



## 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.*
- *The 2019 revisions are an accreditation requirement, effective September 1, 2022.*

### 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

- To date, the 2019 revisions to the NAIC *Credit for Reinsurance Model Law (#785)* have been adopted in 47 jurisdictions, while the 2019 revisions to the NAIC *Model Regulation (#786)* have been adopted in 31 jurisdictions (see attached maps).
- 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.

