

Description of the Project/Issues Addressed, etc.

On Sept 22, 2017, the U.S. Department of the Treasury (Treasury Department) and the Office of the U.S. Trade Representative (USTR) signed the "Bilateral Agreement Between the United States and the European Union (EU) reinsurers that maintain a minimum amount of solvency capital requirement (SCR) of 100% under the Solvency II Directive and a minimum amount of capital and surplus equivalent to 226 million euros with a risk

insurance and reinsurance (UK Covered Agreement). A separate Covered Agreement is also being signed between the U.S. and the EU, covering aspects of

group supervision provisions of the Covered Agreement are not expected to be implemented. The Covered Agreement will require the states to take action with respect to provisions within 18 months (five years) of signing of the federal insurance office (FIO) under the federal Street Reform and Credit Access Act of 2010 (CRA) and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). The CRA provisions are in Title I, Section 101 of the

March 7, 2019, Exposure Draft The drafting group again considered the comment letters and public discussion well as recommendations made by the Financial Condition (E) Committee

- Breach of the Covered Agreement On April 17, 2018, the Executive (EX) Committee adopted a charge to the Reinsurance (E) Task Force to develop revisions to Model #785 and Model #786 to address the effect of a breach of the Covered Agreement on a reinsurer's collateral obligation. The effect of a failure of a non-qualified jurisdiction to meet the standards imposed by its agreement to acknowledge and adhere to the terms of the Covered Agreement and/or Model #785 and Model #786. The Sept. 25, 2018, exposure draft of Model #785 contained a requirement that reciprocal jurisdiction is a member state of the European Union, and has been determined

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- Memorandum of Understanding At the suggestion of interested parties, the memorandum of understanding required for qualified jurisdictions and reciprocal jurisdictions under Section 9 Model #786 was clarified to include the International Association of Insurance Supervisors' Multilateral Memorandum of Understanding (MUMU). Further multilateral memoranda of understanding coordinated by the NAIC in the Sept 25, 2018 exposure.
- Annual Reduction in Collateral by 20% Article 9(3)(a) of 719.3F10 Tw S2.3 (ic)-1.9 (t)-3 Tc 0.00j 0.9 (

In its comment letter dated March 28, 2019, the European Commission also argued that Section 2F(7) was not consistent with Article 3(8) of the Covered Agreement, which provides that the Covered Agreement takes effect only to reinsurance agreements entered into, amended, or renewed on or after the date on which a measure that reduces collateral pursuant to this Article takes effect. The Task Force disagreed with this interpretation, noting that there are additional requirements contained in Article 3 of the Covered Agreement that also must be met before an EU reinsurer is permitted to eliminate reinsurance collateral, including meeting minimum capital and surplus requirements of \$250 million, 100% SCR, consent to the jurisdiction of the courts, service of process requirements, filing of audited financial statements, actuarial opinions, list of all disputed and overdue claims, information on prompt payment of claims, etc. Therefore, the Task Force made

subject to a legal process of resolution, receivership, or winding up proceedings as applicable, the ceding insurer, or its representative, [emphasis added] may seek and, if determined appropriate, the court in which the resolution, receivership, or winding up proceedings is pending may obtain an order [emphasis added] requiring that the assuming reinsurer post collateral for all outstanding ceded liabilities." The Task Force agreed that the Covered Agreement required the ceding insurer or its representative to seek such an order from the insurance commissioner and amended Section 9H of Model #786 in the March 7, 2019 exposure draft accordingly.

- Audited Financial Statements for Certified Reinsurers At the request of the European Commission, the drafting group and Reinsurance (E) Task Force amended Section 8B(4)(h) and Section 8B(7)(d) of Model #786 to require the filing of audited financial statements for certified reinsurers. (E) Task Force amended Section 8B(4)(h) and Section 8B(7)(d) of Model #786 to require the filing of audited financial statements for certified reinsurers.

- Reciprocal Jurisdiction Procedures Reinsurance (r)3.2 k2mm.9 DC 12.T(c2m82F)1s

Task Force that it is necessary to expeditiously modify these standards in accordance with the Adoption of Additional Model Laws, Regulations or Standards for Accreditation. This waiver in procedure is necessary because the states are expected to immediately begin considering these revisions for enactment into state law and regulation due to the 60 (five year) period in which the states are required to enact the revisions in order to be consistent with the Covered Agreement or face potential federal preemption.

The Task Force has not determined whether these revisions should result in an "optional" accreditation standard or a "uniform" accreditation standard. NAIC originally adopted the significant elements of 2011 revisions to Model #785 and Model #786 as an "optional" accreditation standard. Specifically, under this optional standard, a state was not required to enact the certified reinsurer provisions to the models but if it chose to reduce its reinsurance collateral requirements, the state's laws and regulations must be substantially similar to the key elements of the revisions. Upon the review and consultation with state insurance regulators and interested parties, the Financial Regulation Standards and Accreditation Committee determined that the certified reinsurer provisions result in increased financial solvency regulation and increased consumer protection by policyholders, and they should be adopted as a "uniform" standard applicable to all NAIC accredited jurisdictions under the "substantially similar" definition. The 2011 revisions to Model #785 and Model #786 could be considered under either an "optional" or accreditation standard.

Finally, the Task Force should consider whether to make the "passporting" process subject to the Part B: Regulatory Practices and Procedures accreditation standards. Generally, models are incorporated into the Part A: Laws and Regulations accreditation standards, but the NAIC's passporting process is not specifically required in Model #785 and/or Model #786. Model #786 does contain the following text found after Section 9C(5):

Drafting Note: In order to facilitate multistate recognition of assuming insurers and to encourage uniformity among the states, the NAIC has initiated a process called "passporting" under which a commissioner has the discretion to defer to another state's determination with respect to compliance with this Section. Passporting is based upon individual state authority, and states are encouraged to act in a uniform manner in order to facilitate the passporting process. States are also encouraged to utilize the passporting process to reduce the amount of documentation filed with the states and reduced duplicate filings. It is anticipated that "lead" states will uniformly require assuming insurers to provide the documentation described in Section 9C(5) of this regulation, so that other states may rely upon the lead state's determination.

The Task Force should consider whether the passporting process should become part of the Part B accreditation requirements and require states to participate in passporting consistent with the guidance provided in the drafting note.

Group could determine whether it believes that any changes to the AG 48 approach should be made to the model regulation. If the Drafting Group

PROJECT HISTORY-2011

CREDIT FOR REINSURANCE MODEL LAW (#785)

CREDIT FOR REINSURANCE MODEL REGULATION (#786)

1. Description of the Project - (Type 3.087 of Title 9) - d. 9 s

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5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

On February 22, 2011, the Task Force released exposure drafts of revisions to Model #785 and Model #786 for a 30-day comment period. The Task Force received several comment letters from interested parties and discussed these drafts on March 26 during the Spring National Meeting in Austin, Texas. The Task Force held an interim meeting in Jersey City, New Jersey on July 11 and took public testimony from interested parties on the proposed amendments. On July 26, the Task Force released a second set of proposed amendments to the Credit for Reinsurance Models, which were exposed for a 30

- Life Reinsurance & Other Long-Term Contracts The Task Force considered whether special limitations should be placed on life insurance and other types of reinsurance agreements. The Reinsurance Framework Proposal originally included a moratorium on collateral reduction to life contracts, but the revised models no longer include distinction.
- Reconciliation to U.S. GAAP The Task Force considered the accounting and reporting basis that would be applicable to financial statements filed by certified reinsurers. Earlier versions of the models required financial statements to be filed on an audited U.S. GAAP basis, or an IFRS basis with an audited reconciliation to U.S. GAAP for equity and net income. At the September 19 meetings, an amendment was adopted that allowed IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company, with the permission of the state insurance commissioner.
- Prospective Application of Revisions During the course of drafting the Framework and model revisions, the Task Force has consistently taken the position that any potential collateral reductions would be phased. Any future reductions would be done on a prospective basis and any prior liabilities would remain secured at 100% collateral. Property and Casualty ceding insurers were strongly opposed to permitting reinsurance collateral under existing reinsurance agreements to be reduced or eliminated. Reinsurers and specialty ceding insurers would like to be able to amend existing agreements to reduce collateral requirements. At the September 19, 2011 meetings the Task Force adopted an amendment intended for clarification and to close a perceived loophole with respect to the effective date of the revised reinsurance collateral requirements.

7. Any Other Important Information (e.g., amending an accreditation standard).

In December 2010, the NAIC Plenary approved the Recommendations Regarding Key Elements of the Reinsurance Framework for Accreditation Purposes (Accreditation Recommendations), which are the key elements of the Reinsurance Regulatory Modernization Framework that should be considered in reviewing any individual state initiatives with respect to reinsurance collateral reduction reforms. The Accreditation Recommendations were intended as an interim solution to guide the Financial Regulation Standards and Accreditation (F) Committee and the NAIC during the transition period between adoption of the Framework and proposed revisions to the reinsurance models.

The revisions, if adopted, would become part of the Credit for Reinsurance Models, and would be considered by the Financial Regulation Standards and Accreditation (F) Committee as an amendment to the existing standard for Reinsurance Ceded. It should also be noted that the proposed revisions to the models do not require a state to reduce its reinsurance collateral requirements. It is further the recommendation of the Task Force that it is necessary to expeditiously modify these standards in accordance with the Process for the Adoption of Additional Model Laws, Regulations or Standards for Accreditation.