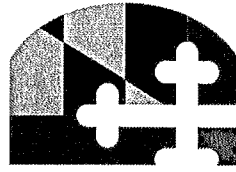


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**TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
SENATE FINANCE COMMITTEE**

FEBRUARY 12, 2020

SENATE BILL 167 – INSURANCE - CREDIT FOR REINSURANCE MODEL LAW - REVISIONS

POSITION: SUPPORT

Thank you for the opportunity to provide written comments regarding Senate Bill 167. Senate Bill 167 adopts revisions to the National Association of Insurance Commissioners' (NAIC) Model Law # 785, known as the Credit for Reinsurance Model Law Act. The changes predominantly reflect revisions to Model #785 required by the Bilateral Agreement between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance (the "Covered Agreement"). On September 22, 2017, the U.S. Treasury Department and the European Union (EU) announced they had formally signed the Covered Agreement. The Covered Agreement requires states to eliminate reinsurance collateral requirements for assuming insurers from the EU, and certain non-U.S. jurisdictions recognized as Qualified Jurisdictions that meet additional requirements, within 5 years or risk federal preemption.

Historically, U.S. state insurance regulators have required non-U.S. reinsurers to hold 100% consumer protection collateral within the U.S. for risk assumed from U.S. insurers. In 2011, as part of an effort to modernize reinsurance regulation in the U.S., the NAIC amended Model #785 and the Credit for Reinsurance Model Regulation (#786) to introduce requirements for a certified reinsurer (a new type of reinsurer, at the time) that could post significantly less than 100% collateral commensurate with the financial strength rating of the reinsurer and the quality of the regulatory regime that oversees it. These changes to Models #785 and #786 became accreditation requirements. Maryland adopted these revisions in 2013 (Chapter 321, Maryland laws 2013). Senate Bill 167 reflects additional revisions to #785 required by the execution of the Covered Agreement by the federal government.

Additionally, Senate Bill 167 also clarifies that the Commissioner has the discretion to defer to the insurance regulatory agency of a state accredited by the NAIC or the NAIC committee process to designate an assuming reinsurer as a certified reinsurer in the State or to assign a rating to an assuming reinsurer or both.

Finally, it is important to underscore that Senate Bill 167 reflects changes to Model #785 which are an accreditation requirement by the NAIC for the state's continued acceptance as a qualifying examination agency. Due to the risk of federal preemption, the NAIC has recently proposed that all states attempt to incorporate these changes into their laws as soon as possible.

The Maryland Insurance Administration supports Senate Bill 167 and urges the Committee to give Senate Bill 167 a favorable report.



STATE LEGISLATIVE BRIEF

The NAIC Credit for Reinsurance Model Law

- *The NAIC Credit for Reinsurance Model Law (#785) and Model Regulation (#786) strengthen state regulation, prevent regulatory arbitrage, protect U.S. policyholders, and reduce the uncertainty faced by insurers when planning for collateral liability.*
- *The 2019 revisions implement the reinsurance collateral provisions of the Covered Agreements that were entered into between the United States and the European Union and the United Kingdom, which require states to eliminate collateral requirements entirely within 5 years or be subject to federal preemption.*

Background

State insurance regulators have historically required non-U.S. reinsurers to hold 100% collateral within the U.S. for the risks they assume from U.S. insurers. Over the past decade, these collateral requirements have been a frequent subject of debate, with various groups calling for the elimination of collateral requirements for reinsurers licensed in well-regulated jurisdictions. In 2011, the NAIC adopted a revised Credit for Reinsurance model as part of a larger effort to modernize reinsurance regulation in the United States. These revisions allowed for non-U.S. reinsurers to post less than 100% collateral for U.S. claims, commensurate with the non-U.S. reinsurer's financial strength and the effectiveness of its home country regulator. In January 2016, the model was subsequently amended to provide the state insurance commissioner authority to issue regulations with respect to certain captive reinsurance transactions.

Significantly, in September 2017, the former administration's Treasury Department and the United States Trade Representative, utilizing their authorities under the Dodd-Frank Act, concluded negotiations on an agreement with the European Union that eliminates EU reinsurer collateral requirements provided certain regulatory criteria are met. In addition, the EU agreed to recognize the states' approach to group supervision, including group capital. States have five years to comply with the Agreement's reinsurer collateral requirements or face possible federal preemption. In December 2018, a separate Covered Agreement was signed between the U.S. and the UK, which mirrors the language from the agreement with the EU and has the same timing requirements for implementation.

In June 2019, the NAIC adopted revisions to the models that are intended to implement the reinsurance collateral provisions of the Covered Agreements. The revisions eliminate reinsurance collateral requirements for reinsurers that have their head office or are domiciled in any of the following "Reciprocal Jurisdictions": an EU-member country (or any other non-U.S. jurisdiction) that is subject to an in-force covered agreement, thereby addressing the elimination of reinsurance collateral requirements with U.S. ceding insurers; a U.S. jurisdiction (State) that meets the requirements for accreditation under the NAIC financial standards and accreditation program; and a non-U.S. jurisdiction recognized as a Qualified Jurisdiction that meets additional requirements consistent with the terms of a covered agreement. For reinsurers domiciled in Qualified Jurisdictions to obtain similar treatment as those jurisdictions subject to the Covered Agreements, they must provide to the states the same treatment and recognition afforded by EU countries pursuant to the EU/U.S. Covered Agreement. Therefore, our revisions include the requirement that the Qualified Jurisdiction must agree to recognize the states' approach to group supervision, including group capital.

Key Points

- ✓ The 2019 revisions implement the reinsurance collateral provisions of the EU/U.S. and UK/U.S. Covered Agreements, which require states to eliminate collateral requirements entirely within 5 years or be subject to federal preemption.
- ✓ Continued state action on the NAIC model is our best defense against further federal action.

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