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National Association of Insurance Commissioners
NAIC Central Office
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Reinsurance collateral provisions of Article 3 of the Covered Agreement

To members of the Reinsurance Task Force,

CNA Financial Corporation (referred to in this letter as CNA, the Company, we, our, and us) appreciates the opportunity to provide written comments regarding how the NAIC will implement the U.S./E.U. Covered Agreement (Covered Agreement or Agreement). Our response is formatted in the manner requested and answers the questions as follows:

1. Amending the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786) to eliminate reinsurance collateral requirements for EU-based reinsurers meeting the conditions of the Covered Agreement.

In order to ensure consistent adoption and application nationwide, the NAIC should modify and adopt the Credit for Reinsurance Model Law and regulation to incorporate the provisions of the Covered Agreement. These modifications should include adding a separate category of reinsurer, similar to the six existing categories found in the current model law. This new category would eliminate the need for U.S. cedents to hold collateral in order to take statutory reserve credit for amounts recoverable from E.U. reinsurers. We also believe it is critical to add a provision to this category that removes such reserve credit without collateral if any provision of the Covered Agreement falls into non-compliance. This would ensure prompt response to non-compliance without having to change state law. Finally, we believe that the NAIC should establish a committee with the U.S. Treasury to evaluate and determine E.U. compliance of the Covered Agreement going forward. The decisions of this committee could be used as the trigger for rolling back collateral relief for this class of reinsurer in the event of non-compliance.

2. Extending similar treatment to reinsurers from other jurisdictions covered by potential future covered agreement(s) that might be negotiated pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The Covered Agreement does much more than provide collateral relief to E.U. reinsurers; it provides recognition of the U.S. regulatory framework for U.S. insurance groups operating in the E.U. This recognition removes the threat that U.S. groups conducting business in the EU could be subject to Solvency II Group Supervision in the event that the U.S. is not deemed equivalent under Solvency II. It is important to note that CNA has always favored state based regulation of insurance and opposes any action that could jeopardize the McCarran-Ferguson Act of 1945. We do believe that the Federal involvement in the execution of the Covered Agreement actually preserves the states' ability to regulate

U.S. groups doing business in the EU; however, we do acknowledge Federal pre-emption is a possibility if certain terms of the Covered Agreement fall into non-compliance due to the failure of states to adopt required changes in reinsurance laws.

Another important point to consider when evaluating the expansion of the Agreement's collateral relief to Qualified Jurisdictions is the recent Kuala Lumpur Agreement (KL Agreement) regarding the Insurance Capital Standard (ICS), which we view as yet another threat to the U.S. state-based regulatory system from an international standard setter. As described in the KL Agreement and beginning in 2020, all Internationally Active Insurance Groups (IAIG), including CNA, would be subject to mandatory reporting of the ICS on a Market Adjusted Valuation (MAV) basis. The results would be provided to both a firm's group supervisor and the IAIS for an official five year monitoring period. During this monitoring period the group supervisor can also direct firms to provide additional data to the IAIS under an aggregation approach which will be evaluated to determine comparability with the ICS on a MAV basis. If successful, the aggregation approach could become an optionally accepted approach beginning in 2025, which would follow five years of MAV reporting by the IAIGs to Group Supervisors and Supervisory Colleges.

While CNA is supportive of the "Team USA" efforts regarding the aggregation approach, reporting the ICS on a MAV basis for five years is a line too far to cross. In our opinion, once MAV is required to be prepared in a robust and reportable fashion to insurance regulators the proverbial "valuation war" has been lost and MAV will become the ultimate and only ICS valuation standard.

In response to the KL Agreement, the NAIC should take a hard line regarding expanding collateral relief to qualified jurisdictions and only grant it to jurisdictions that provide mutual recognition for the U.S. Group Supervisory Framework in return. Access to the world's largest market on a cost effective collateral free basis is a very attractive asset to market participates world-wide and its value must not be squandered when the future of statutory accounting and the current U.S. regulatory system is at stake. It is our view that obtaining concrete mutual recognition agreements with the world's largest markets would significantly reduce the drumbeat for a global capital standard modeled after Solvency II. This mutual recognition can be accomplished by entering into a separate covered agreement with key jurisdictions, or if legally supportable, a Multi-lateral Memorandum of Mutual Understanding (MMOU).

3. Providing reinsurers domiciled in NAIC Qualified Jurisdictions with similar reinsurance collateral requirements.

See our comments in the prior sections

4. Considering changes to the criteria for evaluating whether a jurisdiction should be a Qualified Jurisdiction.

No comment

5. Considering additional "guardrails" relative to U.S. ceding companies, such as changes to the risk-based capital (RBC) formula or new regulatory approaches to help address the increased financial solvency risks caused by the elimination of reinsurance collateral.

Prior to looking at the additional "guardrails" for U.S. ceding companies, we believe it is imperative that the NAIC first get the statutory balance sheet correct with an updated reinsurance credit analysis to replace the outdated Schedule F penalty process. A Schedule F penalty approach was a reasonable and conservative approach when the consideration was whether a reinsurer was authorized or provided

collateral. Now that collateral is not going to be required for a significant number of unauthorized reinsurers, we recommend that the NAIC adopt a bad debt valuation allowance approach similar to U.S. GAAP. This would provide for a robust credit assessment of reinsurance receivables ensuring the accuracy of U.S. Statutory Financial Statements which is the basis for determining an insurer's ordinary dividend capacity. Once the balance sheet is correct, we believe the recently adopted RBC charges for reinsurance recoverables is an appropriate approach even in a world without regulatory required collateral.

6. Any other considerations to weigh as part of the states' implementation of the Covered Agreement.

No Comment

As always, CNA appreciates the opportunity to respond to these very important issues and requests the opportunity to testify during the February 20th hearing.

Sincerely,

Jeffery C. Alton