good standing on the *NAIC List of Qualified Jurisdictions*. As the lead insurance regulatory supervisor for [Jurisdiction], I hereby confirm to the National Association of Insurance Commissioners (NAIC) and the chief insurance regulators of the 50 states, the District of Columbia and five U.S. territories the following:

- An insurer which has its head office or is domiciled in [Jurisdiction] shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as credit would be granted for reinsurance assumed by insurers domiciled in [Jurisdiction] ~~is received by United States ceding insurers~~. [Jurisdiction] does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by [Jurisdiction] or as a condition to allow the ceding insurer to recognize credit for such reinsurance.
- [Jurisdiction] recognizes the U.S. state regulatory approach to group supervision and group capital, and confirms that insurance groups that are domiciled or maintain their worldwide headquarters in jurisdictions accredited by the NAIC shall be subject only to their U.S. home jurisdiction's worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the ~~the~~ [Jurisdiction].
- [Jurisdiction] confirms that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the states in accordance with a memorandum of understanding or similar document between a state and the [Jurisdiction].
- [Jurisdiction] will annually provide to the states confirmation that applicable assuming insurers domiciled in [Jurisdiction] maintain minimum capital and surplus of no less than \$250,000,000, and maintain on an ongoing basis the required minimum solvency or capital ratio, as applicable.

- Finally, I confirm that [Jurisdiction] will immediately notify the NAIC upon any changes to the assurances provided in this letter.
- e. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) 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 letter are true and accurate, and will prepare for the review by the Reinsurance Task Force a Summary of Findings and Determination recommending that the Qualified Jurisdiction be recognized as a Reciprocal Jurisdiction. Upon approval by the Task Force, the Summary of Findings and Determination ~~must be adopted by~~ will be submitted for a vote of the NAIC Executive (EX) Committee and Plenary for inclusion on the List of Reciprocal Jurisdictions.
- f. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group, working in coordination with the Qualified Jurisdiction and the Reinsurance Financial Analysis (E) Working Group, must make a determination on a minimum solvency or capital ratio under which reinsurers licensed and domiciled in the Qualified Jurisdiction may assume insurance from U.S. ceding companies without posting reinsurance collateral. The applicable minimum solvency or capital ratio must be an effective measure of solvency, comparable to either an NAIC risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, or one hundred percent (100%) of the solvency capital requirement (SCR) as calculated under the Solvency II Directive issued by the European Union, giving due consideration to any applicable equivalency assessment conducted by the European Insurance and Occupational Pensions Authority (EIOPA) on the Qualified Jurisdiction with respect to Solvency II.

14. Termination of Status as Qualified and/or Reciprocal Jurisdiction

- a. ~~If the Qualified Jurisdiction Working Group finds the Qualified Jurisdiction to be out of compliance at any time with the requirements to be a Qualified Jurisdiction, the specific reasons will be documented in a report to the jurisdiction under review. The Mutual Recognition of Jurisdictions (E) Working Group would then report any concerns to the Reinsurance (E) Task Force for further discussion and communication with appropriate federal and/or international authorities, and the status as a Qualified Jurisdiction may be placed on probation, suspended or revoked by the NAIC. If a Qualified Jurisdiction is also a Reciprocal Jurisdiction subject to a Covered Agreement, the Mutual Recognition of Jurisdictions (E) Working Group and the NAIC will initiate communications and consult with FIO, USTR and any other relevant federal and/or international authorities before any action is taken with respect to that Qualified Jurisdiction's status.~~
- b. Except for Reciprocal Jurisdictions entitled to automatic recognition, a jurisdiction's status as a Reciprocal Jurisdiction may be placed on probation, suspended or revoked for good cause in the same manner as provided for Qualified Jurisdictions under paragraph 12. If cause is found to question the fitness of a Reciprocal Jurisdiction that is subject to an in-force eCovered aAgreement, or its compliance with applicable requirements of the covered agreement, the ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group would report any concerns to ~~its parent~~ the Reinsurance (E) Task Force for further discussion and communication with appropriate federal and/or international authorities. It is intended that compliance with the covered agreement will be addressed through the Joint Committee process established under the covered agreement, or through termination of the covered agreement by the parties to the covered agreement. The NAIC, individual state regulators and interested parties may raise these issues directly with FIO, USTR or other relevant federal authorities.

- c. Both Qualified Jurisdictions and Reciprocal Jurisdictions that are not subject to a covered agreement are obligated to provide notice to the Mutual Recognition of Jurisdictions (E) Working Group of any applicable changes to their reinsurance supervisory system or changes to the assurances provided in the letter set forth in paragraph 13. States and U.S. ceding insurers may also provide notice of such changes to the Working Group. Upon notice of any such material changes, the Working Group will meet in regulator-only session to determine if these changes are in fact material to continuing recognition by the NAIC as either a Qualified or Reciprocal Jurisdiction. The Working Group will work directly with the jurisdiction to address any issues that have been identified. If these issues cannot be resolved through this regulator-only dialogue, then the Working Group will report its recommendation to the Reinsurance Task Force, which will consider a suspension of the jurisdiction's status as a Qualified or Reciprocal Jurisdiction in open session. The Task Force will then make a recommendation to the NAIC Plenary on the action, if any, to be taken, which may include placing the Qualified or Reciprocal Jurisdiction's status on probation, or suspending or revoking its status.
- d. If a Qualified or Reciprocal Jurisdiction's status is placed on probation by the NAIC, the material change will be noted in an update to its Summary of Finding and Determination in order to provide notice to the states and U.S. ceding insurers of this material change. If the NAIC decides to suspend or revoke its status, the jurisdiction may be given a reasonable time period, no more than 18 months, to rectify its noncompliance with the standards and return it to good standing. Once the NAIC's suspension or revocation takes effect, it is expected that the same action will be taken by the respective states that have recognized the jurisdiction as a Qualified or Reciprocal Jurisdiction.
- e. There is no administrative right to appeal the decision of the NAIC with respect to the revocation of status as a Qualified or Reciprocal Jurisdiction, but the jurisdiction can apply for reinstatement after a one-year period.
- b.f. During the period in which a Qualified or Reciprocal Jurisdiction's status has been suspended by a state, any new reinsurance assumed by a reinsurer domiciled in that jurisdiction from a ceding insurer domiciled in that state will not be eligible for credit unless the transaction qualifies for credit on the basis of security posted by the ceding insurer or some other basis that does not depend on recognition of the jurisdiction as a Qualified or Reciprocal Jurisdiction. However, suspension does not affect credit for reinsurance that was already in force.
- g. If a Qualified or Reciprocal Jurisdiction's status is revoked by a state, then those Certified Reinsurers and/or Reciprocal Jurisdiction Reinsurers domiciled in that jurisdiction ~~lose~~ no longer qualify for that status, which generally ~~must~~ obligates them to post one hundred percent (100%) collateral on all their liabilities assumed from ceding insurers domiciled in that state. The state has the option to suspend a reinsurer's certification indefinitely, in lieu of revocation, in which case the obligation to post collateral applies prospectively to all new, renewed and amended reinsurance agreements. If the reinsurer's eligibility is revoked, it must be granted at least three months after the effective date of the revocation to cure any deficiency in collateral, unless exceptional circumstances make a shorter period is necessary for policyholder and other consumer protection.
- h. The factors used in the evaluation of Reciprocal Jurisdictions are not the same as are utilized in the evaluation of Qualified Jurisdictions. A Qualified Jurisdiction that has been approved by the NAIC as a Reciprocal Jurisdiction may have its status as a Reciprocal Jurisdiction either suspended or revoked but still

meet the requirements to be a Qualified Jurisdiction. However, if a Reciprocal Jurisdiction that is not subject to a covered agreement has its status as a Qualified Jurisdiction revoked, it cannot maintain its status as a Reciprocal Jurisdiction, because it must be a Qualified Jurisdiction to meet the requirements of a Reciprocal Jurisdiction.

15. Passporting Process for Certified and Reciprocal Jurisdiction Reinsurers

- a. In order to facilitate multi-state recognition of assuming insurers and to encourage uniformity among the states, the NAIC has initiated a process called “passporting” under which the commissioner has the discretion to defer to another state’s determination with respect to the requirements for both Certified Reinsurers and Reciprocal Jurisdiction Reinsurers. Passporting is based upon individual state regulatory authority, and states are encouraged to act in a uniform manner in order to facilitate the passporting process. States are also encouraged to utilize the passporting process to reduce the amount of documentation filed with the states and reduce duplicate filings.
- b. The passporting process is facilitated through the Reinsurance Financial Analysis (E) Working Group (ReFAWG). It is intended that ReFAWG will help facilitate multi-state recognition of Certified Reinsurers and Reciprocal Jurisdiction Reinsurers and address issues of uniformity among the states, both with respect to initial application and subsequent changes in rating or status. The ReFAWG Review Process is set forth in the *ReFAWG Procedures Manual*.
- c. Section 9C(7) of the *Credit for Reinsurance Model Regulation (#786)* provides that the “assuming insurer’s supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in Paragraphs (2) [i.e., minimum capital and surplus of no less than \$250 million] and (3) [i.e., minimum solvency or capital ratio] of this subsection.” Section 9E(1) of Model #786 then provides that “The commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirements of Subsection C.” A Reciprocal Jurisdiction may satisfy the requirements of Section 9C(7) of Model #786 either by providing the information required by Section 9C(7) itself, or by providing an assuming insurer domiciled in that Reciprocal Jurisdiction with a document confirming the required information, which the assuming insurer would file annually. With either filing method, in lieu of filing the required information directly with the domiciliary states of each of the reinsurer’s U.S. ceding companies, ~~the information may~~ be filed with either ~~the~~ its Lead State or the NAIC, which will share this documentation with the other states through the ReFAWG Review Process in satisfaction of their respective filing requirements.

IV. Evaluation Methodology

The Evaluation Methodology was developed to be consistent with the provisions of the NAIC Credit for Reinsurance Models. It is intended to provide 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. Although the methodology includes a comparison of the jurisdiction's supervisory system to a number of key elements from the NAIC Accreditation Program, it is not intended as a prescriptive assessment under the NAIC Accreditation Program. Rather, the NAIC Accreditation Program simply provide the framework for the outcomes-based analysis. The NAIC will evaluate the appropriateness and effectiveness of the reinsurance supervisory system within the jurisdiction and consider the rights, benefits and the extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled in the U.S. The determination of a Qualified Jurisdiction is based on the effectiveness of the entire reinsurance supervisory system within the jurisdiction.

The Evaluation Methodology consists of the following:

- Section A: Laws and Regulations
- Section B: Regulatory Practices and Procedures
- Section C: Jurisdiction's Requirements Applicable to U.S.-Domiciled Reinsurers
- Section D: Regulatory Cooperation and Information Sharing
- Section E: History of Performance of Domestic Reinsurers
- Section F: Enforcement of Final U.S. Judgments
- Section G: Solvent Schemes of Arrangement

This information will be the basis for the Final Evaluation Report and the determination of whether the jurisdiction will be included on the NAIC List of Qualified Jurisdictions.

Section A: Laws and Regulations

The NAIC will review publicly available information, as well as information provided by an applicant jurisdiction with respect to its laws and regulations, in an effort to evaluate whether the jurisdiction has sufficient authority to regulate the solvency of its reinsurers in an effective manner. This will include a review of elements believed to be basic building blocks for sound insurance/reinsurance regulation.³ A jurisdiction's effectiveness under Section A may be demonstrated through law, regulation or established practice that implements the general authority granted to the jurisdiction, or any combination of laws, regulations or practices that meet the objective.

The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will initiate evaluation of a jurisdiction's regulatory system by gathering and undertaking a review of the most recent FSAP Report, ROSC and any other publicly available information regarding the laws, regulations, practices and procedures applicable to the reinsurance supervisory system. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will simultaneously invite each jurisdiction (or its designee) to provide information relative to Section A (and other sections, as relevant) to assist the NAIC in evaluating its laws and regulations. The NAIC will review this information in conjunction with Appendix A, which provides more detailed guidance with respect to elements the NAIC intends to consider on an outcomes basis in the evaluation under this section. Appendix A is not intended as a prescriptive checklist of requirements a jurisdiction must meet in order to be a Qualified Jurisdiction. Rather, it is provided in an effort to facilitate an outcomes-based comparison to financial solvency regulation under the NAIC Accreditation Program. An applicant jurisdiction is requested to address the following information, which the NAIC will consider, at a minimum, in determining whether the outcomes achieved by the jurisdiction's laws and regulations meet an acceptable level of effectiveness for the jurisdiction to be included on the NAIC List of Qualified Jurisdictions:

1. Confirmation of the jurisdiction's most recent FSAP Report, including relevant updates with respect to descriptions or elements of the FSAP Report in which changes have occurred since the assessment or where information might otherwise be outdated.
2. Confirmation of the jurisdiction's ROSC, including relevant updates with respect to descriptions or elements of the ROSC in which changes have occurred since the report was completed or where information might otherwise be outdated.
3. If materials responsive to the topics under review have been provided in response to information exchanges between the jurisdiction under review and the NAIC, such prior responses may be cross-referenced provided updates are submitted, if required to address changes in laws or procedures.
4. Any other information, descriptions or responses the jurisdiction believes would be beneficial to the NAIC's evaluation process in order to address, on an outcomes basis, the key elements described within Appendix A.

The NAIC will review the information provided by the applicant jurisdiction and determine whether it is adequate to reasonably conclude whether the jurisdiction has sufficient authority to regulate the solvency of its reinsurers in an effective manner. After reviewing the initial submission, the NAIC may request that the applicant jurisdiction submit supplemental information as necessary in order to make this determination. An applicant jurisdiction is

³ The basic considerations under this section are derived from Model #786, Section 8C(2), which include: (a) the framework under which the assuming reinsurer is regulated; (b) the structure and authority of the jurisdiction's reinsurance supervisory authority with regard to solvency regulation requirements and financial surveillance; (c) the substance of financial and operating standards for reinsurers domiciled in the jurisdiction; and (d) the form and substance of financial reports required to be filed or made publicly available by reinsurers domiciled in the jurisdiction and the accounting principles used.

strongly encouraged to provide thorough, detailed and current information in its initial submission in order to minimize the number and extent of supplemental information requests from the NAIC with respect to Section A of this Evaluation Methodology. The NAIC will provide a complete description in the Final Evaluation Report of the information provided in the Evaluation Materials, and any updates or other information that have been provided by the applicant jurisdiction.

Section B: Regulatory Practices and Procedures

Section B is intended to facilitate an evaluation of whether the jurisdiction effectively employs baseline regulatory practices and procedures to supplement and support enforcement of the jurisdiction's financial solvency laws and regulations described in Section A. This evaluation methodology recognizes that variation may exist in practices and procedures across jurisdictions due to the unique situations each jurisdiction faces. Jurisdictions differ with respect to staff and technology resources that are available, as well as the characteristics of the domestic industry regulated. A determination of effectiveness may be achieved using various financial solvency oversight practices and procedures. This evaluation is not intended to be prescriptive in nature.

The NAIC will utilize the information provided by the jurisdiction as outlined under Section A in completing this section of the evaluation. The NAIC will review this information in conjunction with Appendix B, which provides more detailed guidance with respect to elements the NAIC intends to consider on an outcomes basis in the evaluation under this section. Appendix B is not intended as a prescriptive checklist of requirements a jurisdiction must meet in order to be a Qualified Jurisdiction. Rather, it is provided in an effort to facilitate an outcomes-based comparison to financial solvency regulation under the NAIC Accreditation Program. An applicant jurisdiction should also provide any other information, descriptions or responses the jurisdiction believes would be beneficial to the NAIC's evaluation process in order to address, on an outcomes basis, the key elements described within Appendix B.

Section C: Jurisdiction's Requirements Applicable to U.S. Domiciled Reinsurers

The jurisdiction is requested to describe and explain the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. supervisory authority to reinsurers licensed and domiciled in the U.S.

Section D: Regulatory Cooperation and Information-Sharing

The Credit for Reinsurance Models require the supervisory authority to share information and cooperate with the U.S. state insurance regulators with respect to all certified reinsurers domiciled within their jurisdiction. The jurisdiction is requested to provide an explanation of the supervisory authority's ability to cooperate, share information and enter into an MOU with U.S. state insurance regulators and confirm that they are willing to enter into an MOU. This should include information with respect to any existing MOU with U.S. state and/or federal authorities that pertain to reinsurance. Both the jurisdiction and the states may rely on the IAIS MMoU to satisfy this requirement, and any states that have not yet been approved by the IAIS as a signatory to the MMoU may rely on an MOU entered into by a Lead State with the jurisdiction until such time that the state has been approved as a signatory to the IAIS MMoU. The NAIC and the states will communicate and coordinate with the FIO, USTR and other relevant federal authorities as appropriate with respect to this process.

Section E: History of Performance of Domestic Reinsurers

The jurisdiction is requested to provide a general description with respect to the historical performance of reinsurers domiciled in the jurisdiction. The NAIC does not intend to review confidential company-specific information under this section. Rather, it is intended that any information provided would be publicly available, unless specifically

addressed with the jurisdiction under review. This discussion should address, at a minimum, the following information:

- a. Number of reinsurers domiciled in the jurisdiction, and a list of any reinsurers domiciled in the jurisdiction that have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, of no less than \$250,000,000.
- b. Up to a 10-year history of any regulatory actions taken against specific reinsurers.
- c. Up to a 10-year history listing any reinsurers that have gone through insolvency proceedings, including the size of each insolvency and a description of the related outcomes (e.g., reinsurer rehabilitated or liquidated, payout percentage of claims to priority classes, payout percentage of claims to domestic and foreign claimants).
- d. Up to a 10-year history of any significant industry-wide fluctuations in capital or profitability with respect to domestic reinsurers.

Drafting Note: The NAIC will determine the appropriate time period for review on a case-by-case basis with respect to this information.

Section F: Enforcement of Final U.S. Judgments

The NAIC has previously collected information from a number of jurisdictions with respect to enforcement of final U.S. judgments. The jurisdiction is also requested to provide a current description or explanation of any restrictions with respect to the enforcement of final foreign judgments in the jurisdiction. Based on the foregoing information, the NAIC will make an assessment of the effectiveness of the ability to enforce final U.S. judgments in the jurisdiction. This will include a review of the status, interpretations, application and enforcement of various treaties, conventions and international agreements with respect to final judgments, arbitration and choice of law. The ~~Qualified Jurisdiction Working Group~~ Mutual Recognition of Jurisdictions (E) Working Group will monitor the enforcement of final U.S. judgments and the Qualified Jurisdiction is requested to notify the NAIC of any developments in this area.

Section G: Solvent Schemes of Arrangement

The jurisdiction is requested to provide a description of any legal framework that allows reinsurers domiciled in the jurisdiction to propose or participate in any solvent scheme of arrangement or similar procedure. In addition, the jurisdiction is requested to provide a description of any solvent scheme of arrangement or similar procedure that a domestic reinsurer has proposed or participated in and the outcome of such procedure.

V. Appendices: Specific Guidance with Respect to Section A and Section B

It is important to note that Part IV, Section A: Laws and Regulations, and Part IV, Section B: Regulatory Practices and Procedures, are derived from the NAIC Financial Regulation Standards and Accreditation Program, which is intended to establish and maintain standards to promote sound insurance company financial solvency regulation among the U.S. states. As such, the NAIC Accreditation Program requires the states to employ laws, regulations and administrative policies and procedures substantially similar to the NAIC accreditation standards in order to be considered an accredited state.

However, it is not the intent of the Evaluation Methodology to require applicant jurisdictions to meet the standards required by the NAIC for accreditation. Instead, Section A and Section B (and their corresponding appendices) are intended to provide a framework to facilitate an outcomes-based evaluation by the NAIC and state insurance regulators of the effectiveness of the jurisdiction's supervisory authority. This framework consists of a description of the jurisdiction's laws, regulations, practices and procedures applicable to the supervision of its domestic reinsurers. The amount of detail provided within these appendices should not be interpreted as specific requirements that must be met by the applicant jurisdiction. Rather, the information is intended to provide direction to the applicant jurisdiction in an effort to facilitate a complete response and increase the efficiency and timeliness of the evaluation process.

Appendix A: Laws and Regulations

1. Examination Authority

Does the jurisdiction have the authority to examine its domestic reinsurers? This description should address the following:

- a. Frequency and timing of examinations and reports.
- b. Guidelines for examination.
- c. Whether the jurisdiction has the authority to examine reinsurers whenever it is deemed necessary.
- d. Whether the jurisdiction has the authority to have complete access to the reinsurer's books and records and, if necessary, the records of any affiliated company.
- e. Whether the jurisdiction has the authority to examine officers, employees and agents of the reinsurer when necessary with respect to transactions directly or indirectly related to the reinsurer under examination.
- f. Whether the jurisdiction has the authority to share confidential information with U.S. state insurance regulatory authorities, provided that the recipients are required, under their law, to maintain its confidentiality.

2. Capital and Surplus Requirement

Does the jurisdiction have the authority to require domestic reinsurers to maintain a minimum level of capital and surplus to transact business? This description should address the following:

- a. Whether the jurisdiction has the authority to require reinsurers to maintain minimum capital and surplus, including a description of such minimum amounts.
- b. Whether the jurisdiction has the authority to require additional capital and surplus based on the type, volume and nature of reinsurance business transacted.
- c. Capital requirements for reinsurers, including reports and a description of any specific levels of regulatory intervention.

3. Accounting Practices and Procedures

Does the jurisdiction have the authority to require domestic reinsurers to file appropriate financial statements and other financial information? This description should address the following:

- a. Description of the accounting and reporting practices and procedures.
- b. Description of any standard financial statement blank/reporting template, including description of content/disclosure requirements and corresponding instructions.

4. Corrective Action

Does the jurisdiction have the authority to order a reinsurer to take corrective action or cease and desist certain practices that, if not corrected or terminated, could place the reinsurer in a hazardous financial condition? This description should address the following:

- a. Identification of specific standards which may be considered to determine whether the continued operation of the reinsurer might be hazardous to the general public.
- b. Whether the jurisdiction has the authority to issue an order requiring the reinsurer to take corrective action when it has been determined to be in hazardous financial condition.

5. Regulation and Valuation of Investments

What authority does the jurisdiction have with respect to regulation and valuation of investments? This description should address the following:

- a. Whether the jurisdiction has the authority to require a diversified investment portfolio for all domestic reinsurers as to type, issue and liquidity.
- b. Whether the jurisdiction has the authority to establish acceptable practices and procedures under which investments owned by reinsurers must be valued, including standards under which reinsurers are required to value securities/investments.

6. Holding Company Systems

Does the jurisdiction have laws or regulations with respect to supervision of the group holding company systems of reinsurers? This description should address the following:

- a. Whether the jurisdiction has access to information via the parent or other regulated group entities about activities or transactions within the group involving other regulated or non-regulated entities that could have a material impact on the operations of the reinsurer.
- b. Whether the jurisdiction has access to consolidated financial information of a reinsurer's ultimate controlling person.
- c. Whether the jurisdiction has the authority to review integrity and competency of management.
- d. Whether the jurisdiction has approval and intervention powers for material transactions and events involving reinsurers.
- e. Whether the jurisdiction has authority to monitor, or has prior approval authority over:
 - i. Change in control of domestic reinsurers.
 - ii. Dividends and other distributions to shareholders of the reinsurer.
 - iii. Material transactions with affiliates.

7. Risk Management

Does the jurisdiction have the authority to require its domestic reinsurers to maintain an effective risk-management function and practices? This description should address the following:

- a. Whether the jurisdiction has Own Risk and Solvency Assessment (ORSA) requirements and reporting.
- b. Any requirements regarding the maximum net amount of risk to be retained by a reinsurer for an individual risk based on the reinsurer's capital and surplus.
- c. Whether the jurisdiction has authority to monitor enterprise risk, including any activity, circumstance, event (or series of events) involving one or more affiliates of a reinsurer that, if not remedied promptly, is likely to have a material adverse effect on the financial condition or liquidity of the reinsurer or its insurance holding company system as a whole.
- d. Whether the jurisdiction has corporate governance requirements for reinsurers.

8. Liabilities and Reserves

Does the jurisdiction have standards for the establishment of liabilities and reserves (technical provisions) resulting from reinsurance contracts? This description should address the following:

- a. Liabilities incurred under reinsurance contracts for policy reserves, unearned premium, claims and losses unpaid, and incurred but not reported (IBNR) claims (including whether discounting is allowed for reserve calculation/reporting).
- b. Liabilities related to catastrophic occurrences.
- c. Whether the jurisdiction requires an opinion on reserves and loss and loss adjustment expense reserves by a qualified actuary or specialist for all domestic reinsurers, and the frequency of such reports.

9. Reinsurance Ceded

What are the jurisdiction's requirements with respect to the financial statement credit allowed for reinsurance retroceded by its domestic reinsurers? This description should address the following:

- a. Credit for reinsurance requirements applicable to reinsurance retroceded to domestic and non-domestic reinsurers.
- b. Collateral requirements applicable to reinsurance contracts.
- c. Whether the jurisdiction requires a reinsurance agreement to provide for insurance risk transfer (i.e., transfer of both underwriting and timing risk).
- d. Requirements applicable to special purpose reinsurance vehicles and insurance securitizations.
- e. Affiliated reinsurance transactions and concentration risk.
- f. Disclosure requirements specific to reinsurance transactions, agreements and counterparties, if such information is not provided under another item.

10. Independent Audits

Does the jurisdiction require annual audits of domestic reinsurers by independent certified public accountants or similar accounting/auditing professional recognized in the applicant jurisdiction? This description should address the following:

- a. Requirements for the filing of audited financial statements prepared in conformity with accounting practices prescribed or permitted by the supervisory authority.
- b. Contents of annual audited financial reports.
- c. Requirements for selection of auditor.
- d. Allowance of audited consolidated or combined financial statements.
- e. Notification of material misstatements of financial condition.
- f. Supervisor's access to auditor's workpapers.
- g. Audit committee requirements.
- h. Requirements for reporting of internal control-related matters.

11. Receivership

Does the jurisdiction have a receivership scheme for the administration of reinsurers found to be insolvent? This should include a description of any liquidation priority afforded to policyholders and the liquidation priority of reinsurance obligations to domestic and non-domestic ceding insurers in the context of an insolvency proceeding of a reinsurer.

12. Filings with Supervisory Authority

Does the jurisdiction require the filing of annual and interim financial statements with the supervisory authority?

This description should address the following:

- a. The use of standardized financial reporting in the financial statements, and the frequency of relevant updates.
- b. The use of supplemental data to address concerns with specific companies or issues.
- c. Filing format (e.g., electronic data capture).
- d. The extent to which financial reports and information are public records.

13. Reinsurance Intermediaries

Does the jurisdiction have a regulatory framework for the regulation of reinsurance intermediaries?

14. Other Regulatory Requirements with respect to Reinsurers

Any other information necessary to adequately describe the effectiveness of the jurisdiction's laws and regulations with respect to its reinsurance supervisory system.

Appendix B: Regulatory Practices and Procedures

1. Financial Analysis

What are the jurisdiction's practices and procedures with respect to the financial analysis of its domestic reinsurers? Such description should address the following:

- a. Qualified Staff and Resources
The resources employed to effectively review the financial condition of all domestic reinsurers, including a description of the educational and experience requirements for staff responsible for financial analysis.
- b. Communication of Relevant Information to/from Financial Analysis Staff
The process under which relevant information and data received by the supervisory authority are provided to the financial analysis staff and the process under which the findings of the financial analysis staff are communicated to the appropriate person(s).
- c. Supervisory Review
How the jurisdiction's internal financial analysis process provides for supervisory review and comment.
- d. Priority-Based Analysis
How the jurisdiction's financial analysis procedures are prioritized in order to ensure that potential problem reinsurers are reviewed promptly.
- e. Depth of Review
How the jurisdiction's financial analysis procedures ensure that domestic reinsurers receive an appropriate level or depth of review commensurate with their financial strength and position.
- f. Analysis Procedures
How the jurisdiction has documented its financial analysis procedures and/or guidelines to provide for consistency and continuity in the process and to ensure that appropriate analysis procedures are being performed on each domestic reinsurer.
- g. Reporting of Material Adverse Findings
The process for reporting material adverse indications, including the determination and implementation of appropriate regulatory action.
- h. Early Warning System/Stress Testing
Whether the jurisdiction has an early warning system and/or stress testing methodology that is utilized with respect to its domestic reinsurers.

2. Financial Examinations

What are the jurisdiction's practices and procedures with respect to the financial examinations of its domestic reinsurers? Such description should address the following:

- a. Qualified Staff and Resources
The resources employed to effectively examine all domestic reinsurers. This should include whether the jurisdiction prioritizes examination scheduling and resource allocation commensurate with the financial strength and position of each reinsurer, and a description of the educational and experience requirements for staff responsible for financial examinations.
- b. Communication of Relevant Information to/from Examination Staff
The process under which relevant information and data received by the supervisory authority are provided to the examination staff and the process under which the findings of the examination staff are communicated to the appropriate person(s).
- c. Use of Specialists
Whether the supervisory authority's examination staff includes specialists with appropriate training and/or experience or whether the supervisory authority otherwise has available qualified specialists that will permit the supervisory authority to effectively examine any reinsurer.
- d. Supervisory Review
Whether the supervisory authority's procedures for examinations provide for supervisory review.
- e. Examination Guidelines and Procedures
Description of the policies and procedures the supervisory authority employs for the conduct of examinations, including whether variations in methods and scope are commensurate with the financial strength and position of the reinsurer.
- f. Risk-Focused Examinations
Does the supervisory authority perform and document risk-focused examinations and, if so, what guidance is utilized in conducting the examinations? Are variations in method and scope commensurate with the financial strength and position of the reinsurer?
- g. Scheduling of Examinations
Whether the supervisory authority's procedures provide for the periodic examination of all domestic reinsurers, including how the system prioritizes reinsurers that exhibit adverse financial trends or otherwise demonstrate a need for examination.
- h. Examination Reports
Description of the format in which the supervisory authority's reports of examinations are prepared, and how the reports are shared with other jurisdictions under information-sharing agreements.
- i. Action on Material Adverse Findings
What are the jurisdiction's procedures regarding supervisory action in response to the reporting of any material adverse findings.

3. Information Sharing

Does the jurisdiction have a process for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with U.S. state regulatory officials, provided that the recipients are required, under their law, to maintain its confidentiality?

4. Procedures for Troubled Reinsurers

What procedures does the jurisdiction follow with respect to troubled reinsurers?

5. Organization, Licensing and Change of Control of Reinsurers

What processes does the supervisory authority use to identify unlicensed or fraudulent activities? The description should address the following:

a. Licensing Procedure

Whether the supervisory authority has documented licensing procedures that include a review and/or analysis of key pieces of information included in a primary licensure application.

b. Staff and Resources

The educational and experience requirements for staff responsible for evaluating company licensing.

c. Change in Control of a Domestic Reinsurer

Procedures for the review of key pieces of information included in filings with respect to a change in control of a domestic reinsurer.

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To: Commissioner Scott A. White (VA), Financial Condition (E) Committee Chair
From: Commissioner Marlene Caride (NJ), Financial Stability (E) Task Force Chair
Date: July 27, 2021
RE: Repurposing the *Liquidity Assessment (E) Subgroup* and its charges to an ongoing *Macroprudential (E) Working Group*

Earlier this year, the Financial Stability Task Force moved from the Executive Committee to the Financial Condition (E) Committee. As part of that move, the Task Force was charged with building out the NAIC macroprudential surveillance system. The current legal entity and group insurance surveillance system has been shaped over the last thirty years or so, while the Task Force is just beginning its work. We will need to assess the ability of the data and tools in that legal entity and group system to satisfy macroprudential surveillance needs. Modifications will likely need to be made, but new data and tools may also be needed in the future. There will be a significant amount of detail work involved in building this macroprudential surveillance system.

The Financial Stability Task Force also has some remaining Macro Prudential Initiative (MPI) work to complete for capital stress testing and counterparty disclosures. The MPI recovery and resolution item was addressed last year. Similarly, with the adoption of the 2020 Liquidity Stress Test (LST) Framework in May of this year, the liquidity risk MPI item has been addressed. However, the LST will be an ongoing activity managed by the Task Force.

To ensure the Financial Stability Task Force has appropriate support for this work, it adopted a motion to repurpose the Liquidity Assessment Subgroup to an ongoing Macroprudential Working Group with modified and expanded charges. The attached document shows the revised name and changes to the 2021 charges in track changes notation.

2021 Adopted Charges

MACROPRUDENTIAL (E) WORKING GROUP LIQUIDITY ASSESSMENT (E) SUBGROUP**Ongoing Support of NAIC Program, Products or Services**

The ~~Macroprudential (E) Working Group Liquidity Assessment (EX) Subgroup~~ will:

- ~~A. Oversee the implementation and maintenance of the liquidity stress testing framework for 2020 data as well as future iterations;~~
- ~~A. Continue to consider regulatory needs for data related to liquidity risk, and develop recommendations as needed.~~
- ~~B. Assist with the remaining MPI projects related to counterparty disclosures and capital stress testing as needed;~~
- ~~B. Refine and implement a liquidity stress testing framework proposal for consideration by the Financial Condition (E) Committee.~~
- ~~C. Continue to develop and administer data collection tools as needed, leveraging existing data where feasible, to provide the Financial Stability (E) Task Force with meaningful macroprudential information regarding how the insurance sector is navigating the prevailing market conditions;~~
- ~~C. Continue to develop and administer data collection tools, leveraging existing data where feasible, to provide the Financial Stability (EX) Task Force with meaningful macroprudential information regarding how the insurance sector is navigating market conditions affected by the COVID-19 pandemic.~~
- ~~D. Oversee the development, implementation, and maintenance process for a new Macroprudential Risk Assessment system (i.e., policies, procedures, and tools) to enhance regulators' ability to monitor industry trends from a macroprudential perspective;~~
- ~~E. Oversee the documentation of the NAIC's macroprudential policies, procedures, and tools; and~~
- ~~F. Provide the Task Force with proposed responses to IAIS and other international initiatives as needed.~~

MEMBERSHIP**Macroprudential (E) Working Group Liquidity Assessment (E) Subgroup**

of the Financial Stability (E) Committee

Justin Schrader, Chair	Nebraska
Kathy Belfi/John Loughran	Connecticut
Philip Barlow	District of Columbia
Ray Spudeck	Florida
Shannon Whalen	Illinois
Carrie Mears	Iowa
Fred Andersen	Minnesota
John Rehagen	Missouri
Mike Boerner/Jamie Walker	Texas

NAIC Support Staff: Todd Sells/Tim Nauheimer