



National Association *of* Insurance Commissioners

Summary of Findings and Determination

Switzerland:

Financial Market Supervisory Authority (FINMA)

Approved By:

Qualified Jurisdiction (E) Working Group	November 21, 2014
Reinsurance (E) Task Force	December 11, 2014
Executive (EX) Committee and Plenary	December 16, 2014

I. Evaluation of Switzerland: Financial Market Supervisory Authority

The Qualified Jurisdiction (E) Working Group of the National Association of Insurance Commissioners (NAIC) has completed this Summary of Findings and Determination with respect to Switzerland: Financial Market Supervisory Authority (FINMA). It is the recommendation of the Working Group that the NAIC recognize Switzerland as a Qualified Jurisdiction and place it on the NAIC List of Qualified Jurisdictions, to be effective as of January 1, 2015, after which Switzerland will be re-evaluated every five years. Finally, the Working Group recommends that Connecticut be designated the Lead State for purposes of regulatory cooperation and information sharing with FINMA. These recommendations are based on the following analysis:

II. Procedural History

The NAIC adopted the *Process for Developing and Maintaining the NAIC List of Qualified Jurisdictions* (Qualified Jurisdiction Process) on August 27, 2013 (which was further amended on August 19, 2014). The revised *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786) (collectively, the “Credit for Reinsurance Models”) require an assuming insurer to be licensed and domiciled in a “Qualified Jurisdiction” in order to be eligible for certification by a state as a certified reinsurer for reinsurance collateral reduction purposes. The purpose of the Qualified Jurisdiction Process is to provide a documented evaluation process for creating and maintaining an NAIC list of jurisdictions recommended for recognition by the states as Qualified Jurisdictions. Toward this end, the Qualified Jurisdiction Process designates key elements believed to be basic building blocks for sound (re)insurance regulation. Each jurisdiction under consideration to be included on the *NAIC List of Qualified Jurisdictions* is requested to submit detailed information in support of these criteria. In addition, the NAIC review will also rely on publicly available reports evaluating the reinsurance regulatory practices of each jurisdiction.

The NAIC invited FINMA, as the reinsurance supervisory authority in Switzerland, to participate in an expedited review under the Qualified Jurisdiction Process by letter dated August 29, 2013, and FINMA accepted this invitation in a letter dated October 11, 2013. FINMA subsequently consented for the NAIC to rely upon the information provided by a Swiss domestic reinsurer in connection with its application for certified reinsurer status in Connecticut, with additional comments provided by FINMA. Notice of FINMA’s agreement to participate in the expedited review was sent to the FIO and the USTR on October 14, 2013. The NAIC issued public notice on its website of FINMA’s participation in the evaluation process, and requested interested parties to submit public comments with respect to Switzerland by the close of business November 13, 2013. The Working Group received one comment letter by the close of the comment period, which was supportive of designating Switzerland as a Qualified Jurisdiction. The NAIC designated Switzerland as a Conditional Qualified Jurisdiction effective January 1, 2014, with the designation to continue for one year, unless: (1) an extension is granted by the Working Group; or (2) a determination is made that the jurisdiction is not a Qualified Jurisdiction.

The Working Group met in regulator-to-regulator session on September 10, 2014, to review initial findings prepared by NAIC staff to determine whether Switzerland should be approved as a Qualified Jurisdiction for a 5-year period. The Working Group requested additional supplementary information from FINMA with respect to specific questions raised during this meeting, which FINMA provided to the Working Group on October 31, 2014. FINMA also participated in discussions with NAIC staff on the questions identified. The Working Group provided FINMA with the Preliminary Evaluation Report on November 7, 2014, and FINMA provided a response to the initial findings and determination on November 18, 2014. This response was considered by the Working Group in the preparation of the Final Evaluation Report, which the Working Group approved on November 20, 2014.

III. Review of Evaluation Materials

Under the requirements of the Qualified Jurisdiction Process, the Working Group performed an initial evaluation of Switzerland's regulatory system by using the information identified in Section A through Section G of the Evaluation Methodology (Evaluation Materials). The Working Group began by undertaking a review of the most recent Detailed Assessment of Observance on Insurance Core Principles under the International Monetary Fund (IMF)/World Bank Financial Sector Assessment Program (FSAP Report), Report on Observance for Standards and Codes (ROSC), and any other publicly available information regarding the laws, regulations, practices and procedures applicable to the reinsurance supervisory system. The Working Group also invited FINMA to provide information relative to Section A through Section G of the Evaluation Methodology in order to update, complete or supplement publicly available information. The Working Group's review was focused on how Switzerland's laws, regulations, administrative practices and procedures, and regulatory authorities regulate the financial solvency of its domestic reinsurers in comparison to key principles underlying the U.S. financial solvency framework and other factors set forth in the Evaluation Methodology.

The Working Group considered the following information with respect to evaluation of Switzerland:

1. *EIOPA Advice to the European Commission: Equivalence assessment of the Swiss supervisory system in relation to Articles 172, 227 and 260 of the Solvency II Directive, October 2011.*
2. *Switzerland: Financial Sector Stability Assessment (IMF Country Report No. 14/143, May 2014).*
3. *Switzerland: Report on Observance of Standards and Codes (ROSC) (IMF Country Report No. 14/144, May 2014).*
4. *Switzerland: Financial Sector Assessment Program—Technical Note—An Assessment of Insurance Core Principles for the Reinsurance Industry (IMF Country Report No. 07/200, June 2007).*
5. *Evan M. Spangler, Swiss Supervisory Laws and Regulations for the Business of Insurance (2010) (copy at NAIC Central Office).*
6. *General descriptions of regulatory regime provided by FINMA, December 2, 2013.*
7. *Enforcement of Foreign Judgments 2013: Switzerland (Law Business Research Ltd, 2012).*

8. *Memorandum of Understanding between the Connecticut Insurance Department and FINMA, September 15, 2011.*
9. *Comment letter from interested party received pursuant to notice (Confidential).*
10. *Memorandum to Connecticut Insurance Department regarding Swiss Reinsurance Company Ltd. application for certified reinsurer status and reduced collateral dated March 8, 2013 (Confidential).*
11. *NAIC Staff Workpapers on Initial Findings dated August 5, 2014 (Confidential).*
12. *FINMA's answers to NAIC's additional questions, October 31, 2014 (Confidential).*
13. *FINMA's response to Preliminary Evaluation Report, November 18, 2014 (Confidential).*

IV. Standard of Review

The evaluation is intended as an outcomes-based comparison to financial solvency regulation under the NAIC Accreditation Program, adherence to international supervisory standards and relevant international guidance for recognition of reinsurance supervision. The standard for qualification of a jurisdiction is that the NAIC must reasonably conclude that the jurisdiction's reinsurance supervisory system achieves a level of effectiveness in financial solvency regulation that is deemed acceptable for purposes of reinsurance collateral reduction, that the jurisdiction's demonstrated practices and procedures with respect to reinsurance supervision are consistent with its reinsurance supervisory system, and that the jurisdiction's laws and practices satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Models.

V. Summary of Findings and Recommendation

The Working Group finds that it has performed the required review of the Evaluation Materials, including review of the publicly available information, and that FINMA (through its designee) provided the Working Group with information relative to Section A through Section G of the Evaluation Methodology to update and supplement the identified public information. The Working Group further finds that interested parties were given an opportunity to comment on FINMA's application and that no objections to granting Switzerland Qualified Jurisdiction status were received from interested parties. Further, appropriate notice was provided to the FIO and the USTR. Based on the information provided by FINMA and the review of the Evaluation Materials, the Working Group has determined that there is no indication that Switzerland fails to adequately and promptly enforce final U.S. judgments and arbitration awards.

The Working Group notes that insurance companies conducting only reinsurance business are subject to the Swiss Solvency Test (SST) requirements, with the exception of captive reinsurers. However, FINMA advised the Working Group that reinsurance captives will be subject to SST requirements with the planned revision of Article 2 of the Insurance Supervision Ordinance (ISO), which is expected to enter into force and effect by July 2015. Additionally, FINMA further commented that it is already

possible in the current version of the ISO to make reinsurance captives subject to the SST requirements in the case of complex risk profiles or material financial risks, which is currently the case for the three largest reinsurance captives. This information will be relayed by the Working Group to the Reinsurance Financial Analysis (E) Working Group for analysis of individual certified reinsurers.

Finally, the Working Group notes that the Connecticut Insurance Department has entered into a Memorandum of Understanding (MOU) with FINMA, and has consented to act as the Lead State for purposes of regulatory cooperation and information sharing under the Qualified Jurisdiction Process, and further that FINMA has consented to the designation of Connecticut as the Lead State. This Lead State designation for purposes of regulatory cooperation and information sharing should not be confused with the Lead State designation by the Reinsurance Financial Analysis (E) Working Group for individual certified reinsurers for passporting purposes.

The Working Group has reached the conclusion that Switzerland's reinsurance supervisory system achieves a level of effectiveness in financial solvency regulation that is acceptable for purposes of reinsurance collateral reduction, that FINMA's demonstrated practices and procedures with respect to reinsurance supervision are consistent with its reinsurance supervisory system, and that Switzerland's laws and practices satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Models. Therefore, it is the recommendation of the Working Group that the NAIC recognize Switzerland as a Qualified Jurisdiction and place it on the *NAIC List of Qualified Jurisdictions*, to be effective as of January 1, 2015. This designation as a Qualified Jurisdiction shall be valid for five years (absent a material change in circumstances), after which Switzerland will be re-evaluated under the provisions of the Qualified Jurisdiction Process.