AMERICAN ACADEMY *of* ACTUARIES

Objective. Independent. Effective.™

May 26, 2017

Commissioner David Altmaier
Chair, Group Capital Calculation (E) Working Group
National Association of Insurance Commissioners (NAIC)
Via email: jgarber@naic.org

Re: *NAIC Staff Memo—U.S. Insurers that Do Not File RBC and Prescribed / Permitted Practices* (March 22, 2017)

Dear Commissioner Altmaier,

On behalf of the Solvency Committee of the American Academy of Actuaries,'[1] we would like to offer the following comments on the *NAIC Staff Memo—U.S. Insurers that Do Not File RBC and Prescribed / Permitted Practices* that was exposed by the NAIC's Group Capital Calculation (E) Working Group on March 22.

We note that it is difficult to provide meaningful feedback on the proposed group capital calculation, or any related adjustments, without a clearer understanding of the regulatory purpose and intended uses of the calculation. For example, is the intent to identify weakly capitalized groups (similar to the purpose underlying risk-based capital (RBC) requirements), does the NAIC want to provide a more transparent view of the sources of available and required capital, etc.? The regulatory purpose and goals will inform the development of the calculation itself, as well as the associated regulatory actions and priorities.

The adjustments outlined in the memo appear to be intended to promote the consistency and comparability of the calculation across insurer groups, and our comments below are provided assuming this intent. We support the objective of achieving consistency and comparability in the calculation. Therefore, we generally support the adjustments proposed for U.S. non-RBC filers for which there is no formula, U.S. captive insurance companies, and prescribed / permitted practices.

To achieve comparability and consistency with respect to captive insurers, we believe additional adjustments are necessary beyond what is proposed in the memo. In particular, we strongly recommend including the following adjustments:

[1] The American Academy of Actuaries is a 19,000-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

- Treatment of Assets. Require consistency with the NAIC Term and Universal Life Insurance Reserve Financing Model Regulation (Model 787) (the Reserve Financing Model Regulation) and the Actuarial Guideline 48 definition of "primary security" for assets that are permitted to support the full amount of reserves ceded to a captive insurer with respect to term insurance and universal life insurance with secondary guarantees (XXX / AXXX). In addition to ensuring that the captive insurer uses the same valuation basis as the direct writer, it is important to require consistent treatment of the assets backing the XXX / AXXX liabilities, particularly the use of contingent assets to support "excess" statutory reserves. The Reserve Financing Model Regulation and Actuarial Guideline 48 address this concern and establish an explicit framework for both the asset and liability treatment associated with XXX / AXXX captive structures.

- Consistent Calculations for Insurers That Do Not Use Captives. Allow insurers to restate reserves for in-force XXX / AXXX business under principle-based reserving (PBR) as defined by Section 20 of the Valuation Manual (VM-20), regardless of whether such business is retained by the insurer, ceded to a reinsurer or captive insurer, or otherwise financed. Allowing only business ceded to captive structures to be valued under PBR will create inconsistencies among insurers that employ captive structures and those that do not. To achieve a consistent and comparable group capital calculation, all insurers must be subject to the same valuation basis regardless of whether captive structures are used. While we appreciate that there likely will be implementation or other practical issues associated with applying PBR to inforce XXX / AXXX business, PBR is an appropriate reserving standard and we recommend application of PBR as a means of achieving consistency and comparability of outcomes regardless of whether such business has been ceded to a captive insurer. In addition, consistent with our first recommendation above, we also suggest requiring consistency with the Reserve Financing Model Regulation and the Actuarial Guideline 48 definition of "primary security" for assets supporting any such restated XXX / AXXX reserves.

*****

We are grateful for your time and attention to our comments. If you have any questions or would like to further discuss this topic, please contact Nikhail Nigam, the Academy's policy analyst for risk management and financial reporting issues, at 202-223-8196 or nigam@actuary.org.

Sincerely,

Elizabeth K. Brill, MAAA, FSA
Chairperson, Solvency Committee
American Academy of Actuaries