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**BY ELECTRONIC MAIL**

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**Re: Proposed Revisions of the Credit for Reinsurance Model Law and Regulation**

Dear Mr. Schelp and Mr. Stultz:

We appreciate the opportunity to comment on the Proposed Revisions of the Credit for Reinsurance Model Law (#785) and Regulation (#786) exposed for public consideration by the Reinsurance (E) Task Force on March 7, 2019 (collectively, the “Exposed Drafts”). We are submitting these comments on behalf of the International Underwriting Association of London (“IUA”). The IUA is a trade association that represents international insurers operating in the London Insurance Market including multi-national insurers and reinsurers that are directly and significantly affected by the U.S. Credit for Reinsurance laws and regulations. The IUA has long supported the Reinsurance (E) Task Force in furtherance of its mission to “monitor and coordinate activities and areas of interest”, including with respect to its periodic consideration of certain model law revisions.

The IUA commends the NAIC for its tremendous progress as respects the proposed amendments to the *Credit for Reinsurance Model Law* and *Credit for Reinsurance Model Regulation*. In addition, we are grateful for the collaborative and transparent drafting process that permits us to engage with state insurance regulators and NAIC staff on this important topic.

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As you know, the *Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance* and the substantially similar *Bilateral Agreement Between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance* (collectively, the “Covered Agreements”) contemplate action by the states. In particular, certain laws and regulations regarding collateral requirements applicable to European Union (EU) and/or U.K. reinsurers accepting business from U.S. ceding insurers must be updated in order to be consistent with the terms of the Covered Agreements.

You may recall that the IUA submitted to the NAIC letters dated 18 July 2018 and 15 October 2018 that endorsed modest edits to prior iterations of the model amendments in order to ensure consistency with the terms of the Covered Agreements and protect the state-based system of U.S. insurance regulation. It is our understanding that these edits were generally incorporated into the Exposed Drafts and we thank the Task Force for its diligent consideration with respect these matters.

Despite these positive steps, the Exposed Draft does not yet account for certain agreements entered into in contemplation of some long-tail losses such as adverse development cover (“ADC”) that are signed after losses occur. The prescient language regards the “losses incurred” language in Section 2(F)(7) of the Exposed Draft. As you know, Paragraph 8 of Article 3 of the Covered Agreement maintains that terms of the agreement:

“shall apply only to reinsurance agreements entered into, amended, or renewed on or after the date on which a measure that reduces collateral pursuant to this Article [3] takes effect, and only with respect to losses incurred and reserves reported from and after the later of (i) the date of the measure, or (ii) the effective date of such new reinsurance agreement, amendment, or renewal.”

The Exposed Draft tracks this language with respect to losses incurred and we appreciate the Task Force’s prioritization of consistency with the terms of the Covered Agreements. Nevertheless, as drafted, Section 2(F)(7) of the Exposed Draft will have the unintended consequence of excluding ADC contracts from application of the reciprocal jurisdiction provisions.

To remedy this issue, we propose adding language to give state insurance commissioners the authority to approve reduced or zero collateral for adverse development cover contracts entered into after the effective date of the enabling legislation with respect to

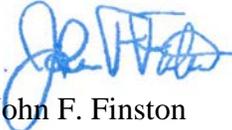
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cedents that are domiciled in a commissioner’s state, *provided* that the commissioner finds such a reduction to be fair, reasonable, and in the best interest of the ceding insurer. Such an amendment is not inconsistent with the terms of the Covered Agreements and would provide state insurance commissioners with proper discretion to prevent harmful retroactive changes to the collateral status of certain existing contracts.

*Subject to the amendment detailed above, the IUA is pleased to support the Exposed Drafts as written and encourages all relevant NAIC committees – including the Reinsurance (E) Task Force, Financial Condition (E) Committee, and Executive (EX) Committee – to pass the Exposed Drafts during the Spring National Meeting in Orlando, Florida.*

As always, we welcome the opportunity to comment on these important revisions and/or provide technical advice. We will be in attendance at the Spring National Meeting in Orlando and would be pleased to address any comments or questions you may have.

Yours Sincerely,



John F. Finston

JFF

cc: Dave Matcham, International Underwriters Association  
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