



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

From: Economics & Finance department

Date: 16 January 2013

Reference: IAR-13-015

Subject: NAIC Process for Developing and Maintaining the List of Qualified Jurisdictions

Dear Commissioner Considine,

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 appreciates this opportunity to comment on the draft NAIC process for developing and maintaining a list of qualified jurisdictions.

Insurance Europe has contributed for many years to the discussions at the NAIC to modernise the "Credit for Reinsurance Model Law and Regulation" and welcomes the increased momentum and progress over the last few years to reform the collateral requirements for foreign reinsurers. The adoption by the NAIC of the revised Credit for Reinsurance Model Law and Regulation in November 2011 marked a good first step, and we appreciate the NAIC's continued commitment to its collateral reform efforts with the publication of this consultation on the process for reviewing foreign jurisdictions.

With respect to the results of the process, Insurance Europe regrets that the consideration of the list of qualified jurisdictions remains optional for the individual states which can maintain the 100% collateral requirement on non-U.S. licensed reinsurers and remain NAIC accredited. Moreover, 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 stark contrast to US domestic reinsurers. Insurance Europe would like to see equal treatment for financially secure well regulated reinsurers with statutory collateral requirements removed.

Through developing a centralised process for assessing foreign jurisdictions the NAIC has the potential to help streamline and expedite the procedure for state insurance departments wishing to grant foreign reinsurers collateral relief. The model law and regulation contain few details on how the NAIC should decide which jurisdictions should appear on the list. We are therefore surprised at the level of detail included in the draft proposal which seems out of line with the NAIC's stated intent that the assessment process should be an outcomes based comparison.

Given the absence of a principles based approach, we believe some of the requirements contained in the draft should be re-evaluated as they will likely prove resource intensive to fulfil whilst provide little or no additional supervisory insight on how robust a foreign supervisory regime is. At a time when supervisors' resources are stretched the proposal seems unduly resource intensive which will not only prove costly and burdensome for the NAIC and foreign jurisdictions to administer but also risks causing lengthy delays to the process. To these ends, we believe it is important that the process is adopted and implemented quickly whilst not negatively affecting foreign reinsurers which are already benefiting from collateral reductions in certain US states or delaying adoption and implementation of collateral reduction measures in other US states.

Instead, therefore, we suggest the process should make use of publically available information and information already being obtained through other NAIC work streams including information gained through the NAIC's regulatory dialogues with third countries.

In addition, it is unclear how the NAIC intend on dealing with jurisdictions located in the European Economic Area (EEA). We strongly believe the EEA should be defined as a single jurisdiction, as European countries benefit from a common regulatory system for reinsurance under the Reinsurance Directive (EC) 2005/68 that will be further enhanced when Solvency II enters into force. This will also help to align the NAIC's approach with the work underway as part of the EU US regulatory dialogues. Indeed the EU-US dialogue project report includes a chapter on reinsurance and collateral requirements which details the differing approaches taken to reinsurance supervision supervisory regimes in the EU and US. The information included in this report and the accompanying discussions should provide a solid basis for an assessment to be made.

With respect to prioritisation of countries for evaluation, we agree that jurisdictions that have already been approved by New York and Florida should be subject to expeditious review, however, there are other European jurisdictions with major ceded premium volume, reinsurance capacity and high standards of regulation and supervision which should be also prioritised. Excluding jurisdictions with strong regulatory regimes from which reinsurers already provide capacity to the US market might distort competition. We would suggest making it clear that specific requests from US States and from foreign jurisdictions will be treated with the same priority as those jurisdictions in the initial list to be evaluated.

In addition, we believe that information should only be requested for the assessment where there is a clear supervisory need. To this effect, we believe the following non-exhaustive list of requirements should preferably be removed or otherwise substantially redrafted:

- III, 2.b. Requirement for a jurisdiction's response to be supported by an independent opinion from a legal counsel – We believe that a statement of a foreign supervisory authority should be considered to be trustworthy and credible. Further, this requirement will add significant costs for foreign jurisdictions taking part in the process.
- III, 3.b. and 4.c. Costs associated with the evaluation process - Insurance Europe believes that the cost of the process should be borne by the NAIC. Providing the information required by the survey will already place significant costs on foreign jurisdictions participating which will indirectly/directly need to be met by their local industry. These costs could be reduced, however, if the NAIC were to reevaluate some of its requirements in line with the suggestions included in this response.
- III, 6.a. Involvement of outside consultants in preparation of Preliminary Evaluation Report – The involvement of outside consultants in the process requires further clarification as this may give rise to professional secrecy/confidentiality issues for some jurisdictions.
- IV Section A, 6 Evaluation of a group holding company system of reinsurers - given that the outcome of the assessment relates to credit for reinsurance at solo level, we question the need for an assessment to cover a group holding company system. Also the reinsurer may be located in a different jurisdiction to the jurisdiction in which the group is headquartered. Therefore, the group supervision regime that applies to the group may be different from that applied in the reinsurer's jurisdiction.
- IV Section A, 14 Description of regulatory framework for the regulation of reinsurance intermediaries – We question the relevance of this requirement and suggest that it be reconsidered.
- IV Section B, Section F Explanation of restrictions with respect to the enforcement of final judgements. - We recognise that the model law and regulation specify that a jurisdiction may not be recognised as a qualified jurisdiction if the jurisdiction does not adequately and promptly enforce US judgements. However, this topic has been discussed at length in the past as part of the US collateral discussions and we remain unaware of problems having been found to justify the requirements inclusion in the draft regulation. If the NAIC is required by the model law and regulation to include it we suggest instead that the burden of proof rests with US state commissioners' not foreign jurisdictions.



Many important details like the 'costs associated with the evaluation process', 'the operational procedure for the decisions and evaluation process' and the 'periodic review process remain yet to be defined or developed. We would appreciate the opportunity to comment on these important details at a later stage when they have been more elaborated.

Despite its imperfections, uniform implementation of the revised model law and regulation across the US is very important and unless this happens in a timely manner much of its potential benefit will be lost. With this in mind we welcome the references made in the paper to the NAIC communicating and co-ordinating with the Federal Insurance Office (FIO); and in particular the explicit reference to the ability of the FIO to assist the U.S. Secretary of the Treasury in negotiating covered agreements. Insurance Europe believes that covered agreements provide a potential solution to achieve a consistent approach for national treatment of foreign reinsurers within a reasonable timeframe.

Insurance Europe appreciates the NAIC's consideration of our comments, and would be happy to respond to any questions you or other taskforce members might have regarding the contents of this letter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Olav Jones", is written over a horizontal line.

Olav Jones

Insurance Europe is the European insurance and reinsurance federation. Through its 34 member bodies — the national insurance associations — Insurance Europe represents all types of insurance and reinsurance undertakings, eg pan-European companies, monoliners, mutuals and SMEs. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe's economic growth and development. European insurers generate premium income of almost €1 100bn, employ nearly one million people and invest around €7 700bn in the economy.