



THE GENERAL INSURANCE ASSOCIATION OF JAPAN

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Director Chlora Lindley-Myers, Chair (Missouri)
Director Ray Farmer, Vice Chair (South Carolina)
National Association of Insurance Commissioners, Reinsurance (E) Task Force
Via email to jstultz@naic.org, dschelp@naic.org

Re: GIAJ Comments on proposed revisions to the Credit for Reinsurance Model Law (#785) and the Credit for Reinsurance Model Regulation (#786)

Dear Director Lindley-Myers and Director Farmer,

The General Insurance Association of Japan (GIAJ)¹ appreciates the opportunity to comment on the proposed revisions to the Credit for Reinsurance Model Law (#785) and the Credit for Reinsurance Model Regulation (#786).

In previous comments on NAIC consultations, the GIAJ highlighted that any revisions should incorporate principles such as consistency with existing rules, fair treatment among insurers, efficiency of supervision, and removal of duplicative regulations.

We note that the latest proposed revisions are intended to incorporate technical input received from the U.S. Department of Treasury and the Office of the United States Trade Representative. We also understand that it is not the intention of the NAIC to alter the basic direction of the revisions being considered by the NAIC Reinsurance (E) Task Force through its process, of which the GIAJ has been supportive.

We wish to submit some comments on the latest version of the proposed revisions to clarify some parts which we think are ambiguous.

Model Regulation 9.B.(3)(c)

In order to be designated as a “Reciprocal Jurisdiction”, a qualified jurisdiction needs to provide “written confirmation” that it recognizes the US state regulatory approach to group supervision and group capital. This “written confirmation” should be accepted in manner that is format agnostic.

From the standpoint of efficiency and fair treatment, as long as recognition is secured in effect, the format of the written confirmation should not be important. For example, an e-mail communication from a competent regulatory authority in the qualified jurisdiction should be sufficient confirmation. Introduction of prescriptive measures should be avoided.

It should be noted that insurance related laws in many jurisdictions are not applied extraterritorially, and that they rarely refer to other jurisdictions let alone whether or not they recognize other supervision.

¹ GIAJ is an industry organization whose 27 member companies account for about 95 percent of the total general insurance premiums in Japan which is one of seven jurisdictions listed in the NAIC List of Qualified Jurisdictions. Some of its members or their affiliates are certified reinsurers.

Model Regulation 9.B.(3)(d)

Similar to the above comment, with regard to “written confirmation” by a competent regulatory authority in a qualified jurisdiction on information provision regarding insurers and their parent, subsidiary, or affiliated entities referred to in this section, written confirmation should be accepted irrespective of its format.

Model Regulation 9.C.(3)(c)

With regard to an assuming insurer domiciled in a Reciprocal Jurisdiction, as defined in Section 9.C.(3), we understand that the NAIC Committee Process will publish recommendations regarding a minimum solvency or capital ratio that such an insurer must have and maintain on an ongoing basis. From the standpoint of consistency with existing rules and efficiency of supervision, such a minimum solvency or capital ratio requirement should utilize an existing NAIC process such as the “Process for Developing and Maintaining the NAIC List of Qualified Jurisdictions”.

In addition, with regard to existing qualified jurisdictions, determinations made in a qualified jurisdiction’s process should be maintained unless a major change is made regarding its regulation.

Model Regulation 9.C.(5) Drafting Note

We welcome a reference to the “passporting” process which facilitates multi-state recognition of assuming insurers and encourages uniformity among states.

Model Regulation 9.B.(3)(e) and 9.C.(8)

The Credit for Reinsurance Model Law (#785) provides that the Commissioner may adopt specific additional requirements via regulation.

While we understand that the Commissioner has discretion to some extent regarding credit for reinsurance, such discretion should not override the basic idea of the Models and should avoid legal uncertainty. Therefore, we believe the related wording of Sections 9.B.(3)(e) and 9.C.(8) should be deleted. If the NAIC finds it difficult to delete the wording related to commissioner discretion, new wording to limit such discretion within necessary limits should be added (e.g. "to the extent necessary, in light of the objectives of this regulation").

Sincerely,



Makoto Kawagoe
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The General Insurance Association of Japan