



October 16, 2018

Messrs. Schelp and Stultz
Reinsurance Task Force
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Extending Reciprocity with Respect to Reinsurance (E) Task Force Work on the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786)

VIA EMAIL: jstultz@naic.org dschelp@naic.org

Dear Messrs. Schelp and Stultz:

Allstate Insurance Company (“Allstate”) appreciates the opportunity to comment on the September 25, 2018 proposed revisions to **#785 *Credit for Reinsurance Model Law*** and **#786 *Credit for Reinsurance Model Regulation***. As one of the world’s largest purchasers of catastrophe reinsurance, Allstate is especially interested in working with regulators and policymakers to ensure laws and regulations that are modified as a result of the *Bilateral Agreement*¹ (“BA”) serve the interests of both policyholders and ceding companies. Allstate wishes to bring attention to important recent developments that may not have been identified and evaluated by the NAIC Reinsurance Task Force.

The Task Force has moved with exceptional speed to both incorporate the terms of the BA into the models as well as include provisions extending the BA to non-European Union (“EU”) jurisdictions under specified circumstances through creating a class of reinsurers known as “reciprocal jurisdictions.” Since the Task Force’s efforts relating to the BA began, information has emerged that should be considered within the Task Force’s deliberations on the issue of reciprocity before finalizing its work on the Model Law and Regulation. As such, Allstate urges the Task Force and NAIC leaders to pause and consider the latest information available regarding the financial soundness of certain United Kingdom (“UK”) based reinsurers that present concerns, while continuing to refine the proposed changes in the models.

United Kingdom Reinsurers Fail Solvency II Tests

Solvency II, which became effective January 1, 2016, determines minimum capital requirements (MCR) for insurance and reinsurance companies in the EU, which currently includes the UK. Prior to the Task Force establishing reciprocity, an investigation of recent activity in the UK involving reinsurers with insufficient Solvency II capital should be conducted as we believe the situation that has emerged suggests a level of reinsurer default risk may exist that is greater than that contemplated in the BA. Additionally, we note the absence of adequate disclosures related to actions that may be taken as a

¹ *Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance*

Allstate Insurance Company
3075 Sanders Road
Northbrook, Illinois 60062

result of the Solvency II capital deficiencies. The following examples have been derived from public information reported to the UK Prudential Regulatory Authority:

- UK based reinsurer with insufficient Solvency II MCR and no additional source of capital may pursue a solvent scheme or scheme of arrangement² which would be financially disadvantageous to U.S. insureds and ceding companies as they will receive less money than what is owed/anticipated to be recovered. Potential partial remedy; assuming reinsurer provides letters of credit which may provide an added level of protection for U.S. insureds and cedents.
- UK based reinsurer has capital in excess of its Solvency II MCR, but may nevertheless voluntarily pursue a solvent scheme. In this situation, owners might benefit by settling with creditors on a discounted basis leading to an increase in net equity potentially distributable to current owners. Similar to the situation above, U.S. insureds and cedents may recover less than owed/anticipated to be recovered.

These UK-based situations have not been sufficiently evaluated nor have the potential outcomes or implications. These situations may be material and demonstrate that reciprocal laws and practices do not always operate as anticipated. Expanding the evaluation to the EU and other jurisdictions may yield evidence that raises questions about the potential for adverse financial outcomes to U.S. insureds and ceding insurers. The Task Force may address concerns by including provisions in the models which require capital in excess of the amount specified in the BA as well as ratings triggers to add protection for U.S. ceding companies who are exposed to losses when the credit of assuming reinsurance companies decline.

As always, Allstate is willing to provide its expertise to regulators. Please let us know of comments or questions.

Sincerely,



Kevin Spataro
Senior Vice President, Corporate Accounting Research
Ph: 847-402-0929

Copies to: DiAnn Behrens, Corporate Accounting Research
Marianne Carl, Senior Attorney
Tom Helsdingen, Statutory Reporting
Sam Pilch, Senior Group Vice President, Reinsurance
Robert L. Zeman, Corporate Counsel

² A scheme of arrangement is an English statutory procedure regulated by Part 26 (Arrangements and Reconstructions) of the Companies Act 2006 (formerly sections 425 to 427 of the Companies Act 1985). Part 26 of the Companies Act 2006 came into force on 6 April 2008, although legislation permitting schemes of arrangement in various forms has existed for over a century. The statutory provisions allow a company to reach a binding compromise or arrangement with its members or creditors, or any class of them. Source: Sidley Austin LLP, "Schemes of arrangement and their ongoing currency." Last modified 2010. https://www.sidley.com/~media/files/publications/2010/01/schemes-of-arrangement-and-their-ongoing-currency/files/view-article/fileattachment/schemes-of-arrangement-and-their-ongoing-currenc_.pdf.