April 1, 2019

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

Re: NAIC Request for Comments on Proposed Revisions to Credit for Reinsurance Model Law and Regulation

Dear Director Lindley-Myers:

The Reinsurance Association of America (RAA), the American Property Casualty Insurance Association (APCIA), and the National Association of Mutual Insurance Companies (NAMIC) appreciate the opportunity to submit comments on the third draft of proposed revisions to the *Credit for Reinsurance Model Law (#785*) and the *Credit for Reinsurance Model Regulation (#786).*[1]

We appreciate the changes reflected in the current drafts, particularly those that address the fair treatment of U.S. reinsurers in the United States and those that achieve consistency with the U.S./EU and U.S/UK covered agreements. That said, as drafted these models would impose various requirements on U.S. reinsurers that are unnecessarily redundant with requirements they are already subject to in their domiciliary state and would also allow regulators discretion to impose additional unspecified requirements on assuming reinsurers from Reciprocal Jurisdictions. In our view, U.S. reinsurers that meet the strong solvency and surplus requirements applicable to all reinsurers based in Reciprocal Jurisdictions should be treated equally with non-U.S. reinsurers, and the inclusion of regulator discretion to impose additional requirements on any reinsurer in this

[1] 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.

Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

The National Association of Mutual Insurance Companies' more than 1,400 member companies represent 41 percent of the total property/casualty insurance market and serve more than 170 million policyholders. NAMIC members write more than $253 billion in premiums, accounting for 54 percent of homeowners, 43 percent of the automobile, and 35 percent of the business insurance markets.

category or on a particular Reciprocal Jurisdiction is contrary to the very reason why we have model laws and regulations. The comments set forth below reflect these principles.

Treatment of U.S. Reinsurers

U.S. domiciled reinsurers should have the same access to U.S. markets that is afforded to reinsurers subject to a covered agreement, without imposing unnecessary, redundant or inapplicable administrative obligations. Although the current exposure drafts expand the definition of Reciprocal Jurisdiction to include U.S.-accredited jurisdictions, both the model law and regulation also contain provisions that would compel U.S. reinsurers to provide state regulators with reports, certifications and assurances that are entirely redundant with what state regulators already receive from a U.S. reinsurer domiciled in an accredited jurisdiction, or have ready access to under our robust state-based system of regulation.[2] The provisions also allow discretion to impose additional requirements on assuming insurers from this category of Reciprocal Jurisdiction, where that discretion does not exist with respect to Reciprocal Jurisdictions subject to a covered agreement. To address these issues, we propose to qualify the amended definition of Reciprocal Jurisdiction by adding the following language in the model law at Section 2(F)(1)(a)(iii) and in the model regulation at Section 9(B)(3):

> At Section 2(F)(1)(a)(ii) of the model law:
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> "A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program. *Assuming insurers domiciled in such jurisdictions shall only be subject to the requirements described in paragraphs (b) and (c) below.*"

At Section 9(B)(2) of the model reg:

> "A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program. *Assuming insurers domiciled in such jurisdictions shall only be subject to the requirements described in sub-section (1), (2) and (3) of paragraph C below."*

These changes would place U.S. domiciled reinsurers on the same playing field as reinsurers from Reciprocal Jurisdictions subject to a covered agreement, while relieving them from redundant regulatory obligations that often become confusing when applied to U.S.-domiciled reinsurers.

Treatment of Non-U.S. Jurisdictions Not Subject to a Covered Agreement

With respect to Reciprocal Jurisdictions not subject to a covered agreement, the draft model law and regulation continue to allow for commissioner discretion to impose additional requirements for both Reciprocal Jurisdiction status and with respect to assuming insurers based in a Reciprocal Jurisdiction. We acknowledge that the current model law and regulation allow for some discretion;

[2] For example, such materials include, but are not limited to, annual statements, actuarial opinion summaries, interrogatories, quarterly reports and financial statements, Risk-Based Capital reports, attestations, and checklists.

however, not to the broad extent envisaged by the exposure drafts in this area. The inclusion for commissioner discretion to deviate from the model law and regulation creates uncertainty in the process as a whole. At the very least, the exercise of commissioner discretion as set forth in the model law should be subject to the normal regulatory process. In other words, use of that discretion should be exercised through a regulation that outlines a list of factors to be considered, as is currently included in the model regulation.

We welcome the NAIC's efforts to establish criteria and a process with respect to revocation or suspension of a Reciprocal Jurisdiction. Given the gravity surrounding the eventual consequence, however, we would expect to see reference to this criteria and process in the model law, with the specificities of the process being outlined in the model regulation. That criteria and process should also be linked in to the NAIC accreditation program. Without such formal safeguards in place, there is room for discretion to be used in an arbitrary way, thus undermining any meaningful outcome for jurisdictions that would be assessed for Reciprocal Jurisdiction status.

Conclusion

We appreciate the opportunity to offer comments and work with the NAIC to effectively implement revisions to the model law and regulation in light of the U.S./EU and U.S./UK covered agreements. We welcome the opportunity to work with the NAIC to reach a conclusion acceptable to all parties on the revisions to both the model law and regulation. Please do not hesitate to contact us with any questions or concerns.

Sincerely,

Reinsurance Association of America
American Property Casualty Insurance Association
National Association of Mutual Insurance Companies

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