RAA
REINSURANCE ASSOCIATION OF AMERICA
1445 New York Avenue, N.W., 7th Floor
Washington, D.C. 20005

Telephone: (202) 638-3690
Facsimile: (202) 638-0936
www.reinsurance.org

June 22, 2021

NCOIL Legislators and Staff
Via email

RE: Update on Amendments to the NAIC Credit for Reinsurance Model Law and Regs

NCOIL Legislators and Staff:

The Reinsurance Association of America has been working with state legislators, along with state regulators and the Federal Insurance Office (FIO) over the last few months, assisting with the necessary adoption and implementation of these changes to the Credit for Reinsurance (CFR) model law.

This update focuses on the three main areas of activity we are working on:

- Enactment of the model law
- Adoption of the model regulations
- Implementation of the mechanisms to facilitate the provisions of the law and regs

<u>Enactment of the model law</u>

To date, 37 states have enacted the model law. In addition, two states – New York and Wisconsin – can effectuate the model law via regulation and thus do not need to formally pass the model bill.

At the moment, eight states have legislation pending which includes the model bill:

- Connecticut
- Delaware
- Illinois
- Massachusetts
- Minnesota
- Missouri
- North Carolina
- Rhode Island

That leaves three states:

- Hawaii
- New Jersey
- New Mexico

along with the District of Columbia, who will need to pass the model bill in 2022 as the first step to avoiding federal preemption.

Adoption of the model regulations

Twelve states have also adopted the model regulations that accompany the model bill language. Several states who have adopted the bill are working to promulgate the regs as well. The RAA is working to review those draft regulations as they are published to help ensure consistency with the model.

Implementation of the mechanisms to facilitate the provisions of the law and regs

This third component – implementation – generates most of the inquiries the RAA receives from its members on this subject. For reinsurers to avail themselves of the provisions of the bill – and for states to meet the requirements outlined in the covered agreement – there must be a mechanism by which reinsurers can submit their applications for reduced collateral requirements based upon their reciprocal or qualified jurisdiction status.

To that end, FIO has begun their review of the various enacted bills to ensure consistency with the terms of the covered agreements. In launching this review, FIO recently advised regulators it would

> prioritize those U.S. States with the highest volume of gross ceded reinsurance, as specified in the Covered Agreements. While other factors may be relevant, FIO will focus on differences from the text of the 2019 Model Law and Regulation in considering whether a U.S. State credit for reinsurance measure may be inconsistent with the Covered Agreements and therefore subject to potential preemption under the FIO Act.[1]

The NAIC's Reinsurance (E) Task Force recently released a draft process for "passporting" reinsurers who have met the requirements under the provisions of the model act and regulations in one state. This will streamline the approval process for those companies wishing to avail themselves of the CFR provisions in other states. The NAIC will continue to work on this process in the coming months.

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[1] https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/covered-agreements/preemption-analysis

Moving forward

Many legislators and regulators have worked hard to create as much progress as we’ve seen this year. We urge both to:

- Continue the process of adopting the accompanying model regulations
- Implement the necessary mechanisms within the state regulator’s offices to allow reinsurers to apply for CFR treatment
- Reach out to FIO if they have questions or concerns about the preemption evaluation process

The RAA remains ready to be of assistance to all legislators and regulators as we move forward.

Sincerely,

Paul Martin

Paul Martin
Vice President-State Relations