



February 6, 2018

VIA E-Mail

Superintendent Maria T. Vullo, Chair (New York)
Director Chlora Lindley-Myers, Vice Chair (Missouri)
National Association of Insurance Commissioners,
Reinsurance (E) Task Force

Attention: Mr. Jake Stultz, jstultz@naic.org

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RE: NAIC Implementation of reinsurance collateral provisions of the Bilateral Agreement Between the United States of America and the European Union (EU) on Prudential Measures Regarding Insurance and Reinsurance (Covered Agreement)

Dear Superintendent Vullo, Director Lindley-Myers, Members of the Task Force & Interested Regulators:

Thank you for the opportunity to express XL Group's views in connection with the implementation of the historical Covered Agreement between the US and the EU. XL Catlin is a Bermuda domiciled global group providing property, casualty and specialty insurance and reinsurance to industrial, commercial and professional firms, insurance companies and other enterprises on a worldwide basis. The US is a major market for us, and like everyone in this room, we greatly appreciate the opportunity to engage in this open and deliberative process.

Today the NAIC has asked for comments on a variety of steps it could take in connection with the implementation of the Covered Agreement between the US and the EU. While it makes its way through this process, one choice is abundantly clear. This is a pivotal moment in time for the NAIC to demonstrate the strength of state-based insurance regulation; a time to exhibit the agility of this 150 - year old institution; and an opportunity to exemplify the leadership necessary for matters that involve cross-border issues in this rapidly converging global market. And XL Catlin urges you to seize this opportunity so as to promote greater uniformity, clarity and expediency in our US reinsurance marketplace and provide a mechanism to ensure a level playing field here and overseas.

The Covered Agreement is a great step forward in the reduction of cross-border market barriers. It sets the stage for the development of a level playing field in the US reinsurance market and to ensure US companies avoid barriers when accessing the EU. We applaud the NAIC, the FIO and the US Trade Representatives for their persistence in securing this Agreement. But we urge the NAIC to go even further than the four corners of this Agreement. We ask you to extend the benefits of the Covered Agreement to the Qualified Jurisdictions that seek such standing. This will ensure a level playing field for reinsurers from all such jurisdictions without compromising the protections in place under the Agreement. The States, with the NAIC's leadership, have the power to go at this alone, without the need for perhaps multiple formal Covered Agreements that may take years to negotiate. This is not needed if the NAIC chooses to exercise its independent powers to expand the treatment set out in the Agreement to those Qualified Jurisdictions.



This would be a natural extension to make given that the reinsurance provisions of the Covered Agreement were built on the foundations of the NAIC Credit for Reinsurance Model Law. Qualified Jurisdictions are subject to a rigorous process that will serve this expansion well. In order to achieve this status, a Jurisdiction's reinsurance supervisory system must maintain a level of effectiveness in financial solvency regulation that is deemed acceptable for the purposes of reinsurance collateral reduction. The Jurisdiction's demonstrated practices and procedures with respect to reinsurance supervision must be consistent with its reinsurance supervisory system, and the Jurisdiction's laws and practices must satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Model Act. It is with this sound backdrop and the fundamental building blocks that the NAIC already has put in place, that we recommend providing reinsurers domiciled in NAIC Qualified Jurisdictions with similar reinsurance collateral requirements as the reinsurers domiciled in the EU provided those reinsurers meet the financial and other requirements also set out in the Model Law and which again serve as a foundation for the terms of the Covered Agreement.

These requirements were widely consulted on, carefully constructed over a number of years and have proven to be very effective. We therefore do not see any need to amend the Model Law in this respect and do not see any need for additional "guard rails" that would only serve to tilt the level playing field further.

This approach would create a level playing field for reinsurers' access to the US market. There is, of course, a broader level playing field that needs to be ensured and that is the access that US companies have to Qualified Jurisdictions. A major success of the Covered Agreement was to provide a mechanism to ensure that US companies were not subject to discriminatory or other barriers in accessing the EU market. This was the important quid pro quo. This too can be embedded in the Qualified Jurisdiction criteria to ensure fair market access for US insurers and reinsurers. This would leave these decisions in the hands of functional regulators and avoid the complexities that were experienced in the delivery of the Covered Agreement. As the global market place and its regulation continue to change, this approach would undoubtedly prove more flexible to respond to such change than a Covered Agreement approach.

In conclusion, the time is right for the NAIC to express its continued commitment to maintaining a healthy, vibrant reinsurance marketplace that is open to non-domestics and is based on a level playing field. It is also an important moment for the NAIC to continue to demonstrate its leadership in supporting US insurers and reinsurers in accessing markets overseas. We encourage you to take that bold step forward.

Thank you.

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