

The Director General

**To:** Commissioner Steven M. Goldman  
New Jersey Department of Banking and Insurance  
20 West State Street  
P.O. Box 325  
Trenton, NJ 08625-0325

**Your reference:** -

**Our reference:** AI 8020 (06/08)

**Subject:** NAIC Reinsurance Modernisation Framework Proposal (Memorandum of 3 July 2008)

Brussels, 17 July 2008

Dear Commissioner Goldman,

The CEA has commented on previous NAIC reinsurance reform proposals and is pleased to have the opportunity to comment on the NAIC's latest proposal as outlined in the 2008 memorandum on modernizing the U.S. reinsurance regulatory framework (the "Memorandum") of the Reinsurance (E) Task Force's dated 3 July 2008.

The CEA sees merit in various aspects of the current proposal, which would help to develop a more modern and fair system of reinsurance regulation, and we acknowledge the progress the NAIC has made to date. There are however still a number of aspects of the proposal which cause serious concern and which we believe need to be addressed.

Considering the very short time we have had to examine the latest NAIC proposal, the CEA comments are limited to five important aspects of concern.

### **1. Port of Entry State**

In contrast to the current proposals in the Memorandum, we do not see any need or justification for a non-US reinsurer to be subject to the additional oversight of a US Port of Entry State where the reinsurer's non-US jurisdiction is found to be equivalent to the US regulatory system.

### **2. Collateral Requirements**

We, and indeed the European Commission, have consistently argued that the US system should remove statutorily required collateral obligations and not discriminate between reinsurers on the basis of the country in which the undertaking is domiciled. To our regret, the NAIC's proposal continues to give preferential treatment to US reinsurers over non-US reinsurers in terms of collateral obligations, even in circumstances where the non-US reinsurers are regulated by an equivalent regime and have the same rating as US reinsurers.

Such preferential treatment is particularly unacceptable in a framework that is only accessible for those non-US reinsurers that are domiciled in a jurisdiction that has been recognised as “equivalent” by the NAIC Reinsurance Supervision Review Department (RSRD), and thereby making them subject to – in our opinion unjustified – additional oversight by a US Port of Entry State (see also points 1 and 4).

We therefore strongly urge the removal of the unjustified discriminatory treatment of non-US reinsurers.

### **3. Reinsurance-only Provision**

We do not understand the rationale behind the inclusion of a provision limiting the new framework to pure reinsurers only. In our opinion, it is inappropriate to deny the benefits of the proposed regime to entities simply because they also write direct insurance business. Such a restriction is also not prudentially justified.

We therefore recommend the NAIC remove the reinsurance-only restriction.

### **4. Port of Entry Reporting Requirements**

As stated above, we do not believe that there is a need for non-US reinsurers from equivalent jurisdictions to be subject to supervision by a US Port of Entry State. In addition, the current NAIC proposal refers to the possibility of entering into a mutual recognition agreement but does not apply it consistently and appropriately in order to remove duplicative reporting requirements. If, which we hope is not the case, the NAIC retains the Port of Entry concept in the final framework, we believe that the reporting obligations proposed should be reformed as follows.

#### *No need for the filing of quarterly financial information*

The Memorandum requires a POE reinsurer to file quarterly “[i]nformation comparable to relevant provisions of the quarterly NAIC financial statement”. We believe that such quarterly reporting requirements are overly burdensome for non-US reinsurers who are domiciled in a jurisdiction that has been recognised as equivalent by the RSRD and when the sharing of the relevant information between the relevant authorities is ensured. We would therefore urge the removal of the requirement to file financial information quarterly.

#### *No need for Schedule F statement*

Much of the information that can be obtained by requiring a non-US reinsurer to file a report annually in the form of Schedule F (or S) of the NAIC annual statement blank as is required by the Memorandum, can also be obtained from other sources, such as the Schedule Fs filed by U.S. ceding companies. We would thus recommend the removal of this provision.

#### *To accept IFRS statements from non-U.S. reinsurers instead of reconciled U.S. GAAP or SAP statements*

Given that the U.S. Securities & Exchange Commission already agreed earlier this year to accept IFRS statements from foreign issuers, which would include non-US (re)insurance companies, we would strongly urge the extension of the requirement so that non-U.S. reinsurers can either file audited IFRS accounting statements or audited financial statements reconciled to U.S. GAAP or Statutory Accounting Principles.

### **5. Implementation Period**

In order for the new framework to become operational, a substantial number of steps still need to be taken. We would therefore urge the NAIC to develop and commit to an appropriate implementation period.



In spite of the progress made by the NAIC so far, the CEA is convinced that the framework can and should be further improved in line with the comments made above, to ensure a true level playing field for US and non-US insurance undertakings writing reinsurance in the US.

We would be pleased to respond to any questions or comments you or the other Task Force members might have regarding the contents of this letter.

Yours sincerely,

A handwritten signature in blue ink that reads 'Michaela Koller'. The signature is written in a cursive style with a large initial 'M'.

Michaela Koller  
Director General