

REINSURANCE (E) TASK FORCE

Reinsurance (E) Task Force December 13, 2021, Minutes

November 11, 2021, Draft of ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers.(Attachment One)

September 17, 2021, Draft of ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers (Attachment Two)

Comment Letters to Reinsurance (E) Task Force from Karalee C. Morell, Reinsurance Association of America (RAA), and Thomas M. Dawson, McDermott Will & Emery, Dated October 8, 2021, Regarding September 17, 2021, Draft of ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers (Attachment Three)

Maps Showing Implementation of the 2019 Revisions to the *Credit for Reinsurance Model Law #785* and *Credit for Reinsurance Model Regulation #786* as of December 1, 2021 (Attachment Four)

Map Showing Implementation of Model #787 (XXX/AXXX) Term and Universal Life Insurance Reserve Financing Model Regulation as of November 30, 2021 (Attachment Five)

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Draft Pending Adoption

Draft: 12/20/21

Reinsurance (E) Task Force
San Diego, California
December 13, 2021

The Reinsurance (E) Task Force met Dec. 13, 2021. The following Task Force members participated: Chlora Lindley-Myers, Chair, and John Rehagen (MO); Raymond G. Farmer, Vice Chair, represented by Daniel Morris (SC); Lori K. Wing-Heier represented by David Phifer (AK); Jim L. Ridling represented by Sean Duke (AL); Alan McClain, represented by Chris Erwin (AR); Ricardo Lara represented by Kim Hudson and Monica Macaluso (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Kathy Belfi and Wanchin Chou (CT); Trinidad Navarro represented by Dave Lonchar (DE); David Altmaier represented by Virginia Christy and Robert Ridenour (FL); John F. King, represented by Geraldine Farr (GA); Doug Ommen represented by Kim Cross (IA); Dana Popish Severinghaus represented by Susan Berry (IL); Amy L. Beard represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Vicki Lloyd (KY); James J. Donelon represented by Stewart Guerin (LA); Gary D. Anderson represented by Christopher Joyce (MA); Eric A. Cioppa represented by Robert Wake (ME); Troy Downing, represented by Steve Matthews (MT); Mike Causey represented by Jackie Obusek (NC); Jon Godfread represented by Matt Fischer (ND); Eric Dunning represented by Lindsay Crawford (NE); Chris Nicolopoulos represented by Doug Bartlett (NH); Marlene Caride represented by David Wolf (NJ); Russell Toal, represented by Jennifer Catechis (NM); Adrienne A. Harris represented by Roberto Paradis (NY); Judith L. French represented by Dale Bruggeman (OH); Glen Mulready represented by Eli Snowbarger (OK); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Cassie Brown represented by Jamie Walker (TX); Jonathan T. Pike represented by Jake Garn (UT); Scott A. White represented by Greg Chew and Doug Stolte (VA); and Mark Afile represented by Amy Malm (WI).

1. Adopted its Summer National Meeting Minutes

Mr. Eft made a motion, seconded by Ms. Cross, to adopt the Task Force's July 27 minutes (*see NAIC Proceedings – Summer 2021, Reinsurance (E) Task Force*). The motion passed unanimously.

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

Jake Stultz (NAIC) provided the report of the Reinsurance Financial Analysis (E) Working Group. He stated that the Working Group met in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings. He stated that the Working Group met Aug. 25 to discuss the comments received by the Reinsurance (E) Task Force on the *ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers* (ReFAWG Process). He noted that the Working Group then met on Oct. 13 and Nov. 23 to complete the annual certified reinsurer reviews and to approve the first four reciprocal jurisdiction reinsurers for passporting. He stated that the Working Group intends to meet one more time in 2021 to approve several more reciprocal jurisdiction reinsurers for passporting.

Mr. Hudson made a motion, seconded by Mr. Wake, to adopt the Working Group's report. The motion passed unanimously.

3. Adopted the ReFAWG Process

Mr. Rehagen stated that the ReFAWG Process (Attachment One) is based on the *Reinsurance Financial Analysis (E) Working Group Procedures Manual* (ReFAWG Manual), which is a regulator-only document. He noted that the ReFAWG Manual will be updated to reflect the adoption of the 2019 revisions to the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786) after the ReFAWG Process has been adopted. Mr. Rehagen noted that the ReFAWG Process was initially exposed on June 17 for a 30-day public comment period and that six comment letters were received. The ReFAWG Process was discussed by the Task Force at the Summer National Meeting and was then exposed on Sept. 17 (Attachment Two), and two comment letters (Attachment Three) were received. The Task Force again exposed the ReFAWG Process on Nov. 11 for a 21-day public comment period, and no public comments were received.

Dan Schelp (NAIC) stated that revisions included in the ReFAWG Process to be adopted today are mostly stylistic in nature. He stated that the provisions in Model #785 and Model #786 align closely with the original provisions of the "Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (EU Covered Agreement) and the "Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance," and that the ReFAWG Process was drafted to mirror Model #785 and Model #786. Mr. Schelp noted that NAIC staff had discussions with representatives from the Federal Insurance

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Office (FIO), and that they are supportive of the efforts to provide guidance to both the states and insurers regarding the passporting process. He noted that the Working Group would review and verify if any changes are needed in the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers* based on the revisions to the ReFAWG Process document or the ReFAWG Manual.

Mr. Hudson made a motion, seconded by Mr. Phifer, to adopt the *ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers*. The motion passed unanimously.

4. Received a Status Report on the Reinsurance Activities of the Mutual Recognition of Jurisdictions (E) Working Group

Mr. Wake stated that the Working Group met Sept. 22 in regulator-to-regulator session to discuss the *Process for Evaluating Jurisdictions that Recognize and Accept the Group Capital Calculation* (GCC Process). He stated that the Working Group met Nov. 18 to adopt the GCC Process for consideration by the Financial Condition (E) Committee and to reapprove the status of Bermuda, France, Germany, Ireland, Japan, Switzerland, and the United Kingdom (UK) as qualified jurisdictions and Bermuda, Japan, and Switzerland as reciprocal jurisdictions.

Mr. Wake stated that on May 27, the Mutual Recognition of Jurisdictions (E) Working Group recommended the Republic of Korea be approved as a qualified jurisdiction and that on June 3, the Task Force exposed the *Republic of Korea: Final Evaluation Report* for a 30-day public comment period. He noted that the Task Force was notified of an ongoing issue with data localization requirements in the Republic of Korea that needed to be remediated before the process can move forward. He stated that at the Summer National Meeting, the Task Force referred this issue back to the Working Group. Mr. Wake stated that a small group of regulators have held calls with the Republic of Korea Financial Supervisory Service (FSS) and the Financial Services Commission (FSC) and with U.S. insurance trade groups to better understand the situation. He said he will provide an update to the Task Force when he has additional information.

5. Received a Status Report on the States' Implementation of the 2019 Revisions to Model #785 and Model #786

Mr. Stultz stated that as of Dec. 9, 46 U.S. jurisdictions have adopted the 2019 revisions to Model #785, while four jurisdictions have action under consideration. He noted that 25 states have adopted the revisions to Model #786, and 11 jurisdictions currently have action under consideration. He stated that the maps showing the adoption of the 2019 revisions to Model #785 and Model #786 were included in the meeting materials (Attachment Four).

Mr. Stultz stated that the 2019 revisions to the models must be adopted by the states prior to Sept. 1, 2022, which is the date when the FIO must complete its federal preemption reviews under the Covered Agreements. He stated that the Task Force will provide support to the states to meet this deadline. Mr. Stultz recommended that all states and jurisdictions adopt the 2019 revisions to Model #785 and Model #786 as soon as possible and no later than July 1, 2022, in order to give the FIO sufficient time for its federal preemption analysis.

Mr. Stultz stated that the current adoption maps can be found on the Task Force's web page. He noted that he and Mr. Schelp can answer any technical questions during the legislative process, and Holly Weatherford (NAIC) is working directly with the states on the adoption of the 2019 revisions to Model #785 and Model #786.

6. Received a Status Report on the States' Implementation of Model #787

Mr. Stultz stated that the *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787) becomes an accreditation standard on Sept. 1, 2022, with enforcement beginning on Jan. 1, 2023. He noted that as of Nov. 30, eight jurisdictions have adopted Model #787, with another 10 jurisdictions with action under consideration. He stated that the map showing the current adoption status for Model #787 was included in the meeting materials (Attachment Five) and added that the adoption of Model #787 is unrelated to the Covered Agreements and is not potentially subject to federal preemption. Mr. Stultz noted that Model #787 mirrors *Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation* (AG 48), and that under the accreditation standards, a state may meet the requirements through an administrative practice, such as an actuarial guideline, and added that if a state adopts Model #787, it also will need to adopt Section 5B(4) of Model #785.

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

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11/11/2021 Draft with revisions to 09/17/2021 Draft Accepted



ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers

Reinsurance Financial Analysis (E) Working Group

***ReFAWG Review Process for Passporting
Certified and Reciprocal Jurisdiction Reinsurers
("ReFAWG Review Process")***

1. ReFAWG Review Process

The Reinsurance Financial Analysis (E) Working Group (ReFAWG) normally operates in Executive Session, in accordance with the *NAIC Policy Statement on Open Meetings* and in open session when addressing policy issues. The authority of the Working Group is limited to that of an advisory body. This authority is derived from the 2011 *Preface to Credit for Reinsurance Models*, which provided that the purpose of the Working Group is “to provide advisory support and assistance to states in the review of reinsurance collateral reduction applications. Such a process with respect to the review of applications for reinsurance collateral reduction and qualified jurisdictions should strengthen state regulation and prevent regulatory arbitrage.”

- a. In November 2011, the NAIC adopted revisions to its *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786) which reduce the prior reinsurance collateral requirements for non-U.S. licensed reinsurers that are licensed and domiciled in Qualified Jurisdictions and establish a certification process for reinsurers under which a Certified Reinsurer is eligible for collateral reduction with respect to contracts entered into or renewed subsequent to certification. The authority to issue individual ratings of certified reinsurers is reserved to the NAIC member jurisdictions under their respective statutes and regulations. While this forum is intended to strengthen state regulation and prevent regulatory arbitrage, it is not within the authority of the Working Group to assign collateral requirements for individual reinsurers.
- b. On June 25, 2019, the NAIC adopted further revisions to the models, which implement the reinsurance collateral provisions of the Covered Agreements with the European Union (EU) and the United Kingdom (UK). The revisions eliminate reinsurance collateral requirements and local presence requirements for EU and UK reinsurers that maintain a minimum amount of own-funds equivalent to \$250 million USD and a solvency capital requirement (SCR) of 100% under Solvency II. The revisions also incorporate the “Reciprocal Jurisdiction” concept. Reciprocal Jurisdiction status is afforded to (1) jurisdictions subject to an in-force Covered Agreement within the U.S.; (2) accredited U.S. jurisdictions; and (3) Qualified Jurisdictions if they meet certain requirements in the credit for reinsurance models. ReFAWG has also been given additional responsibilities with respect to these “Reciprocal Jurisdiction Reinsurers.” ReFAWG will coordinate its efforts with the Mutual Recognition of Jurisdictions (E) Working Group (formerly known as the Qualified Jurisdictions (E) Working Group).
- c. Issues upon which the Working Group may provide advisory support and assistance include but are not limited to:
 - i. Provide advisory support and assistance to states in the review of reinsurance collateral reduction applications. Such a process with respect to the review of applications for

- reinsurance collateral reduction and qualified jurisdictions should strengthen state regulation and prevent regulatory arbitrage.
- ii. Provide a forum for discussion, among NAIC jurisdictions, of reinsurance issues related to specific companies, entities or individuals.
 - iii. Support, encourage, promote and coordinate multi-state efforts in addressing issues related to certified reinsurers, including but not limited to multi-state recognition of certified reinsurers.
 - iv. Provide analytical expertise and support to the states with respect to certified reinsurers and applicants for certification.
 - v. Interact with domiciliary regulators of ceding insurers and certifying states to assist and advise on the most appropriate regulatory strategies, methods and actions with respect to certified reinsurers.
 - vi. Provide advisory support with respect to issues related to the determination of qualified jurisdictions.
 - vii. Ensure the public passporting website remains current.
 - viii. For reinsurers domiciled in Reciprocal Jurisdictions, determine the best and most effective approaches for the financial solvency surveillance to assist the states in their work to protect the interests of policyholders.

2. Lead States and Passporting Process

- a. A reinsurer seeking recognition as either a Certified Reinsurer or a Reciprocal Jurisdiction Reinsurer must submit certain information to each state in which it seeks such recognition. A reinsurer may decide to make a filing with a Lead State and use the NAIC Passporting process to facilitate multi-state recognition or a reinsurer may decide to submit the information to each state as a separate application. Under the ReFAWG Review Process, ReFAWG will assist the states with the initial review of this information and provide guidance to the states in making their review of the reinsurer to determine whether it has met the regulatory requirements to be recognized as a Certified Reinsurer and/or a Reciprocal Jurisdiction Reinsurer.
- b. **Passporting for Certified Reinsurers** - In addition to this assistance to individual states, ReFAWG will also assist with a passporting process for the states. “Passporting” refers to the process under which a state has the discretion to defer to the certification of a reinsurer (and the rating assigned to that certified reinsurer) by another state. Under this process, a reinsurer will apply to an initial state for certification, referred to as the “Lead State,” which will begin its analysis of the reinsurer and notify ReFAWG of the application. The Lead State will complete its initial analysis and will submit filing information and other documentation to ReFAWG for a peer review. Upon completion of the confidential peer review process, ReFAWG will make its recommendation concerning both the certified status of the reinsurer and its rating. The Lead State then makes the final determination regarding certification, upon which the Lead State notifies ReFAWG and the certified reinsurer is eligible to apply for passporting into other states. States are encouraged to utilize the passporting process to reduce the amount of documentation filed with the states and reduce duplicate filings.

- c. **Passporting for Reciprocal Jurisdiction Reinsurers** - A similar Passporting Process is in place with respect to Reciprocal Jurisdiction Reinsurers as outlined in Sections 5 and 6 below. 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 compliance with this section. 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.
- d. **Discretion to Defer to Lead State** - If an NAIC accredited jurisdiction has determined that the conditions set forth for recognition as a Reciprocal Jurisdiction Reinsurer have been met, the commissioner of any other state has the discretion to defer to that jurisdiction’s determination and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit. The commissioner may accept financial documentation filed with the Lead State or with the NAIC and is encouraged to support a uniform submission and approval process among the states of the NAIC. ReFAWG and the Mutual Recognition of Jurisdictions (E) Working Group will coordinate efforts to obtain ~~and disseminate to the states~~ financial information regarding both Certified Reinsurers and Reciprocal Jurisdiction Reinsurers and disseminate it to the states.
- e. **Communication with ReFAWG** - The ReFAWG Review Process is designed to facilitate communication of relevant information with respect to individual reinsurers or reinsurance related issues by allowing interested state insurance regulators the opportunity to monitor the ReFAWG meetings and discussion. It should be noted that the process for engaging ReFAWG in the consideration of an application is intended to be flexible. Specific circumstances may necessitate discussion between ReFAWG and any states that have received any application in order to determine an appropriate lead state on a case-by-case basis.
- f. **Change of Lead State** - The Lead State for a Certified Reinsurer and/or a Reciprocal Jurisdiction Reinsurer may change based upon mutual agreement between the current lead state and any other state where the reinsurer is ~~recognized~~certified, with input to be provided by ReFAWG. Upon a change in lead state, NAIC staff will provide timely notification to all states. In order to facilitate a change of lead state from one state to another, both states should discuss the rationale for the change during a regulator-only ReFAWG meeting. NAIC Staff will update the lead state and note such change on NAIC systems and send notice to ReFAWG and interested regulators.

3. ReFAWG Review Process for Certified Reinsurers

ReFAWG makes available to the states a *Uniform Application Checklist for Certified Reinsurers* (Exhibit 1) for certification of reinsurers based upon the requirements of the Credit for Reinsurance Model Law and Regulation. It is intended that the checklist be used by lead states for the initial/renewal application review and by ReFAWG in its review of Passporting requests.

The following ~~provide a~~ timeline ~~for~~applies to these filings:

Timeline Event	Required Date
Required Documents Filed with Lead State	June 30
Required Passporting Documents Uploaded to NAIC ReFAWG Database	August 31
NAIC Staff Re-Certification Review Process and Conference Calls	September 1 – November 30
All Passporting Re-Certifications Completed	December 1
Effective Date of Passporting Re-Certification	1/1/xx to 12/31/xx (Next Calendar Year)
Applications for Passporting	1/1/xx to 12/31/xx

In order to be eligible for certification, the assuming insurer shall meet the following requirements:

- a. **Qualified Jurisdiction** - The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction. The applicant must be in good standing and provide a copy of the certificate of authority or license to transact insurance and/or reinsurance business.
- b. **Capital and Surplus** - The assuming insurer must maintain capital and surplus of no less than \$250,000,000 as reported within its audited financial statement. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000.
- c. **Financial Strength Ratings** - The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. The applicant must provide the rating agency report. If the rating is a group rating, the rationale for the group rating must be provided. Initial or Affirmed financial strength rating dates must be within 15 months of the application date/renewal filing date. Acceptable rating agencies include: A.M. Best, Fitch Ratings, Moody's, Standard & Poor's or any other Nationally Recognized Statistical Rating Organization by the SEC. *Kroll is not recognized as an acceptable rating organization in Model #786 but has been recognized as an acceptable rating organization by the Reinsurance (E) Task Force.*
- d. The following table outlines the necessary ratings needed to meet a secure level:

<u>Ratings</u>	<u>Collateral Required</u>	<u>A.M. Best</u>	<u>Standard & Poor's</u>	<u>Moody's</u>	<u>Fitch</u>	<u>Kroll</u>
Secure – 1	0%	A++	AAA	Aaa	AAA	AAA
Secure – 2	10%	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-	AA+, AA, AA-
Secure – 3	20%	A	A+, A	A1, A2	A+, A	A+, A
Secure – 4	50%	A-	A-	A3	A-	A-
Secure – 5	75%	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-	BBB+, BBB, BBB-
Vulnerable – 6	100%	B, B-C++, C+, C, C-, D, E, F	BB+, BB, BB, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB, B+, B, B-, CCC+, CC, CCC-, DD	BB+, BB, BB- , B+, B, B-, CCC, CC, C, D

- e. **Protocol for Considering a Group Rating** - Section 8B(4) of the *Credit for Reinsurance Model Regulation* (#786) provides, in relevant part: “Each certified reinsurer shall be rated on a legal entity basis, **with due consideration being given to the group rating where appropriate....**” Understanding the rating agency basis for utilizing a group rating is a key factor in determining whether an applicant’s group rating may be considered appropriate. The recommended protocol for understanding the rationale involves one or more of the following protocol steps:
- i. For reasons set forth in the rating agency report or its published ratings standards or guidelines, the rating agency utilizes the group rating as a consequence of finding that the company had sufficient interconnectivity with the group;
 - ii. For reasons set forth in the rating agency report or its published ratings standards or guidelines, the rating agency enhances the group rating due to the subsidiary’s potential benefit of capital support from one or more affiliated companies;
 - iii. The group rating was utilized because the subsidiary derives benefit from its inclusion within a financially strong and well-capitalized insurance group;
 - iv. The lead state has contacted the rating agency and was provided a written explanation for the use of the group rating;

- v. Other factors deemed appropriate by the Reinsurance Financial Analysis (E) Working Group; or
- vi. To assist the Lead State in the assessment of the appropriateness of the use of a group rating, applicants are encouraged to provide their rationale for the use of a group rating.

f. **Changes in Ratings**

Section 8(B)(7)(a) of Model #786 provides that a certified reinsurer is required to notify the Commissioner of a certifying state within 10 days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons. The certified reinsurer may also fulfill this requirement by notifying its Lead State commissioner, with this information being distributed to other certifying states by the NAIC through the ReFAWG process. Upon receipt of any such notification, a certifying state should immediately notify ReFAWG in order to facilitate communication of the information to other states. ReFAWG will subsequently send notification to all applicable regulators and may coordinate an interim meeting as deemed appropriate in order to discuss the issue(s).

Changes requiring action by a certifying state in accordance with statute and/or regulation may include but are not limited to: deterioration in financial condition; downgrade in a financial strength rating; change in the status of its domiciliary license; change in the qualification status of its domestic jurisdiction; and the triggering of certain thresholds with respect to reinsurance obligations to U.S. ceding insurers that are past due (in accordance with Section 8(B) of Model #786). While such changes may require action under statute or regulation, the ReFAWG process is intended to facilitate communication and coordination with respect to the date upon which changes in a certified reinsurer's rating/status are effective, as well as discussion of any other relevant issues.

As part of the ongoing review process, other information may come to the attention of a certifying state and/or ReFAWG that warrants consideration with respect to a certified reinsurer's rating/status. While ReFAWG cannot require a state to delay any action with respect to a certified reinsurer's rating/status, certifying states are strongly encouraged to notify ReFAWG prior to taking any related action, as the ReFAWG process will serve to provide a proactive regulatory mechanism for communication of such information, discussion among regulators with respect to changes being considered on the basis of subjective rating criteria, and possible coordination of applicable effective dates if such changes are enacted. Upon receipt of any such information, ReFAWG will send notification to the NAIC Chief Financial Regulators listing and may coordinate an interim meeting as deemed appropriate in order to discuss the issue(s).

- g. **Schedule F/S (Ceded Reinsurance)** – Applicants domiciled in the U.S. must provide the most recent NAIC Annual Statement Blank Schedule F (property/casualty) and/or Schedule S (life and health). Applicants domiciled outside the U.S. must provide Form CR-F (property/casualty) and/or Form CR-S (life and health), completed in accordance with the instructions.

- h. **Disputed and/or Overdue Reinsurance Claims** - The applicant must provide a detailed explanation regarding reinsurance obligations to U.S. cedents that are in dispute and/or more than 90 days past due that exceed 5% of its total reinsurance obligations to U.S. cedents as of the end of its prior financial reporting year or reinsurance obligations to any of the top 10 U.S. cedents (based on the amount of outstanding reinsurance obligations as of the end of its prior financial reporting year) that are in dispute and/or more than 90 days past due exceed 10% of its reinsurance obligations to that U.S. cedent. The applicant must then provide a description of its business practices in dealing with U.S. ceding insurers and a statement that the applicant commits to comply with all contractual requirements applicable to reinsurance contracts with U.S. ceding insurers.
- i. **Mechanisms Used to Secure Obligations Incurred as a Certified Reinsurer** - The applicant must specify the mechanisms it will use to secure obligations incurred as a Certified Reinsurer. Use of multi-beneficiary trust must include: (1) approval from the domiciliary regulator; (2) the form of the trust that will be used as a certified reinsurer; and (3) the form of the trust that will be used to secure obligations incurred outside of the applicant's certified reinsurer status (if applicable).
- j. **Regulatory Actions** – The applicant must provide a description of any regulatory actions taken against the applicant. Include details on all regulatory actions, fines, and penalties. Further, a description of any changes in with respect to the provisions of the applicant's domiciliary license should be provided.
- k. **Audited Financial Report and Actuarial Opinion** – As filed with its non-U.S. jurisdiction supervisor, with a translation into English, the applicant must file audited financial statement for the current and prior year and an actuarial opinion (must be stand-alone, or the functional equivalent under the Supervisor's applicable Actuarial Function Holder Regime).
- l. **Solvent Schemes of Arrangement** - The applicant must provide a description of any past, present, or proposed future participation in any solvent scheme of arrangement, or similar procedure, involving U.S. ceding insurers.
- m. **Form CR-1** - The applicant must provide a state lead state specific Form CR-1, which must be properly executed by an officer authorized to bind the applicant to the commitments set forth in the form.
- n. **Other Requirements** - The applicant must commit to comply with other reasonable requirements deemed necessary for certification by the certifying state. Further, the applicant must provide a statement that it agrees to post 100% security upon the entry of an order of rehabilitation or conservation against the ceding insurer or its estate.
- o. **Public Notice** - The commissioner is required to post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least 30 days after posting such notice. The commissioner will consider any comments received during the public notice period with respect to this application.

4. Certified Reinsurers – Certified by Another NAIC Accredited Jurisdiction

If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the state has the discretion to defer to that jurisdiction's certification and assigned rating (i.e., passporting) as provided in the *Uniform Application Checklist for Certified Reinsurers* (Exhibit 1).

To assist in the determination to defer to another jurisdiction's certification the following documents are required:

- a. **Qualified Jurisdiction** - The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction.
- b. **Verification of Certification Issued by an NAIC Accredited Jurisdiction** – The applicant must provide a copy of the approval letter or other documentation provided to the applicant by the NAIC accredited jurisdiction. The letter should include the state, rating and collateral percentage assigned, effective date, lines of business, and the applicant's statement on compliance. ReFAWG may also verify a certification issued by an NAIC accredited jurisdiction through its internal processes.
- c. **Mechanisms Used to Secure Obligations Incurred as a Certified Reinsurer** - The applicant must specify the mechanisms it will use to secure obligations incurred as a Certified Reinsurer. Use of multi-beneficiary trust must include: (1) approval from the domiciliary regulator; (2) the form of the trust that will be used as a certified reinsurer; and (3) the form of the trust that will be used to secure obligations incurred outside of the applicant's certified reinsurer status (if applicable).
- d. **Form CR-1** - The applicant must provide a state lead state specific Form CR-1, which must be properly executed by an officer authorized to bind the applicant to the commitments set forth in the form.
- e. **Other Requirements** - The applicant must commit to comply with other reasonable requirements deemed necessary for certification by the certifying state. Further, they must provide a statement that they agree to post 100% security upon the entry of an order of rehabilitation or conservation against the ceding insurer or its estate.
- f. **Public Notice** - The commissioner is required to post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least 30 days after posting such notice. The commissioner will consider any comments received during the public notice period with respect to this application.

5. Reciprocal Jurisdiction Process - Initial Application to Lead State

Annual Verification of Minimum Standards:

Timeline Event	Required Date
Required Documents Filed with Lead State	June 30
Required Passporting Documents Uploaded to NAIC ReFAWG Database	August 31
NAIC Staff Re-Verification Process and Conference Calls	September 1 – November 30
All Passporting Re-Verifications Completed	December 1
Effective Date of Passporting Re-Verification	1/1/xx to 12/31/xx (Next Calendar Year)
Applications for Passporting	1/1/xx to 12/31/xx

Pursuant to the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers* (Exhibit 2), the “Lead State” will uniformly require assuming insurers to provide the following documentation so that other states may rely upon the Lead State’s determination:

- a. **Status of Reciprocal Jurisdiction** - The assuming insurer must be licensed to write reinsurance by, and have its head office or be domiciled in, a Reciprocal Jurisdiction that is listed on the *NAIC List of Reciprocal Jurisdictions*. A “Reciprocal Jurisdiction” is a jurisdiction, as designated by the commissioner, that meets one of the following: (1) a non-U.S. jurisdiction that is subject to an in-force Covered Agreement with the United States; (2) a U.S. jurisdiction that meets the requirements for accreditation under the NAIC Financial Standards and Accreditation Program; or (3) a Qualified Jurisdiction that has been determined by the commissioner to meet all applicable requirements to be a Reciprocal Jurisdiction. The Reciprocal Jurisdiction Reinsurer should identify which type of jurisdiction it is domiciled in and provide any documentation to confirm this status if requested by the commissioner.
- b. **Minimum Capital and Surplus** - The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction: no less than \$250,000,000 (USD); or if the assuming insurer is an association, including incorporated and individual unincorporated underwriters: minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250,000,000 (USD); and a central fund containing a balance of the equivalent of at least \$250,000,000 (USD). The assuming insurer’s supervisory authority must confirm to the Lead State commissioner on an annual basis according to the methodology of its domiciliary jurisdiction that the assuming insurer satisfies this requirement. The Mutual Recognition of Jurisdictions (E) Working Group will coordinate the confirmations of the domiciliary jurisdictions with ReFAWG with respect to individual Reciprocal Jurisdiction Reinsurers.

- c. **Minimum Solvency or Capital Ratio** - The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio: The ratio specified in the applicable in-force Covered Agreement where the assuming insurer has its head office or is domiciled; or if the assuming insurer is domiciled in an accredited state, a risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, calculated in accordance with the formula developed by the NAIC; or if the assuming insurer is domiciled in a Reciprocal Jurisdiction that is a Qualified Jurisdiction, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency. The assuming insurer's supervisory authority must confirm to the Lead State commissioner on an annual basis that the assuming insurer complies with this requirement. The Mutual Recognition of Jurisdictions (E) Working Group will coordinate the confirmations of the domiciliary jurisdictions with ReFAWG with respect to individual Reciprocal Jurisdiction Reinsurers.
- d. **Form RJ-1** - The assuming insurer must provide a signed Form RJ-1, which must be properly executed by an officer of the assuming insurer.
- e. **Audited Financial Report** - The assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report as provided under Section 9C(5)(a) of Model #786.
- f. **Solvency and Financial Condition Report or Actuarial Opinion** – The applicant must submit a solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor as provided under Section 9C(5)(b) of Model #786.
- g. **Overdue Reinsurance Claims** – The applicant must submit a list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States as provided under Section 9C(5)(c) of Model #786. The commissioner shall request the reinsurer to provide the information required to demonstrate the reinsurer's practice of prompt payment of claims under its reinsurance agreements prior to entry into a reinsurance agreement, and annually thereafter, in order to demonstrate compliance with Section 9C(6) of Model #786.
- h. **Assumed and Ceded Reinsurance Schedules** – The applicant must submit information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer as provided under Section 9C(5)(d) of Model #786. Applicants domiciled in the U.S. must provide the most recent NAIC Annual Statement Blank Schedule F (property/casualty) and/or Schedule S (life and health). Applicants domiciled outside the U.S. may provide this information using Form CR-F (property/casualty) and/or Form CR-S (life and health), which ReFAWG considers sufficient to meet this requirement. ~~Alternatively, information as outlined in paragraph 3.h of the ReFAWG Review Process regarding the U.S. cedents of Reciprocal Jurisdiction Reinsurers that is voluntarily submitted may also be accepted by states. If the commissioner has reason to believe the reinsurer has material unpaid claims outside of the U.S., the commissioner may request the reinsurer to~~

~~provide the information required to demonstrate the reinsurer's practice of prompt payment of claims under its reinsurance agreements.~~

- i. **Prompt Payment of Claims** - The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met: (1) more than fifteen percent (15%) of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner; (2) more than fifteen percent (15%) of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100,000, or as otherwise specified in a Covered Agreement; or (3) the aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50,000,000, or as otherwise specified in a Covered Agreement.

6. Reciprocal Jurisdiction Process – Passporting States

Per the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers* (Exhibit 2), if an NAIC accredited jurisdiction has determined that the conditions set forth under the *Filing Requirements for Lead States* have been met, the commissioner has the discretion to defer to that jurisdiction's determination and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit. The commissioner may accept financial documentation filed with the Lead State or with the NAIC. The following document is required to be filed with the state:

- a. **Form RJ-1** - The assuming insurer must provide a signed Form RJ-1, which must be properly executed by an officer of the assuming insurer.
- b. **Verification of Determination Issued by an NAIC Accredited Jurisdiction** – The applicant must provide a copy of the approval letter or other documentation provided to the applicant by the NAIC accredited jurisdiction. The letter should include the state, effective date, and lines of business.

7. NAIC Staff Review of Certified and Reciprocal Jurisdiction Reinsurers

The reinsurer will file this information with the initial reviewing state and such Lead State will submit the information to ReFAWG in accordance with the applicable information sharing process. This submission by the Lead State will also facilitate other states' access to the information. NAIC staff shall prepare a report for review by ReFAWG intended to provide information regarding whether the Lead State's submission meets the requirements of the ReFAWG Review Process, and to determine whether there are any deficiencies in the application. This report will be considered confidential but may be made available to states through the NAIC's information sharing process.

NAIC Staff under the direction of ReFAWG will assist in the review of the filings and in monitoring the ongoing condition of the reinsurers. If during the review process or during an interim period ReFAWG determines that a reinsurer's assigned rating or status may warrant reconsideration, notice will be sent to the Lead State. The specific issues identified will be presented for discussion during the next ReFAWG meeting.

8. Process for Ongoing Monitoring of Reinsurers

Certified and Reciprocal Jurisdiction Reinsurers are required to file specific information to a certifying state on an ongoing basis. NAIC Staff and ReFAWG will review this information in an effort to assist states with the ongoing monitoring of the reinsurers. Subject to applicable state law, all non-public information submitted by reinsurers shall be kept confidential and regulator only.

9. Withdrawal/Termination of a Certified or Reciprocal Jurisdiction Reinsurer

When a reinsurer requests to withdraw its status or the lead state terminates the reinsurer's status as a certified or reciprocal reinsurer, notice of this action should be promptly conveyed to the appropriate NAIC Staff. Once NAIC Staff receives notification of withdrawal or termination, the applicable ~~Certified~~ Passported Reinsurers List(s) will be updated to reflect this status change. The Passported reinsurer will follow the lead state's laws regarding its withdrawal or termination regarding any active reinsurance contracts.

10. Interaction Between Certified Reinsurers and Reciprocal Jurisdiction Reinsurers Status

- a. Under Section 8A(5) Model #786, credit for reinsurance shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer with respect to Certified Reinsurers. Under Section 2F(7) of the *Credit for Reinsurance Model Law* (#785), credit shall be taken with respect to Reciprocal Jurisdiction Reinsurers only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements to be designated a Reciprocal Jurisdiction Reinsurer, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.
- b. It is expected that certain assuming insurers may be considered to be Certified Reinsurers for purposes of in-force business or business with existing liabilities and Reciprocal Jurisdiction Reinsurers with respect to reinsurance agreements entered into, amended, or renewed on or after the effective date. In addition, these same reinsurers may also have certain blocks of business that are fully collateralized under the prior provisions of Model #785 and Model #786. The NAIC Blanks have been amended to reflect the status of these reinsurers with respect to each type of insurance assumed.
- c. With respect to those reinsurers that are currently Certified Reinsurers but are seeking recognition by ReFAWG as Reciprocal Jurisdiction Reinsurers for passporting purposes, the same process as

outlined in paragraphs 3-6 of this ReFAWG Review Process must be followed. A Form RJ-1 must be filed with each state in which the reinsurer seeks recognition as a Reciprocal Jurisdiction Reinsurer, and the reinsurer must meet all other applicable requirements. However, states may share this information with other states through the NAIC and the ReFAWG Review Process, and previously filed information used in the review of the reinsurer as a Certified Reinsurer may also be utilized in its review as a Reciprocal Jurisdiction Reinsurer. For example, a Reciprocal Jurisdiction Reinsurer may cross reference information/documentation that has been filed with respect to its status as a Certified Reinsurer, so that it is not necessary to file duplicative documents. ReFAWG will take full advantage of the passporting process, with the intent of reducing the amount of documentation filed with the states and reduce duplicate filings.

- d. During the initial phases of the implementation of the review of Reciprocal Jurisdiction Reinsurers, not all states may have fully implemented their internal processes for performing these reviews. During this interim period, if a Reciprocal Reinsurer has been approved by a lead state and ReFAWG, the Reciprocal Jurisdiction Reinsurer may seek passporting approval from other states that have adopted the model law and regulation even where a formal internal process for doing so has not yet been finalized. States and Reciprocal Jurisdiction Reinsurers are encouraged to communicate on these issues and, as appropriate, to coordinate through the NAIC to facilitate the passporting process.

11. Commissioner Shall Create and Publish Lists

Section 2E(3) of Model #785 and Section 8C(1) of Model #786 require the commissioner to publish a list of Qualified Jurisdictions, while Section 2E(4) of Model #785 and Section 8B(2) of Model #786 require the commissioner to publish a list of all Certified Reinsurers and their ratings. Section 2F(2) & (3) of Model #785 and Section 9D and E of Model #786 require the commissioner to (a) timely create and publish a list of Reciprocal Jurisdictions; and (b) timely create and publish a list of Reciprocal Jurisdiction Reinsurers. It is expected that the commissioner will publish these respective lists on the insurance department's website, along with special instructions or other guidance as to how Certified Reinsurers and Reciprocal Jurisdiction Reinsurers may meet the applicable filing requirements under the models. There currently are no specific requirements as to the format in which these lists must be published, but ReFAWG and NAIC staff will assist the states with questions on the publication of these lists. In addition, ReFAWG will maintain links on its NAIC webpage to the lists published on the insurance departments' webpages.

Att 1 ReFAWG Review Process 11-11-2021.docx

Draft: 09/17/2021



ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers

Reinsurance Financial Analysis (E) Working Group

***ReFAWG Review Process for Passporting
Certified and Reciprocal Jurisdiction Reinsurers
("ReFAWG Review Process")***

1. ReFAWG Review Process

The Reinsurance Financial Analysis (E) Working Group (ReFAWG) normally operates in Executive Session, in accordance with the *NAIC Policy Statement on Open Meetings* and in open session when addressing policy issues. The authority of the Working Group is limited to that of an advisory body. This authority is derived from the 2011 *Preface to Credit for Reinsurance Models*, which provided that the purpose of the Working Group is “to provide advisory support and assistance to states in the review of reinsurance collateral reduction applications. Such a process with respect to the review of applications for reinsurance collateral reduction and qualified jurisdictions should strengthen state regulation and prevent regulatory arbitrage.”

- a. In November 2011, the NAIC adopted revisions to its *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786) which reduce the prior reinsurance collateral requirements for non-U.S. licensed reinsurers that are licensed and domiciled in Qualified Jurisdictions and establish a certification process for reinsurers under which a Certified Reinsurer is eligible for collateral reduction with respect to contracts entered into or renewed subsequent to certification. The authority to issue individual ratings of certified reinsurers is reserved to the NAIC member jurisdictions under their respective statutes and regulations. While this forum is intended to strengthen state regulation and prevent regulatory arbitrage, it is not within the authority of the Working Group to assign collateral requirements for individual reinsurers.
- b. On June 25, 2019, the NAIC adopted further revisions to the models, which implement the reinsurance collateral provisions of the Covered Agreements with the European Union (EU) and the United Kingdom (UK). These revisions ~~create a new type of jurisdiction, which is called a Reciprocal Jurisdiction and~~ eliminates reinsurance collateral requirements and local presence requirements for EU and UK reinsurers that maintain a minimum amount of own-funds equivalent to \$250 million USD and a solvency capital requirement (SCR) of 100% under Solvency II. The revisions also ~~provide~~ incorporate the “Reciprocal Jurisdiction” concept. Reciprocal Jurisdiction status is afforded to (1) jurisdictions subject to an in-force Covered Agreement within the U.S.; (2) ~~for~~ accredited U.S. jurisdictions; and (3) Qualified Jurisdictions if they meet certain requirements in the credit for reinsurance models. ReFAWG has also been given additional responsibilities with respect to these “Reciprocal Jurisdiction Reinsurers.” ReFAWG will coordinate its efforts with the Mutual Recognition of Jurisdictions (E) Working Group (formerly known as the Qualified Jurisdictions (E) Working Group).
- c. Issues upon which the Working Group may provide advisory support and assistance include but are not limited to:

- i. Provide advisory support and assistance to states in the review of reinsurance collateral reduction applications. Such a process with respect to the review of applications for reinsurance collateral reduction and qualified jurisdictions should strengthen state regulation and prevent regulatory arbitrage.
- ii. Provide a forum for discussion, among NAIC jurisdictions, of reinsurance issues related to specific companies, entities or individuals.
- iii. Support, encourage, promote and coordinate multi-state efforts in addressing issues related to certified reinsurers, including but not limited to multi-state recognition of certified reinsurers.
- iv. Provide analytical expertise and support to the states with respect to certified reinsurers and applicants for certification.
- v. Interact with domiciliary regulators of ceding insurers and certifying states to assist and advise on the most appropriate regulatory strategies, methods and actions with respect to certified reinsurers.
- vi. Provide advisory support with respect to issues related to the determination of qualified jurisdictions.
- vii. Ensure the public passporting website remains current.
- viii. For reinsurers domiciled in Reciprocal Jurisdictions, determine the best and most effective approaches for the financial solvency surveillance to assist the states in their work to protect the interests of policyholders.

2. Lead States and Passporting Process

- a. A reinsurer seeking recognition as either a Certified Reinsurer or a Reciprocal Jurisdiction Reinsurer must submit certain information to ~~the each~~ state in which it seeks such recognition. A reinsurer may decide to make a filing with a Lead State and use the NAIC Passporting process to facilitate multi-state recognition or a reinsurer may decide to submit the information to each state as a separate application. Under the ReFAWG Review Process, ReFAWG will assist the states with the initial review of this information and provide guidance to the states in making their review of the reinsurer to determine whether it has met the regulatory requirements to be recognized as a Certified Reinsurer and/or a Reciprocal Jurisdiction Reinsurer.
- b. **Certified Reinsurers** - In addition to this assistance to individual states, ReFAWG will also assist with a passporting process for the states. “Passporting” refers to the process under which a state has the discretion to defer to the certification of a reinsurer (and the rating assigned to that certified reinsurer) by another state. Under this process, a reinsurer will apply to an initial state for certification, referred to as the “Lead State,” which will begin its analysis of the reinsurer and notify ReFAWG of the application. The Lead State will complete its initial analysis and will submit filing information and other documentation to ReFAWG for a peer review. Upon completion of the confidential peer review process, ReFAWG will make its recommendation concerning both the certified status of the reinsurer and its rating. The Lead State then makes the final determination regarding certification, upon which the Lead State notifies ReFAWG and the certified reinsurer is eligible to apply for passporting into other states.

- c. **Reciprocal Jurisdiction Reinsurers** - A similar Passporting Process is in place with respect to Reciprocal Jurisdiction Reinsurers. 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 compliance with this section. 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.
- d. If an NAIC accredited jurisdiction has determined that the conditions set forth for recognition as a Reciprocal Jurisdiction Reinsurer have been met, the commissioner of any other state has the discretion to defer to that jurisdiction’s determination and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit. The commissioner may accept financial documentation filed with the Lead State or with the NAIC and is encouraged to support a uniform submission and approval process among the states of the NAIC. ReFAWG and the Mutual Recognition of Jurisdictions (E) Working Group will coordinate efforts to obtain and disseminate to the states financial information regarding both Certified Reinsurers and Reciprocal Jurisdiction Reinsurers.
- e. The ReFAWG Review Process is designed to facilitate communication of relevant information with respect to individual reinsurers or reinsurance related issues by allowing interested state insurance regulators the opportunity to monitor the ReFAWG meetings and discussion. It should be noted that the process for engaging ReFAWG in the consideration of an application is intended to be flexible. Specific circumstances may necessitate discussion between ReFAWG and any states that have received any application in order to determine an appropriate lead state on a case-by-case basis.
- f. **Change of Lead State** - The Lead State may change based upon mutual agreement between the current lead state and any other state where the reinsurer is certified, with input to be provided by ReFAWG. Upon a change in lead state, NAIC staff will provide timely notification to all states. In order to facilitate a change of lead state from one state to another, both states should discuss the rationale for the change during a regulator-only ReFAWG meeting. NAIC Staff will update the lead state and note such change on NAIC systems and send notice to ReFAWG and interested regulators.

3. **ReFAWG Review Process for Certified Reinsurers**

ReFAWG makes available to the states a *Uniform Application Checklist for Certified Reinsurers* (Exhibit 1) for certification of reinsurers based upon the requirements of the Credit for Reinsurance Model Law and Regulation. It is intended that the checklist be used by lead states for the initial/renewal application review and by ReFAWG in its review of Passporting requests.

The following provide a timeline for filings:

Timeline Event	Required Date
Required Documents Filed with Lead State	June 30
Required Passporting Documents Uploaded to NAIC ReFAWG Database	August 31
NAIC Staff Re-Certification Review Process and Conference Calls	September 1 – November 30
All Passporting Re-Certifications Completed	December 1
Effective Date of Passporting Re-Certification	1/1/xx to 12/31/xx (Next Calendar Year)
Applications for Passporting	1/1/xx to 12/31/xx

In order to be eligible for certification, the assuming insurer shall meet the following requirements:

- a. **Qualified Jurisdiction** - The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction. The applicant must be in good standing and provide a copy of the certificate of authority or license to transact insurance and/or reinsurance business.
- b. **Capital and Surplus** - The assuming insurer must maintain capital and surplus of no less than \$250,000,000 as reported within its audited financial statement. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000.
- c. **Financial Strength Ratings** - The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. The applicant must provide the rating agency report. If the rating is a group rating, the rationale for the group rating must be provided. Initial or Affirmed financial strength rating dates must be within 15 months of the application date/renewal filing date. Acceptable rating agencies include: A.M. Best, Fitch Ratings, Moody's, Standard & Poor's or any other Nationally Recognized Statistical Rating Organization by the SEC. *Kroll is not recognized as an acceptable rating organization in Model #786 but has been recognized as an acceptable rating organization by the Reinsurance (E) Task Force.*
- d. The following table outlines the necessary ratings needed to meet a secure level:

<u>Ratings</u>	<u>Collateral Required</u>	<u>A.M. Best</u>	<u>Standard & Poor's</u>	<u>Moody's</u>	<u>Fitch</u>	<u>Kroll</u>
Secure – 1	0%	A++	AAA	Aaa	AAA	AAA
Secure – 2	10%	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-	AA+, AA, AA-
Secure – 3	20%	A	A+, A	A1, A2	A+, A	A+, A
Secure – 4	50%	A-	A-	A3	A-	A-
Secure – 5	75%	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-	BBB+, BBB, BBB-
Vulnerable – 6	100%	B, B-C++, C+, C, C-, D, E, F	BB+, BB, BB, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB, B+, B, B-, CCC+, CC, CCC-, DD	BB+, BB, BB- , B+, B, B-, CCC, CC, C, D

- e. **Protocol for Considering a Group Rating** - Section 8B(4) of the *Credit for Reinsurance Model Regulation* (#786) provides, in relevant part: “Each certified reinsurer shall be rated on a legal entity basis, **with due consideration being given to the group rating where appropriate....**” Understanding the rating agency basis for utilizing a group rating is a key factor in determining whether an applicant’s group rating may be considered appropriate. The recommended protocol for understanding the rationale involves one or more of the following protocol steps:
- i. For reasons set forth in the rating agency report or its published ratings standards or guidelines, the rating agency utilizes the group rating as a consequence of finding that the company had sufficient interconnectivity with the group;
 - ii. For reasons set forth in the rating agency report or its published ratings standards or guidelines, the rating agency enhances the group rating due to the subsidiary’s potential benefit of capital support from one or more affiliated companies;
 - iii. The group rating was utilized because the subsidiary derives benefit from its inclusion within a financially strong and well-capitalized insurance group;
 - iv. The lead state has contacted the rating agency and was provided a written explanation for the use of the group rating;

- v. Other factors deemed appropriate by the Reinsurance Financial Analysis (E) Working Group; or
- vi. To assist the Lead State in the assessment of the appropriateness of the use of a group rating, applicants are encouraged to provide their rationale for the use of a group rating.

f. Changes in Ratings

Section 8(B)(7)(a) of Model #786 provides that a certified reinsurer is required to notify the Commissioner of a certifying state within 10 days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons. The certified reinsurer may also fulfill this requirement by notifying its Lead State commissioner, with this information being distributed to other certifying states by the NAIC through the ReFAWG process. Upon receipt of any such notification, a certifying state should immediately notify ReFAWG in order to facilitate communication of the information to other states. ReFAWG will subsequently send notification to all applicable regulators and may coordinate an interim meeting as deemed appropriate in order to discuss the issue(s).

Changes requiring action by a certifying state in accordance with statute and/or regulation may include but are not limited to: deterioration in financial condition; downgrade in a financial strength rating; change in the status of its domiciliary license; change in the qualification status of its domestic jurisdiction; and the triggering of certain thresholds with respect to reinsurance obligations to U.S. ceding insurers that are past due (in accordance with Section 8(B) of Model #786). While such changes may require action under statute or regulation, the ReFAWG process is intended to facilitate communication and coordination with respect to the date upon which changes in a certified reinsurer's rating/status are effective, as well as discussion of any other relevant issues. As part of the ongoing review process, other information may come to the attention of a certifying state and/or ReFAWG that warrants consideration with respect to a certified reinsurer's rating/status. While ReFAWG cannot require a state to delay any action with respect to a certified reinsurer's rating/status, certifying states are strongly encouraged to notify ReFAWG prior to taking any related action, as the ReFAWG process will serve to provide a proactive regulatory mechanism for communication of such information, discussion among regulators with respect to changes being considered on the basis of subjective rating criteria, and possible coordination of applicable effective dates if such changes are enacted. Upon receipt of any such information, ReFAWG will send notification to the NAIC Chief Financial Regulators listing and may coordinate an interim meeting as deemed appropriate in order to discuss the issue(s).

- g. **Schedule F/S (Ceded Reinsurance)** – Applicants domiciled in the U.S. must provide the most recent NAIC Annual Statement Blank Schedule F (property/casualty) and/or Schedule S (life and health). Applicants domiciled outside the U.S. must provide Form CR-F (property/casualty) and/or Form CR-S (life and health), completed in accordance with the instructions.

- h. **Disputed and/or Overdue Reinsurance Claims** - The applicant must provide a detailed explanation regarding reinsurance obligations to U.S. cedents that are in dispute and/or more than 90 days past due that exceed 5% of its total reinsurance obligations to U.S. cedents as of the end of its prior financial reporting year or reinsurance obligations to any of the top 10 U.S. cedents (based on the amount of outstanding reinsurance obligations as of the end of its prior financial reporting year) that are in dispute and/or more than 90 days past due exceed 10% of its reinsurance obligations to that U.S. cedent. The applicant must then provide a description of its business practices in dealing with U.S. ceding insurers and a statement that the applicant commits to comply with all contractual requirements applicable to reinsurance contracts with U.S. ceding insurers.
- i. **Mechanisms Used to Secure Obligations Incurred as a Certified Reinsurer** - The applicant must specify the mechanisms it will use to secure obligations incurred as a Certified Reinsurer. Use of multi-beneficiary trust must include: (1) approval from the domiciliary regulator; (2) the form of the trust that will be used as a certified reinsurer; and (3) the form of the trust that will be used to secure obligations incurred outside of the applicant's certified reinsurer status (if applicable).
- j. **Regulatory Actions** – The applicant must provide a description of any regulatory actions taken against the applicant. Include details on all regulatory actions, fines, and penalties. Further, a description of any changes in with respect to the provisions of the applicant's domiciliary license should be provided.
- k. **Audited Financial Report and Actuarial Opinion** – As filed with its non-U.S. jurisdiction supervisor, with a translation into English, the applicant must file audited financial statement for the current and prior year and an actuarial opinion (must be stand-alone, or the functional equivalent under the Supervisor's applicable Actuarial Function Holder Regime).
- l. **Solvent Schemes of Arrangement** - The applicant must provide a description of any past, present, or proposed future participation in any solvent scheme of arrangement, or similar procedure, involving U.S. ceding insurers.
- m. **Form CR-1** - The applicant must provide a state lead state specific Form CR-1, which must be properly executed by an officer authorized to bind the applicant to the commitments set forth in the form.
- n. **Other Requirements** - The applicant must commit to comply with other reasonable requirements deemed necessary for certification by the certifying state. Further, the applicant must provide a statement that it agrees to post 100% security upon the entry of an order of rehabilitation or conservation against the ceding insurer or its estate.
- o. **Public Notice** - The commissioner is required to post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least 30 days after posting such notice. The commissioner will consider any comments received during the public notice period with respect to this application.

4. Certified Reinsurers – Certified by Another NAIC Accredited Jurisdiction

If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the state has the discretion to defer to that jurisdiction's certification and assigned rating (i.e., passporting) as provided in the *Uniform Application Checklist for Certified Reinsurers* (Exhibit 1).

To assist in the determination to defer to another jurisdiction's certification the following documents are required:

- a. **Qualified Jurisdiction** - The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction.
- b. **Verification of Certification Issued by an NAIC Accredited Jurisdiction** – The applicant must provide a copy of the approval letter or other documentation provided to the applicant by the NAIC accredited jurisdiction. The letter should include the state, rating and collateral percentage assigned, effective date, lines of business, and the applicant's statement on compliance. ReFAWG may also verify a certification issued by an NAIC accredited jurisdiction through its internal processes.
- c. **Mechanisms Used to Secure Obligations Incurred as a Certified Reinsurer** - The applicant must specify the mechanisms it will use to secure obligations incurred as a Certified Reinsurer. Use of multi-beneficiary trust must include: (1) approval from the domiciliary regulator; (2) the form of the trust that will be used as a certified reinsurer; and (3) the form of the trust that will be used to secure obligations incurred outside of the applicant's certified reinsurer status (if applicable).
- d. **Form CR-1** - The applicant must provide a state lead state specific Form CR-1, which must be properly executed by an officer authorized to bind the applicant to the commitments set forth in the form.
- e. **Other Requirements** - The applicant must commit to comply with other reasonable requirements deemed necessary for certification by the certifying state. Further, they must provide a statement that they agree to post 100% security upon the entry of an order of rehabilitation or conservation against the ceding insurer or its estate.
- f. **Public Notice** - The commissioner is required to post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least 30 days after posting such notice. The commissioner will consider any comments received during the public notice period with respect to this application.

5. Reciprocal Jurisdiction Process - Initial Application to Lead State

Annual Verification of Minimum Standards:

<u>Timeline Event</u>	<u>Required Date</u>
<u>Required Documents Filed with Lead State</u>	<u>June 30</u>
<u>Required Passporting Documents Uploaded to NAIC ReFAWG Database</u>	<u>August 31</u>
<u>NAIC Staff Re-Verification Process and Conference Calls</u>	<u>September 1 – November 30</u>
<u>All Passporting Re-Verifications Completed</u>	<u>December 1</u>
<u>Effective Date of Passporting Re-Verification</u>	<u>1/1/xx to 12/31/xx (Next Calendar Year)</u>
<u>Applications for Passporting</u>	<u>1/1/xx to 12/31/xx</u>

Pursuant to the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers* (Exhibit 2), the “Lead State” will uniformly require assuming insurers to provide the following documentation so that other states may rely upon the Lead State’s determination:

- a. **Status of Reciprocal Jurisdiction** - The assuming insurer must be licensed to write reinsurance by, and ~~has~~have its head office or ~~is~~be domiciled in, a Reciprocal Jurisdiction that is listed on the *NAIC List of Reciprocal Jurisdictions*. A “Reciprocal Jurisdiction” is a jurisdiction, as designated by the commissioner, that meets one of the following: (1) a non-U.S. jurisdiction that is subject to an in-force Covered Agreement with the United States; (2) a U.S. jurisdiction that meets the requirements for accreditation under the NAIC Financial Standards and Accreditation Program; or (3) a Qualified Jurisdiction that has been determined by the commissioner to meet all applicable requirements to be a Reciprocal Jurisdiction. The Reciprocal Jurisdiction Reinsurer should identify which type of jurisdiction it is domiciled in and provide any documentation to confirm this status if requested by the commissioner.
- b. **Minimum Capital and Surplus** - The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction: no less than \$250,000,000 (USD); or if the assuming insurer is an association, including incorporated and individual unincorporated underwriters: minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250,000,000 (USD); and a central fund containing a balance of the equivalent of at least \$250,000,000 (USD). The assuming insurer’s supervisory authority must confirm to the Lead State commissioner on an annual basis according to the methodology of its domiciliary jurisdiction that the assuming insurer ~~complies with~~satisfies this requirement. The Mutual Recognition of Jurisdictions (E) Working Group will coordinate the confirmations of the domiciliary jurisdictions with ReFAWG with respect to individual Reciprocal Jurisdiction Reinsurers.

- c. **Minimum Solvency or Capital Ratio** - The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio. The ratio specified in the applicable in-force Covered Agreement where the assuming insurer has its head office or is domiciled; or if the assuming insurer is domiciled in an accredited state, a risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, calculated in accordance with the formula developed by the NAIC; or if the assuming insurer is domiciled in a Reciprocal Jurisdiction that is a Qualified Jurisdiction, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency. The assuming insurer's supervisory authority must confirm to the Lead State commissioner on an annual basis that the assuming insurer complies with this requirement. The Mutual Recognition of Jurisdictions (E) Working Group will coordinate the confirmations of the domiciliary jurisdictions with ReFAWG with respect to individual Reciprocal Jurisdiction Reinsurers.
- d. **Form RJ-1** - The assuming insurer must ~~agree to and~~ provide a signed Form RJ-1, which must be properly executed by an officer of the assuming insurer.
- e. **Audited Financial Report** - The assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report as provided under Section 9C(5)(a) of Model #786.
- f. **Solvency and Financial Condition Report or Actuarial Opinion** – The applicant must submit a solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor as provided under Section 9C(5)(b) of Model #786.
- g. **Overdue Reinsurance Claims** – The applicant must submit a list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States as provided under Section 9C(5)(c) of Model #786.
- h. **Assumed and Ceded Reinsurance Schedules** – The applicant must submit information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer as provided under Section 9C(5)(d) of Model #786. Applicants domiciled in the U.S. must provide the most recent NAIC Annual Statement Blank Schedule F (property/casualty) and/or Schedule S (life and health). Applicants domiciled outside the U.S. may provide this information using Form CR-F (property/casualty) and/or Form CR-S (life and health), which ReFAWG considers sufficient to meet this requirement. This is for purposes of evaluating Prompt Payment of Claims. Alternatively, information as outlined in paragraph 3.h of the ReFAWG Review Process regarding the U.S. cedents of Reciprocal Jurisdiction Reinsurers that is voluntarily submitted may also be accepted by states. If the commissioner has reason to believe the reinsurer has material unpaid claims outside of the U.S., the commissioner may request the reinsurer to provide the information required to demonstrate the reinsurer's practice of prompt payment of claims under its reinsurance agreements.

- i. **Prompt Payment of Claims** - The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met: (1) more than fifteen percent (15%) of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner; (2) more than fifteen percent (15%) of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100,000, or as otherwise specified in a Covered Agreement; or (3) the aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50,000,000, or as otherwise specified in a Covered Agreement.

6. Reciprocal Jurisdiction Process – Passporting States

Per the *Uniform Checklist for Reciprocal Jurisdiction Reinsurers* (Exhibit 2), if an NAIC accredited jurisdiction has determined that the conditions set forth under the *Filing Requirements for Lead States* have been met, the commissioner has the discretion to defer to that jurisdiction's determination and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit. The commissioner may accept financial documentation filed with the Lead State or with the NAIC. The following document is required to be filed with the state:

- a. **Form RJ-1** - The assuming insurer must ~~agree to and~~ provide a signed Form RJ-1, which must be properly executed by an officer of the assuming insurer.
- b. **Verification of Determination Issued by an NAIC Accredited Jurisdiction** – The applicant must provide a copy of the approval letter or other documentation provided to the applicant by the NAIC accredited jurisdiction. The letter should include the state, effective date, and lines of business.

7. NAIC Staff Review of ~~Certified and Reciprocal Jurisdiction~~ Reinsurers

The reinsurer will file this information with the initial reviewing state and such Lead State will submit the information to ReFAWG in accordance with the applicable information sharing process. This submission by the Lead State will also facilitate other states' access to the information. NAIC staff shall prepare a report for review by ReFAWG intended to provide information regarding whether the Lead State's submission meets the requirements of the ReFAWG Review Process, and to determine whether there are any deficiencies in the application. This report will be considered confidential but may be made available to states through the NAIC's information sharing process.

NAIC Staff under the direction of ReFAWG will assist in the review of the filings and in monitoring the ongoing condition of the reinsurers. If during the review process or during an interim period ReFAWG determines that a reinsurer's assigned rating or status may warrant reconsideration, notice will be sent to the Lead State. The specific issues identified will be presented for discussion during the next ReFAWG meeting.

8. Process for Ongoing Monitoring of ~~Certified~~ Reinsurers

Certified and ~~Reciprocal~~ Jurisdiction ~~Reinsurers~~ are required to file specific information to a certifying state on an ongoing basis. NAIC Staff and ReFAWG will review this information in an effort to assist states with the ongoing monitoring of the reinsurers. Subject to applicable state law, a ~~All non-public information submitted by reinsurers shall be kept confidential and regulator only, which is not otherwise public information subject to disclosure shall be exempted from disclosure under the state's law equivalent of its Freedom of Information Act and shall be withheld from public disclosure.~~

9. Withdrawal/Termination of a Certified or Reciprocal Jurisdiction Reinsurer

When a reinsurer requests to withdraw its status or the lead state terminates the reinsurer's status as a certified or reciprocal reinsurer, notice of this action should be promptly conveyed to the appropriate NAIC Staff. Once NAIC Staff receives notification of withdrawal or termination, the Passported Certified Reinsurers List(s) will be updated to reflect this status change. The Passported reinsurer will follow the lead state's laws regarding its withdrawal or termination regarding any active reinsurance contracts.

10. Interaction Between Certified Reinsurers and Reciprocal Jurisdiction Reinsurers

- a. Under Section 8A(5) Model #786, credit for reinsurance shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer with respect to Certified Reinsurers. Under Section 2F(7) of the *Credit for Reinsurance Model Law* (#785), credit shall be taken with respect to Reciprocal Jurisdiction Reinsurers only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements to be designated a Reciprocal Jurisdiction Reinsurer, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.
- b. It is expected that certain assuming insurers may be considered to be Certified Reinsurers for purposes of in-force business or business with existing liabilities and Reciprocal Jurisdiction Reinsurers with respect to reinsurance agreements entered into, amended, or renewed on or after the effective date. In addition, these same reinsurers may also have certain blocks of business that are fully collateralized under the prior provisions of Model #785 and Model #786. The NAIC Blanks ~~will behave been~~ amended to reflect the status of these reinsurers with respect to each type of insurance assumed.
- c. With respect to those reinsurers that are currently Certified Reinsurers but are seeking recognition by ReFAWG as Reciprocal Jurisdiction Reinsurers for passporting purposes, the same process as outlined in paragraphs 3-6 of this ReFAWG Review Process must be followed. A Form RJ-1 must be filed with each state in which the reinsurer seeks recognition as a Reciprocal Jurisdiction Reinsurer, and the reinsurer must meet all other applicable requirements. However, states may share this information with other states through the NAIC and the ReFAWG Review Process, and previously filed information used in the review of the reinsurer as a Certified Reinsurer may also

be utilized in its review as a Reciprocal Jurisdiction Reinsurer. For example, a Reciprocal Jurisdiction Reinsurer may cross reference information/documentation that has been filed with respect to its status as a Certified Reinsurer, so that it is not necessary to file duplicative documents. ReFAWG will take full advantage of the passporting process, with the intent of reducing the amount of documentation filed with the states and reduce duplicate filings.

e.d. During the initial phases of the implementation of the review of Reciprocal Jurisdiction Reinsurers, not all states may have fully implemented their internal processes for performing these reviews. During this interim period, if a Reciprocal Reinsurer has been approved by a lead state and ReFAWG, the Reciprocal Jurisdiction Reinsurer may seek passporting approval from other states that have adopted the model law and regulation even where a formal internal process for doing so has not yet been finalized. States and Reciprocal Jurisdiction Reinsurers are encouraged to communicate on these issues and, as appropriate, to coordinate through the NAIC to facilitate the passporting process.

11. Commissioner Shall Create and Publish Lists

Section 2E(3) of Model #785 and Section 8C(1) of Model #786 require the commissioner to publish a list of Qualified Jurisdictions, while Section 2E(4) of Model #785 and Section 8B(2) of Model #786 require the commissioner to publish a list of all Certified Reinsurers and their ratings. Section 2F(2) & (3) of Model #785 and Section 9D and E of Model #786 require the commissioner to (a) timely create and publish a list of Reciprocal Jurisdictions; and (b) timely create and publish a list of Reciprocal Jurisdiction Reinsurers. It is expected that the commissioner will publish these respective lists on the insurance department's website, along with special instructions or other guidance as to how Certified Reinsurers and Reciprocal Jurisdiction Reinsurers may meet the applicable filing requirements under the models. There currently are no specific requirements as to the format in which these lists must be published, but ReFAWG and NAIC staff will assist the states with questions on the publication of these lists. In addition, ReFAWG will maintain links on its NAIC webpage to the lists published on the insurance departments' webpages.

Att 2 ReFAWG Review Process 9-17-2021.docx



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October 8, 2021

VIA ELECTRONIC MAIL

Mr. Jake Stultz
Senior Accounting and Reinsurance Policy Advisor
National Association of Insurance Commissioners
1100 Walnut Street Suite 1500
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Mr. Daniel Schelp
Chief Counsel, Regulatory Affairs
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: International Underwriting Association of London (IUA) Comments on the September 17th Draft of the ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers (the “Review Process”)

Dear Mr. Stultz and Mr. Schelp:

Thank you for the opportunity to again, on behalf of the International Underwriting Association of London (IUA), submit comments on the Review Process. The IUA and its members that maintain certified reinsurer status and that plan to obtain reciprocal reinsurer status remain vitally interested in working with the NAIC and state regulators in these two areas. The IUA and its members truly appreciate the changes that have been made in the September 17th draft of the Review Process, particularly:

- the statement in section 2.d. that encourages states “to support a uniform submission and approval process” for both certified and reciprocal reinsurers;
- the affirmations: (i) in section 3.f. that ReFAWG will seek to centralize notifications to certifying states as to ratings changes, and (ii) in section 5.b. that ReFAWG will coordinate with the Mutual Recognition Working Group to ensure that with respect to reciprocal reinsurers that a single annual home country regulator certification as to maintenance of minimum capital and surplus and satisfaction of minimum capital and solvency ratios will be made available to all states; and
- in section 10.c. permitting reinsurers that have secured certified reinsurer status to cross-reference information and documentation already compiled and filed so that duplicate filings of such information and documentation can be eliminated in the reciprocal reinsurer process.

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US practice conducted through McDermott Will & Emery LLP.

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October 8, 2021
Page 2

As you know, in our initial July 19th comment letter, we addressed at length the subject of disputed and overdue claims and the disclosure differences between certified and reciprocal reinsurers in the event that there are disputed or overdue claims. For reinsurers that will maintain status as both certified and reciprocal reinsurers, we continue to urge that lead states and ReFAWG adopt what would be in essence a two stage review process at least during a transition period when the same reinsurer has both certified and reciprocal reinsurer status—first, apply the certified reinsurer metrics and second, as and when necessary, apply the reciprocal reinsurer metrics. We have quoted below for ease of reference the relevant paragraph from our July 19th letter

“....assuming that the Certified/Reciprocal Reinsurer making a filing triggers either of the Certified Reinsurer disputed and overdue metrics—one for individual cedents (more than 10% of obligations owed to any Top 10 cedent) and the other for the reinsurer’s portfolio of assumed reinsurance from U.S. cedents (5% of all U.S. reinsurance obligations), the Lead State or ReFAWG could then require preparation of a Reciprocal Reinsurer-specific disputed or overdue claims report using the metrics in the two Covered Agreements and in Section 5.i. of the ReFAWG Review Process. Specifically, for the reinsurer’s book of U.S. reinsurance business overall are the disputed or overdue obligations in excess of 15% of the reinsurer’s total book? And for individual reinsureds, if more than 15% of them have overdue (undisputed) recoverables, does the reinsurer owe more than \$100,000 to each of them?”

For all reinsurers that will be both certified and reciprocal reinsurers for the foreseeable future, we believe that the September 17th draft of the Review Process materially advances the overarching goal of promoting uniformity and consistency with respect to the passport processes for both certified and reciprocal reinsurers. The IUA and its members will be pleased to continue working with lead states and the ReFAWG to improve and fine tune the review process based on experience in the coming years.

Yours sincerely,



Thomas M. Dawson

Cc: A. Best – MWE
J. Finston - MWE

**McDermott
Will & Emery**

October 8, 2021

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

Re: NAIC Request for Comments on Revised ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers

Dear Director Lindley-Myers:

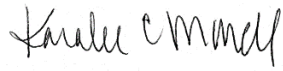
The Reinsurance Association of America (RAA) appreciates the opportunity to submit comments on the NAIC's revised exposure draft of the ReFAWG Review process for Passporting Certified and Reciprocal Jurisdiction Reinsurers. The Reinsurance Association of America (RAA) is a national trade association representing reinsurance companies doing business in the United States. RAA membership is diverse, including reinsurance underwriters and intermediaries licensed in the U.S. and those that conduct business on a cross-border basis. The RAA also has life reinsurance affiliates and insurance-linked securities (ILS) fund managers and market participants that are engaged in the assumption of property/casualty risks. The RAA represents its members before state, federal and international bodies.

We appreciate the Reinsurance Task Force's continued thoughtful engagement with respect to implementation of its 2019 revisions to the NAIC Credit for Reinsurance Model Law and Model Regulation, including its continued work on the passporting process for certified and reciprocal jurisdiction reinsurers. As we have stated previously, this is an important part of the implementation process for the U.S./EU and U.S./UK covered agreements and in the NAIC's broader revision of the credit for reinsurance framework in the U.S. The revised draft of the ReFAWG Review process for Passporting Certified and Reciprocal Jurisdiction Reinsurers provides needed clarification and guidance for industry and we support the changes as reflected in the draft.

In addition, we continue to urge states to include guidance regarding the NAIC ReFAWG passporting process – along with other NAIC resources relating to Certified and Reciprocal Reinsurers and Qualified and Reciprocal Jurisdictions – on state websites. In addition, each state should specify on its website its process for entertaining applications for Reciprocal Reinsurers, including whether they are open to passporting so that a company seeking to do business through this process knows and understands the process it must complete in that jurisdiction. Further, we believe it would be helpful for ReFAWG and the NAIC to draft sample document(s) that states could evaluate, use or adapt in developing their own websites and related processes for Certified and Reciprocal reinsurers. This would help ensure clarity, consistency and expediency in the process for both state regulators and applicants.

We would be happy to answer any questions or discuss any concerns.

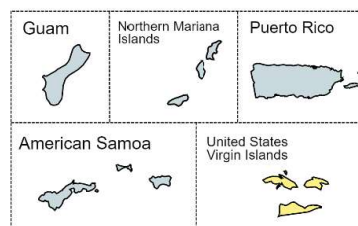
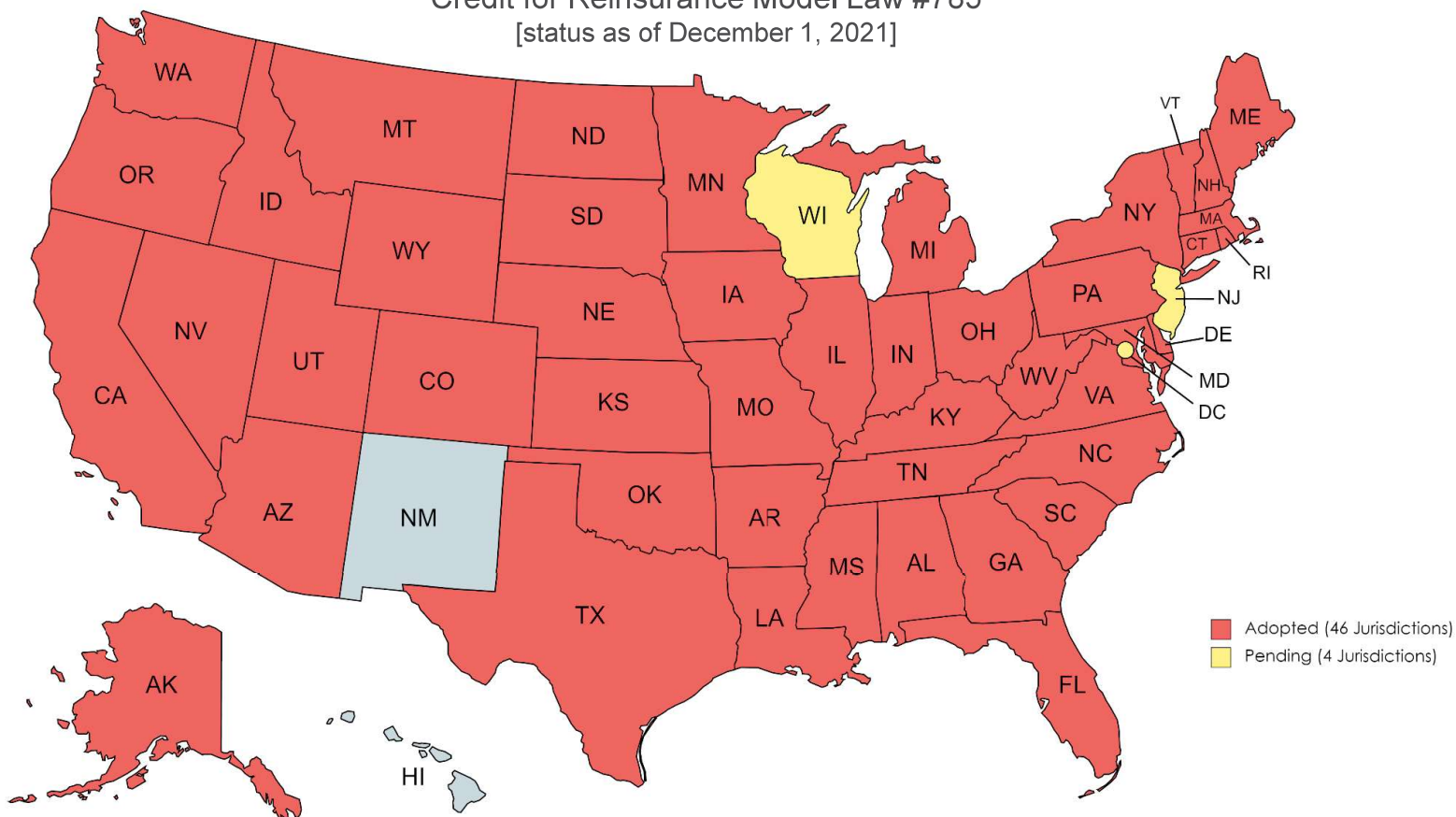
Sincerely,



Karalee C. Morell
SVP and General Counsel
Reinsurance Association of America

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comment letters.pdf

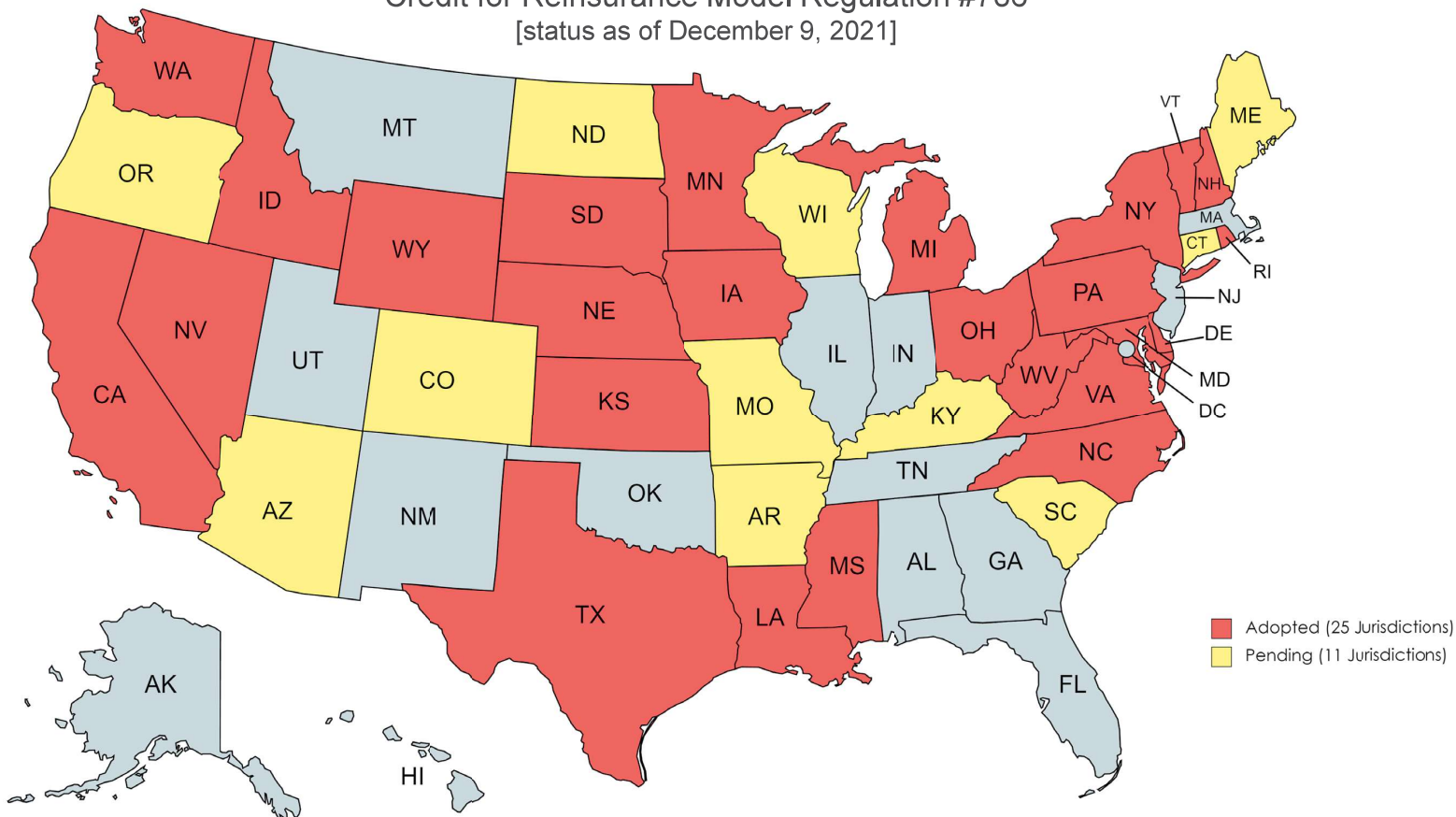
Implementation of the 2019 Revisions to the
Credit for Reinsurance Model Law #785
[status as of December 1, 2021]



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Implementation of the 2019 Revisions to the
Credit for Reinsurance Model Regulation #786
[status as of December 9, 2021]

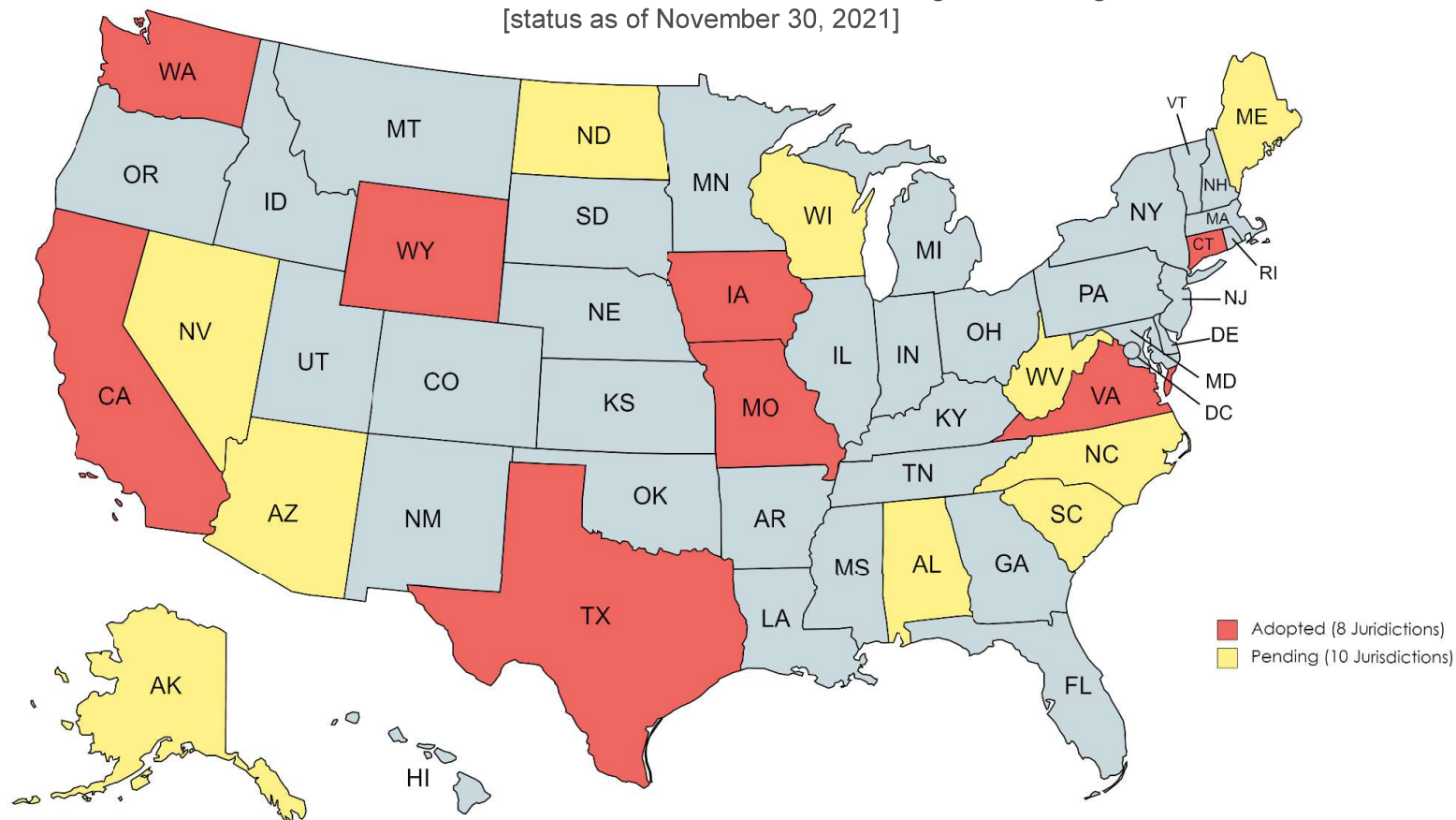


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<https://naiconline.sharepoint.com/:b:/r/sites/NAICSupportStaffHub/Members%20Meetings/Fall%202021/TF/Reinsurance/National%20Meeting/Minutes/Att%204%20785%20786%202019%2012.9.2021%20final.pdf?csf=1&web=1&e=iImqwY>

Implementation of Model #787 (XXX/AXXX)
Term and Universal Life Insurance Reserve Financing Model Regulation
[status as of November 30, 2021]



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<https://naiconline.sharepoint.com/:b:/r/sites/NAICSupportStaffHub/Member%20Meetings/Fall%202021/TF/Reinsurance/National%20Meeting/Minutes/Att%205%20787%2011.30.2021%20final.pdf?csf=1&web=1&c=fGzWoM>