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March 28, 2016

Mr. Patrick McNaughton
Chair, Health Risk-Based Capital (E) Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, Missouri 64108-2662

RE: Comments on Proposal 2016-01-H

Dear Mr. McNaughton,

On behalf of the American Academy of Actuaries'[1] Health Solvency Subcommittee, I would like to comment on the Health Risk-Based Capital (E) Working Group's Proposal 2016-01-H. This proposal adds a footnote on XR012-A, where entities will report premium and claims separately for individual business written inside the exchanges and individual business written outside of the exchanges. The Working Group will use this information to assess whether varying risk charge factors at this level of detail are warranted.

When considering the underlying risk of individual ACA exchange policies versus that of individual ACA-compliant policies sold outside of the exchange, we note that the risk adjustment program is in place to mitigate the effect of risk selection on premiums by transferring funds from issuers with below average market risk to issuers with above average market risk. This requires issuers to combine all experience within a market regardless of being on or off exchange and rate these policies as a single risk pool. If there are differences in underlying risk between issuers selling primarily in the exchanges and issuers selling ACA policies primarily direct to consumers off exchange, then the risk adjustment program should mitigate these differences. Any attempt to determine the difference in the level of net risk (after risk adjustment) from the requested separation will be distorted by the allocation methods used to reflect the risk adjustment program values for the prior year (replacing an estimate with an actual) with the estimate for the current year.

When considering the individual business written outside of the exchange, we note that it includes a mix of both ACA-compliant policies and policies that existed before the ACA. The pre-ACA policies are not required to offer Essential Health Benefits and, in most markets, were

[1] The American Academy of Actuaries is an 18,500+ member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

1850 M Street NW Suite 300 Washington, DC 20036 Telephone 202 223 8196 Facsimile 202 872 1948 www.actuary.org

underwritten in a pre-guaranteed issue environment. If the ACA off exchange experience is combined with the pre-ACA experience, the results could be skewed due to membership mix between ACA and pre-ACA business. We also note that there will be substantial shifts in membership flowing out of the pre-ACA segment and into the ACA on and off exchange segments as the transition policy ends in many markets at the end of 2017.

A more appropriate segmentation of data could be reporting of premium and claims for ACA individual policies and pre-ACA individual policies. However, as we note above, the end of the transition policy could result in the pre-ACA individual segment being small by 2018. We believe that it is unlikely that 2016 data would be available early enough to justify a different factor for the two portions of the individual market as you have defined it for the 2017 HRBC formula.

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The subcommittee welcomes the opportunity to speak with you about any of the items discussed in this letter, and offers assistance on any desired topic. If you have any questions or comments, please contact David Linn, the Academy's health policy analyst (202-223-8196, linn@actuary.org).

Sincerely,

Tim Deno, MAAA, FSA
Chairperson, Health Solvency Subcommittee
American Academy of Actuaries