



To: VIA EMAIL
Commissioner Michael Consedine
Chair of the NAIC Reinsurance Task Force
National Association of Insurance Commissioners

Your
reference: -
Our
reference: IAR-13-127

Subject: Insurance Europe comments to NAIC Process for Developing and Maintaining the List of Qualified Jurisdictions

Brussels, 8 May 2013

Dear Commissioner Consedine,

Insurance Europe, the European insurance and reinsurance federation, based in Brussels, represents through its 34 member bodies — the national insurance associations — insurance and reinsurance undertakings, which account for around 95% of total European premium income.

Insurance Europe would like to complement our previous comments on the process for developing and maintaining the NAIC list of qualified jurisdictions by providing input on the revised draft dated 29th March 2013.

Collateral requirements

Insurance Europe is supportive of the NAIC commitment to collateral requirements reform, as shown in the adoption of the revised Credit for Reinsurance Model Law and Regulation and now with the consultation on a draft process for developing and maintaining the NAIC list of qualified jurisdictions. However, we regret the fact that even when a jurisdiction is deemed to be qualified, reinsurers licensed and domiciled in that jurisdiction still find themselves subject to a collateral rating scale. In addition, the consideration of the NAIC list of qualified jurisdictions will be optional allowing individual states to maintain the 100% collateral requirement on non-U.S. licensed reinsurers.

We believe that the US should eventually grant equal treatment for financially secure, well regulated reinsurers. In this regard, Insurance Europe believes that co-ordination with the Federal Insurance Office (FIO) and in particular the FIO's ability to assist the U.S. Secretary of the Treasury in negotiating covered agreements should be further explored. We appreciate the explicit reference to the FIO's ability in this area in the document's preamble, and believe it could provide a potential solution to achieve a consistent approach for national treatment of foreign reinsurers within a reasonable timeframe.

Process for developing and maintaining the NAIC list of qualified jurisdictions

Insurance Europe welcomes the fact that a jurisdiction is now first assessed against recent Financial Sector Assessment Program (FSAP), Report on Observance for Standards and Codes (ROSC), and any other publically available information before being requested to provide additional information. This is an important change which we hope should reduce the burden on foreign jurisdictions which decide to participate in the process.

We believe that additional information should only be requested for the assessment where there is a clear supervisory need.

Expedited Review Procedure

Insurance Europe believes that it is important that the process is adopted and implemented quickly and therefore welcomes the introduction of an Expedited Review Procedure.

As we mentioned in our letter dated 22 March, we appreciate the fact that certain jurisdictions can be fast-tracked and eventually obtain Conditional Qualified Jurisdiction. We urge the Qualified Jurisdiction Working Group to maintain this status by default until the full Expedited Review Procedure is completed, even if this period is longer than one year.

In addition to the jurisdictions mentioned in the draft, we invite the NAIC to take into account the impact on level-playing field in the global reinsurance market that this selection process may raise and therefore to make available the Expedited Procedure also to jurisdictions which submit a written request to the NAIC, have been assessed and approved in a state before the adoption of the NAIC process is finalized, and demonstrate that they have a prudential (re)insurance regulation that achieves an equivalent level of protection for consumers compared to Bermuda, Germany, Switzerland or the United Kingdom. This will allow the NAIC to collect quickly the necessary information through the different states in which jurisdictions would apply.

In addition, we continue to believe that the European Economic Area should be treated as a single jurisdiction, given that European reinsurers already benefit from a common regulatory system for reinsurance (Reinsurance Directive (EC) 2005/68) which will be further harmonised in the future when Solvency II enters into force.

Other particular requirements

Insurance Europe would like to submit the following non-exhaustive comments regarding the requirements of the new draft process:

- II, 5. Documentation of US states' decisions – Insurance Europe strongly supports the mandatory consideration of the NAIC list by individual states. Therefore, if a listed jurisdiction is not accepted as a qualified jurisdiction, we believe that regulators should be obliged to document their reasons.
- III, 2.d. Requirement for a jurisdiction's response to be supported by qualified person in such jurisdiction to provide legal advice – Although, we think that this requirement is more appropriate and less costly than the previous need for independent advice, we still maintain that this requirement is unnecessary. A statement from a foreign supervisory authority should automatically be considered to be trustworthy and credible.
- III, 2.f. Confidentiality – We appreciate that no specific company information can be disclosed by default and therefore urge the NAIC to develop the mentioned confidentiality safeguards for special cases.
- III, 3.b. Costs associated with the evaluation process - Insurance Europe welcomes the language in the new draft clarifying that the NAIC will absorb in its budget the initial cost of the evaluations. We would appreciate clarification on which costs are supposed to be allocated to the initial phase of the review.
- III, 7.a. Involvement of outside consultants in the review of evaluation materials – Insurance Europe urges the NAIC to specify which professional secrecy/confidentiality requirements would apply in those cases where outside consultants are employed.
- III, 10. c. Access to Final Evaluation Report – We believe that more clarity is needed with respect to the confidentiality provisions of the Final Evaluation Report. According to III. 10. c., individual U.S. state insurance regulators may get access to the report based on an assertion that its content will remain confidential, while III. 9. d. requires a confidentiality memorandum of understanding with the foreign jurisdiction. We believe that the memorandum of understanding should be the benchmark.
- Appendix A: Key Elements with respect to Section A, 6. Evaluation of a group holding company system of reinsurers – We continue to question the inclusion of this requirement as the outcome of the assessment only applies at solo entity level. In addition, as we highlighted in our previous comments

the situation may arise where the reinsurer is located in a different jurisdiction to the one that the group is headquartered in. In such a situation which regime would the NAIC assess the one that reinsurer is located in or the one in which the group is located? This requirement seems to be mixing considerations relating to group supervision with an assessment of the robust nature of a jurisdiction's reinsurance supervision; we therefore, suggest it is deleted.

- Appendix A: Key Elements with respect to Section A. 13. Description of regulatory framework for the regulation of reinsurance intermediaries – We regret that the new draft maintains this requirement, which in our view should be reconsidered as it is not a relevant consideration.
- IV Section B, Explanation of restrictions with respect to the enforcement of final judgements. – We also regret that information is still requested relating to prompt enforcement of US judgements. We are not aware of problems that have been found to justify the requirements inclusion in the draft. In recognition of its explicit inclusion in the model law and regulation, if the requirement does remain, we believe that the burden of proof should be borne by the states not by foreign jurisdictions.

Insurance Europe would appreciate the NAIC's attention to our concerns. In addition, we would welcome further information on the expected timeline of the process. We would be glad to respond to any questions regarding the contents of this letter.

Yours sincerely,



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