Swiss Re

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Re: NAIC Proposed Revisions to Credit for Reinsurance Models 785 & 786

Dear Mr. Stultz and Mr. Schelp,

Overview

Thank you for the opportunity to comment on the proposed revisions to the NAIC's Credit for Reinsurance Model Law and Credit for Reinsurance Model Regulation. The NAIC's work to implement the collateral reform aspects of the US-EU Covered Agreement are important to Swiss Re. In particular, the ability of re/insurers from qualified non-EU jurisdictions, such as Switzerland, to follow the same collateral rules as re/insurers in the EU is essential to prevent the creation of an uneven playing field. As a general principle, Swiss Re believes that re/insurers from a highly regarded regulatory jurisdiction should be allowed to assume risk freely on a cross-border basis. This principle seems to be supported by the NAIC, given the provisions in the proposed revisions that extend collateral changes and reciprocal jurisdiction considerations to companies and jurisdictions beyond the EU.

While the proposed revisions recognize this key consideration, there are instances in the draft where requirements deviate from the Covered Agreement and create disparate treatment between EU and non-EU re/insurers. The Covered Agreement delegates to the states and the NAIC important implementation powers and we appreciate the NAIC's leadership and this Task Force's leadership in moving ahead with the necessary work. Eliminating unnecessary inconsistencies and disparate treatment will be beneficial to both regulators and industry, and it will deter the other jurisdictions from seeking covered agreements.

For these reasons, Swiss Re recommends eliminating the inconsistencies between the Covered Agreement and the Credit for Reinsurance Models and treating all recognized reinsurers from Reciprocal Jurisdictions, whether subject to a Covered Agreement or not, the same.

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Comments on specific provisions

1. Model Law, Subsection F.(1)(b) and F.(1)(c) – because the Covered Agreement specifies minimum capital and surplus requirements and solvency ratios for EU re/insurers, the section leaves open the possibility for disparate treatment of non-EU re/insurers.

2. Model Law, Subsection F.(1)(h) – this subsection specifically authorizes additional requirements as deemed relevant by the Commissioner, but makes such additional requirements applicable only to non-EU re/insurers. Such disparate treatment is unnecessary.

3. Model Law, Subsection F.(5) – the express requirement for assuming insurers to post 100% collateral in the event of a cedent's rehabilitation, liquidation or conservation is inconsistent with the Covered Agreement provision addressing the same issue. The Covered Agreement provides the opportunity for court ordered 100% collateral, rather than outright imposition of the collateral.

4. Model Regulation, Subsection 9.C.(3) – because the Covered Agreement specifies minimum capital and surplus requirements and solvency ratios for EU re/insurers, the section leaves open the possibility for disparate treatment of non-EU re/insurers.

5. Model Regulation, Subsection 9.B.(2)(e) – this subsection specifically authorizes additional factors may be considered at the discretion of the Commissioner when determining Reciprocal Jurisdiction status, but such discretion would only be available when determining the status of non-EU jurisdictions. Such disparate treatment is unnecessary.

6. Model Regulation, Subsection 9.C.(8) – this subsection specifically authorizes additional requirements as deemed relevant by the Commissioner, but makes such additional requirements applicable only to non-EU re/insurers. Such disparate treatment is unnecessary.

7. Effective Date – while the effective date for the new proposed subsection tracks the effective date language in the Covered Agreement, it is inconsistent with the effective date language applicable to the current certified reinsurer provisions. The current certified reinsurer provisions themselves are not without controversy and confusion. In fact, some states have altered the effective date provisions when adopting the model law and regulation to eliminate the second sentence. Swiss Re suggest that now would be a good opportunity for the NAIC to provide clarity on the application of all collateral reform provisions and make the application of the effective dates consistent between the two sections. Specifically, we recommend using a modification of the first sentence from the certified reinsurer subsection of the model regulation (a sentence that has been used in multiple states as a less confusing alternative to the current regulation language): "Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective

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date of the recognition of the assuming insurer." Similarly, the current provisions in the model regulation should be amended to delete the second sentence in Section 8(A)(5).

We look forward to working with state regulators and the NAIC to refine the necessary revisions and implement them in the states. . Please let us know if there are questions.

Yours sincerely,

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