

Date: 12/3/21

2021 Fall National Meeting
San Diego, California

REINSURANCE (E) TASK FORCE

Monday, December 13, 2021

9:00 – 10:00 a.m.

Hilton—Indigo Ballroom AE—Level 2

ROLL CALL

Chlora Lindley-Myers, Chair	Missouri	Eric A. Cioppa	Maine
Raymond G. Farmer, Vice Chair	South Carolina	Gary D. Anderson	Massachusetts
Jim L. Ridling	Alabama	Troy Downing	Montana
Lori K. Wing-Heier	Alaska	Eric Dunning	Nebraska
Peni Itula Sapini Teo	American Samoa	Chris Nicolopoulos	New Hampshire
Alan McClain	Arkansas	Marlene Caride	New Jersey
Ricardo Lara	California	Russell Toal	New Mexico
Michael Conway	Colorado	Adrienne A. Harris	New York
Andrew N. Mais	Connecticut	Mike Causey	North Carolina
Trinidad Navarro	Delaware	Jon Godfread	North Dakota
David Altmaier	Florida	Judith L. French	Ohio
John F. King	Georgia	Glen Mulready	Oklahoma
Dana Popish Severinghaus	Illinois	Elizabeth Kelleher Dwyer	Rhode Island
Amy L. Beard	Indiana	Cassie Brown	Texas
Doug Ommen	Iowa	Jonathan T. Pike	Utah
Vicki Schmidt	Kansas	Michael S. Pieciak	Vermont
Sharon P. Clark	Kentucky	Scott A. White	Virginia
James J. Donelon	Louisiana	Mark Afable	Wisconsin

NAIC Support Staff: Jake Stultz/Dan Schelp

AGENDA

1. Consider Adoption of its Summer National Meeting Minutes
—*John Rehagen (MO)* Attachment One
2. Consider Adoption of the Report of the Reinsurance Financial Analysis (E)
Working Group—*Rolf Kaumann (CO)*
3. Consider Adoption of the *ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers*—*John Rehagen (MO)*
 - A. Draft *ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers* Attachment Two
4. Receive a Status Report on Reinsurance Activities of the Mutual Recognition of Jurisdictions (E) Working Group—*Robert Wake*

5. Receive a Status Report on the States' Implementation of the 2019 Revisions to the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786)—*John Rehagen (MO)* Attachment Three
6. Receive a Status Report on the States' Implementation of the *Term and Universal Life Insurance Reserve Financing Model Regulation* (#787)—*John Rehagen (MO)* Attachment Four
7. Discuss Any Other Matters Brought Before the Task Force—*John Rehagen (MO)*
8. Adjournment

[https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member meetings/fall 2021/tf/reinsurance/national meeting/meeting materials/0 rtf 12.2021 agenda.docx](https://naiconline.sharepoint.com/sites/naicsupportstaffhub/member%20meetings/fall%202021/tf/reinsurance/national%20meeting/meeting%20materials/0%20rtf%2012.2021%20agenda.docx)

Draft: 8/9/21

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

The Reinsurance (E) Task Force met July 27, 2021. The following Task Force members participated: Chlora Lindley-Myers, Chair, represented by 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 Richard Ford (AL); Ricardo Lara represented by Monica Macaluso (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Kathy Belfi (CT); Trinidad Navarro represented by Dave Lonchar (DE); David Altmaier represented by Robert Ridenour (FL); Doug Ommen represented by Kevin Clark (IA); Dana Popish Severinghaus represented by Eric Moser and Susan Berry (IL); Amy L. Beard represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); Sharon P. Clark represented by Russell Coy and Rodney Huggle (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); Mike Causey represented by Monique Smith (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 John Tirado (NJ); Russell Toal (NM); Linda A. Lacewell represented by Michael Campanelli (NY); Judith L. French represented by Dale Bruggeman (OH); Glen Mulready represented by Eli Snowbarger (OK); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Doug Slape represented by Jamie Walker (TX); Jonathan T. Pike represented by Natasha Robinson (UT); Scott A. White represented by David Smith and Doug Stolte (VA); Michael S. Pieciak represented by David Provost (VT); and Mark Afable represented by Randy Milquet (WI).

1. Adopted its Spring National Meeting Minutes

Superintendent Toal made a motion, seconded by Ms. Crawford, to adopt the Task Force's March 23 minutes (*see NAIC Proceedings – Spring 2021, Reinsurance (E) Task Force*). The motion passed unanimously.

2. Adopted its 2022 Proposed Charges

Superintendent Toal made a motion, seconded by Ms. Smith, to adopt the 2022 proposed charges of the Task Force and the Reinsurance Financial Analysis (E) Working Group (Attachment One). The motion passed unanimously. Mr. Rehagen noted that the Qualified Jurisdiction (E) Working Group was renamed to be the Mutual Recognition of Jurisdictions (E) Working Group and now reports directly to the Financial Condition (E) Committee.

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

Mr. Kaumann provided the report of the Reinsurance Financial Analysis (E) Working Group. He stated that the Working Group met April 13 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss proposed revisions to the *Reinsurance Financial Analysis (E) Working Group Procedures Manual* (ReFAWG Manual). He noted that the ReFAWG Manual is a regulator-only document that is being updated to reflect the 2019 revisions to the *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786). He noted that the Working Group also plans to meet several more times during 2021 to complete the reviews of the certified reinsurers and to discuss any new applications.

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

4. Adopted the Draft Revisions to the *Process for Evaluating Qualified and Reciprocal Jurisdictions*

Mr. Rehagen stated that the draft revisions to the *Process for Evaluating Qualified and Reciprocal Jurisdictions* incorporate provisions for terminating the status of a qualified jurisdiction or reciprocal jurisdiction and create a passporting process for reciprocal jurisdictions. He noted that these revisions were discussed on March 17 by the Qualified Jurisdiction (E) Working Group in regulator-only session and were exposed for a 30-day public comment period on March 23, and four comment letters (Attachment Two) were received.

Mr. Rehagen stated that the renamed Mutual Recognition of Jurisdictions (E) Working Group then met on May 27 and incorporated the suggested revisions from the comment letters and made some minor revisions related to the name change. He

noted that NAIC staff met with the Federal Insurance Office (FIO), which provided several suggested revisions that were included in an additional handout sent out before this meeting (Attachment Three). Mr. Wake provided a summary of the revisions and recommended that the Task Force adopt the updated *Process for Evaluating Qualified and Reciprocal Jurisdictions*, with the FIO suggested revisions. Dan Schelp (NAIC) noted that these revisions are nonsubstantive in nature and are consistent with 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 the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance” (UK Covered Agreement), as well as with Model #785 and Model #786. Ms. Macaluso and Mr. Kaumann stated that they agree with Mr. Schelp.

Mr. Wake made a motion, seconded by Superintendent Toal, to adopt the revisions to the *Process for Evaluating Qualified and Reciprocal Jurisdictions* (Attachment Four), with the additional revisions included in Attachment Three. The motion passed unanimously.

5. Discussed the Draft ReFAWG Review Process

Mr. Rehagen stated that the *ReFAWG Review Process for Passporting Certified and Reciprocal Jurisdiction Reinsurers* (ReFAWG Review Process) (Attachment Five) was created to aid in the implementation process of the 2019 revisions to Model #785 and Model #786 and intends to clarify the processes for the passporting of certified reinsurers and reciprocal jurisdiction reinsurers. He noted that the document was released for initial exposure on June 17 for 30 days, and six comment letters (Attachment Six) were received. Mr. Rehagen noted that because of the comments received, the Task Force will refer the document to the Working Group, which will evaluate the comments and recommend any revisions back to the Task Force.

Suzanne Williams-Charles (Association of Bermuda Insurers and Reinsurers—ABIR) stated she supports the passporting processes and recommends updating the ReFAWG Review Process to eliminate the need for duplicate information for reciprocal jurisdiction reinsurers that are also certified reinsurers. She also recommended consistent filing dates for both reciprocal jurisdiction reinsurers and certified reinsurers and suggested permitting reciprocal jurisdiction reinsurers to submit evidence of their minimum capital and surplus and minimum solvency or capital ratio requirement status directly to state insurance regulators on behalf of their supervisory regulators.

Thomas Dawson (on behalf of the International Underwriting Association of London—IUA) stated that he agrees with Ms. Williams-Charles’ statements and emphasized the importance of a consistent filing date and requirements for both certified and reciprocal jurisdiction reinsurers. He noted that some reinsurers will have a different lead state for its certified reinsurer status and its reciprocal jurisdiction reinsurer status.

Steve Clayburn (American Council of Life Insurers—ACLI) recommended that the process use efficiencies for situations where the certified reinsurer status and reciprocal jurisdiction reinsurer status have overlapping requirements.

Karalee Morrell (Reinsurance Association of America—RAA) stated that she would like the process document to clarify which aspects of the process applied to certified reinsurers, which applied to reciprocal jurisdiction reinsurers, and which applied to both types. She also recommended revising the process document to clarify between the requirements imposed by a lead state and those imposed by a state where an applicant is seeking to do business, and she added that she supports the passporting process.

6. Discussed the Republic of Korea Application to Become a Qualified Jurisdiction

Mr. Rehagen 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 exposed the *Republic of Korea: Final Evaluation Report* (Attachment Seven) for a 30-day public comment period. He noted that one comment letter (Attachment Eight) was received from the American Property Casualty Insurance Association (APCIA) and the ACLI that noted an issue with Korea requiring localization of data that may create extra obstacles for U.S. reinsurers looking to do business in Korea. Mr. Rehagen referred this issue back to the Mutual Recognition of Jurisdictions (E) Working Group to further evaluate and remediate this issue, and to report back to the Task Force.

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

Mr. Rehagen stated that as of July 16, 42 U.S. jurisdictions have adopted the 2019 revisions to Model #785, while four jurisdictions have action under consideration. He noted that 15 states have adopted the revisions to Model #786, and seven

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 Nine).

Mr. Rehagen stated that the 2019 revisions to the models must be adopted by the states prior to Sept. 1, 2022, which is the date at which the FIO must complete its federal preemption reviews under the EU Covered Agreement. He stated that the Task Force will provide support to the states to meet this deadline, and it will communicate with the U.S. Department of the Treasury (Treasury Department) and the FIO as necessary. He noted that there have not been any specific conversations with either the FIO or the European Union (EU) about extending this deadline, but there have been some preliminary discussions with the FIO on the status of state adoptions. Mr. Rehagen 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 time for its federal preemption analysis.

Mr. Rehagen stated that the current adoption maps can be found on the Task Force's web page. He noted that Mr. Schelp and Jake Stultz (NAIC) 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.

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

Mr. Rehagen 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 June 22, five jurisdictions have adopted Model #787, with another six 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 Ten) and added that the adoption of Model #787 is unrelated to the covered agreements and is not potentially subject to federal preemption. Mr. Schelp 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 that AG 48 would likely be considered to be substantially similar to Model #787. Mr. Schelp noted that if a state adopts Model #787, it also will need to adopt Section 5B(4) of Model #785.

Mr. Clayburn asked if a state may adopt Section 5B(4) of Model #785 into its state's regulation, and Mr. Schelp stated that such an approach should be acceptable.

9. Discussed Other Matters

John Huff (Association of Bermuda Insurers and Reinsurers—ABIR) stated that the Bermuda Monetary Authority (BMA) had announced on July 26 that Bermuda reinsurers had provided up to \$2.7 billion worth of support to the Texas insurers because of the widespread winter storm in early 2021.

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.

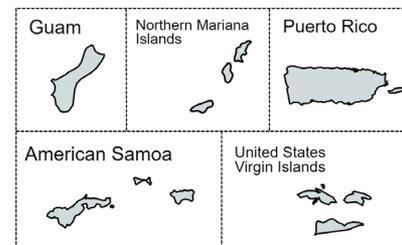
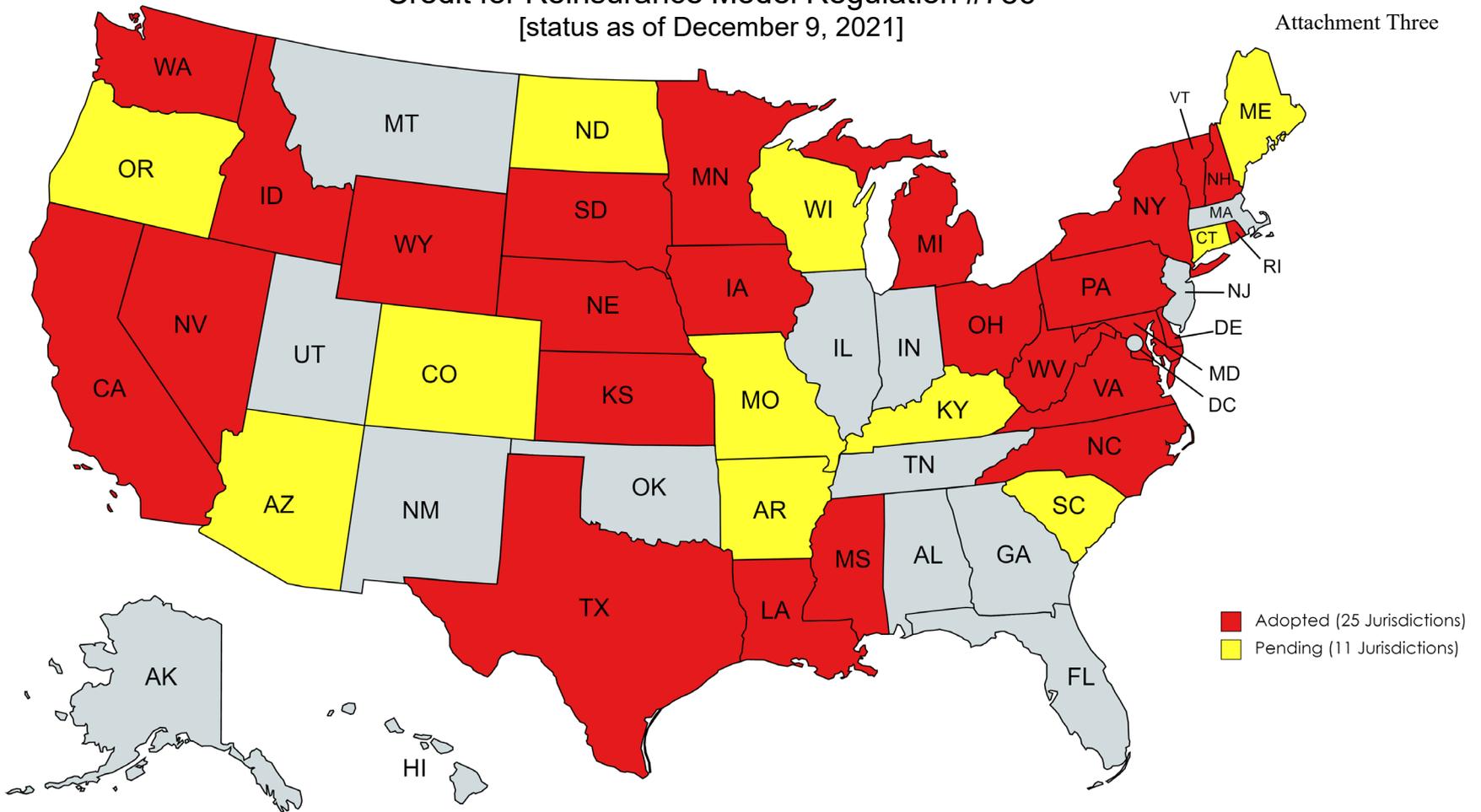
During this interim period, if a Reciprocal Reinsurer has been approved by a lead state and ReFAWG, the Reciprocal Jurisdiction Reinsurer may seek passporting approval from other states that have adopted the model law and regulation even where a formal internal process for doing so has not yet been finalized. 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.

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

Attachment Three

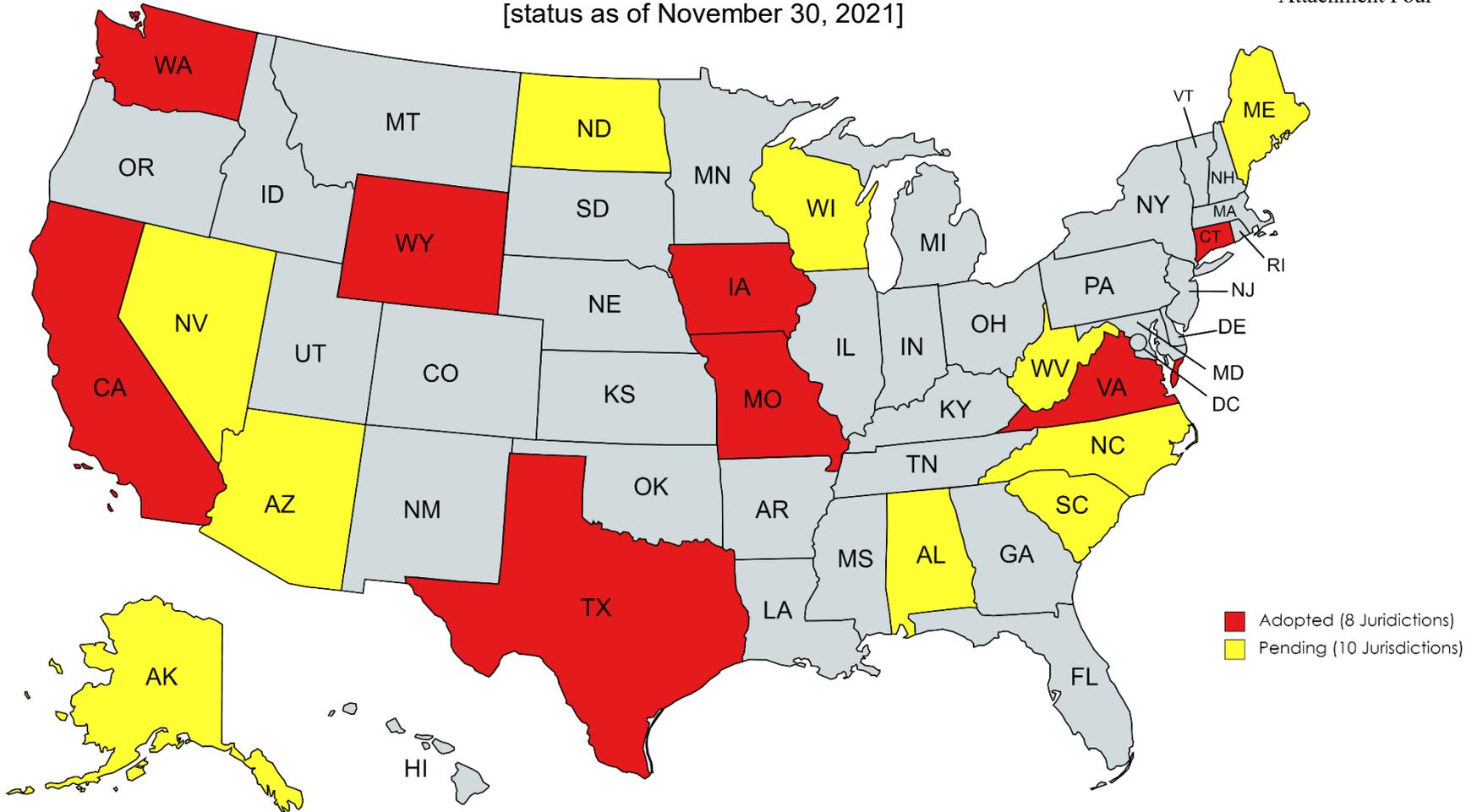


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Disclaimer: This map represents state action or pending state action regarding NAIC amendments to the model(s). This map does not reflect a determination as to whether the pending or enacted legislation contains all elements of NAIC amendments to the model(s) or whether a state meets any applicable accreditation standards.

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

Attachment Four



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