

**MEMORANDUM**

TO: Director John Huff, Chair of the Financial Regulation Standards and Accreditation (F) Committee

FROM: Danny Saenz, Chair, Group Solvency Issues (E) Working Group

DATE: July 10, 2015

RE: Recommendations Regarding 2014 changes to the NAIC Insurance Holding Company System Regulatory Act (#440)

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**Executive Summary**

In early 2014, the Group Solvency Issues (E) Working Group (GSIWG) was charged, with among other things, reviewing the Insurance Holding Company System Regulatory Act (#440) to consider adding language that gives states the clear legal authority to act as the group-wide supervisor for an internationally active insurance group (IAIG). In December 2014, the GSIWG, Financial Condition (E) Committee and the Plenary, all adopted changes to #440 to effectuate the charge given to GSIWG. GSIWG believes that certain elements of these amendments should be incorporated into the accreditation standards for any state that is the lead state of an IAIG as defined in #440 and any state that is the domestic regulator for any insurer that is part of an IAIG.

**A statement and explanation of how the potential standard is directly related to solvency surveillance and why the proposal should be included in the standards:**

The changes made to this NAIC model are intended to clarify and confirm to other regulators (e.g., international and/or federal regulators) that the states have the authority to act as the group-wide supervisor of a large U.S.-based internationally active insurance group (IAIG). However, it should be understood that these changes to this model are limited to groups with a) premiums written in at least three countries; b) the percentage of gross premiums written outside the United States is at least ten percent (10%) of the insurance holding company system's total gross written premiums; and c) groups with total assets of the insurance holding company system are at least \$50 billion or total gross written premiums of the insurance holding company of at least \$10 billion. These criteria are based on current international standards for defining an IAIG. When this model was adopted by the NAIC, it was recommended that lead states of the small number of U.S.-based groups that meet this threshold should consider adopting the revised language from this NAIC model into their statutes as quickly as possible. The GSIWG now recommends that this become a Part A standard for any state that is the group-wide supervisor of a group that meets the criteria, under the normal proposed timing standard established by the Committee (e.g., 2020). This would achieve the original stated objective of clarifying and confirming to international regulators that these states possess such authority.

However, the GSIWG would also note that when this model was adopted by the NAIC, it was recommended that all states consider adopting the statutory language because the U.S. groups that meet the above criteria tend to operate in the vast majority of the states, and the proposed changes discuss the authority of domestic regulators to cooperate together to require certain action by the insurance holding company. The GSIWG would therefore recommend that this also become a Part A standard for any state that has a domestic company in a U.S. group that meets the criteria (e.g. where the group-wide supervisor is a U.S. state), under the normal proposed timing standard established by the Committee (e.g., 2020). Our understanding is there are particular situations within the existing Part A standards (e.g., RRG requirements for the NAIC Annual Financial Reporting Model Regulation) where this type of precedent has been set. This approach may require the GSIWG to establish some process in which states that are group-wide supervisors for groups that meet the criteria are

required to submit certain high level information on their largest groups and make that available to all states so that all states can determine if they have a domestic in such groups.

Although we don't necessarily see the need for states that do not have a domestic company in one of these groups to adopt this language, we are mindful of the fact that an acquisition of an existing company by one of these large groups in one of these states could quickly require the state to come into compliance. The GSIWG has no recommendation relative to whether the Financial Regulation Standards and Accreditation (F) Committee should require non-domestic states of one of these groups to adopt the language. Said differently, the GSIWG has no recommendation as to whether this language should become a Part A standard for all states, similar to most other NAIC model laws.

**A statement as to why ultimate adoption by every jurisdiction may be desirable:**

As noted above, the changes to this model discuss the authority of domestic regulators to cooperate together to require certain action by the insurance holding company. Because the groups that meet the above criteria tend to operate in the vast majority of the states, the GSIWG recommends that all states adopt this language but the GSIWG has no recommendation whether this language should become a Part A standard for all states.

**A statement as to the number of jurisdictions that have adopted and implemented the proposal or a similar proposal and their experience to date:**

As of April 2015, three states had adopted language similar in concept to the proposed changes, while 1 other state had drafted legislation and was ready to introduce. Three other states had considered similar language during 2014 legislative sessions.

**A statement as to the provisions needed to meet the minimum requirements of the standard. That is, whether a state would be required to have "substantially similar" language or rather a regulatory framework. If it is being proposed that "substantially similar" language be required, the referring committee, task force or working group shall recommend those items that should be considered significant elements:**

The Working Group recommends that states' law should contain the provisions of section 7.1 of Model #440 or an act that is substantially similar. The sections of Model #440 that would be considered significant elements are as follows:

- Section 1.D & G-A provision that includes the definition of group-wide supervisor and internationally active insurance group.
- Subsection A-Include a provision for authorizing the commissioner to either act as the group-wide supervisor for an internationally active insurance group or acknowledging another regulatory official for the same.
- Subsection B-Include a provision that makes the determination of the group-wide supervision based upon factors similar to this particular section of the model.
- Subsection C-Include a provision that requires the group-wide supervisor to be reconsidered if there is a material change similar to the factors stated in this particular section of the model.
- Subsection D-Include a provision that authorizes the Commissioner to collect information necessary to make such a determination.
- Subsection E-Include a provision that authorizes the Commissioner to engage in group-wide supervision activities similar to those defined within this particular section of the model.
- Subsection I-Include a provision that requires the insurer to pay the reasonable expenses of the commissioner's participation in the administration of this section.

**An estimate of the cost for insurance companies to comply with the proposal and the impact on state insurance departments to enforce it, if reasonably quantifiable:**

The GSIWG has not prepared an estimate, but believes that all aspects of changes are similar in concept to the broad authority of the Commissioner throughout the remaining portions of Model #440, for which the 2010 changes will become

the basis of an accreditation requirement on January 1, 2016. Again, the changes to this NAIC model are intended to clarify and confirm to other regulators (e.g., international and/or federal regulators) that the states have the authority to act as the group-wide supervisor of a large U.S.-based internationally active insurance group (IAIG).

**Additional information:**

None