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February 23, 2015

Commissioner Julie Mix McPeak and Superintendent Joseph Torti III
Co-Chairs, NAIC Principle-Based Reserving Implementation (EX) Task Force
National Association of Insurance Commissioners

Dear Superintendent Torti and Commissioner McPeak:

On behalf of the American Academy of Actuaries[1] Principle-Based Reserve Strategy Subgroup and its Reinsurance Work Group (collectively, "Academy Work Groups"), we are pleased to offer comments on the draft 2015 Supplemental XXX/AXXX Reinsurance Exhibit ("Supplemental Exhibit") and Instructions exposed by the Principle-Based Reserving Implementation Task Force ("Task Force") during its conference call on February 11.

We would like to express our appreciation for the Task Force's effort to differentiate reporting requirements in the Exhibit for "grandfathered" XXX/AXXX policies not subject to the new framework requirements of AG48 from reporting for policies that are subject to the framework. Specifically, we support a split of the current Exhibit Part 2 into new Exhibit Parts 2A and 2B, which allows for such differentiation.

Our comments focus on two areas on the Exhibit and Instructions as exposed by the Task Force. For each area, we offer suggested changes to the Exhibit to address our concerns:

- The scope of treaties to be reported in Parts 2-4 is too broad.
- Some of the requested information for non-captive and "grandfathered" captive treaties is unavailable or inapplicable.

Unless the Exhibit is revised, we believe that there is the potential for inconsistent reporting by companies, and for reported data to be misunderstood or misconstrued.

Scope of Treaties Reported in Parts 2-4

Part 1 of the Exhibit requests information on all XXX and AXXX cessions. Columns 4-9 of Part 1 are yes/no questions about the reinsurer and reinsurance, and Column 10 asks whether the cession has been given a Special Exemption by the domestic regulator and FAWG. For each

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treaty reported in Part 1 for which each of columns 4-9 are answered “no,” Parts 2A or 2B, 3, and 4 are also to be completed.

We observe, as have others, that the design of AG48 and the Exhibit makes it likely that some non-financing reinsurance cessions to other than ”life insurer captives" would be swept under the AG48 requirements and into reporting in Parts 2-4. For example, if an assuming insurer operates under any prescribed or permitted practice that materially increases its reported surplus, it is likely that reporting in Parts 2-4 by the ceding company will be required, even if the assuming company is well capitalized without the permitted/prescribed practice. So, a bulk reinsurance transaction covering XXX / AXXX business which is unrelated to “reserve financing” could fall into the scope of reporting in Parts 2-4. The cession in question might, for example, be to an affiliated traditional insurer or to an unaffiliated insurer that has acquired a block of business through indemnity reinsurance. In these cases, no "financing" is involved, no "economic reserve" is associated with the treaty or transaction, and “primary security” and “other security” are not defined.

In the Supplemental Exhibit, we believe that there should be a clear and direct way for reporting companies to inform the regulator and the public reader that, in the company's view, a particular cession is a "false positive," that is, is a non-financing transaction for which any further columns on Economic Reserve, Required Level of Primary Security, Primary Security and Other Security will likely be inapplicable and misleading.

We recommend two revisions to the Exhibit to address the above concerns:

1. Do not require reporting on treaties in Parts 2-4 that have been granted a Special Exemption by the ceding insurer’s domestic regulator after consultation with FAWG (that is, column 10 of Part 1 is checked “yes”). Ceding companies could then seek a Special Exemption for such treaties, whether grandfathered or not, from their domestic regulator. It seems to us that such transactions should be exempt entirely from reporting in Part 2A. If they reported in 2A and then in Parts 3 or 4, as the draft Instructions currently require, the utility and quality of any further detail seems questionable.
2. Provide a means on the Supplemental Exhibit for companies to self-designate "false positives." Requesting and securing the 3D Special Exemption is likely to require time and effort. Some exemption requests will be in process at the valuation date. In other cases, especially if the cession meets the grandfathering criteria, the reporting company may simply decide to report amounts, or N/As, as best it can, and move on, creating the potential for inconsistent reporting or misleading figures. Consequently, we believe that it would be preferable to add a column to Parts 1, 2A and 2B where the company can assert that it believes that the cession is not financing and that further detailed reporting in AG48 categories is inapplicable and potentially misleading. An additional step could be, at least initially, for the NAIC to not require any additional reporting details on cessions so designated.

Unavailable/Inapplicable Information for “Grandfathered” Captive Treaties

Supplemental Exhibit Part 2A requests Economic Reserves, several categories of Primary Security, and Other Security for each “grandfathered” reported treaty. The terms “Primary Security” and “Other Security” are defined for treaties within the scope of AG48, but are not defined for grandfathered treaties or treaties outside the scope of AG48. Therefore, for grandfathered reserve financing treaties, we suggest reporting only three items in Part 2A – Reserve Credit Taken and Economic Reserves per the current draft of Part 2A, and the excess of Reserve Credit Taken over Economic Reserves. If the Task Force desires, there could be additional reporting of the assets that support Economic Reserves by type or other criterion.

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We appreciate the opportunity to offer these comments, and would be happy to answer any questions about our suggestions. We are truly concerned that the Exhibit and Instructions as exposed have inherent problems that should be addressed before they are adopted. If you have any questions, please contact Brian Widuch, life analyst at the American Academy of Actuaries (widuch@actuary.org; 202-223-8196).

Sincerely,

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