September 2, 2014

The Honorable Julie Mix-McPeak
Commissioner
State of Tennessee Department of Commerce and Insurance
Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243-1220

The Honorable Joseph Torti, III
Superintendent
State of Rhode Island Department of Business Regulation
1511 Pontiac Avenue, Building 69-2
Cranston, RI 02920-4407

Via email: kdefrain@naic.org

RE: Revised 2014-18BWG – Supplemental XXX/AXXX Reinsurance Exhibit (Parts 1, 2, 3, and 4)

Dear Commissioner McPeak and Superintendent Torti:

The American Council of Life Insurers (ACLI)\(^1\) appreciates the opportunity to provide comments on the revised Blanks exposure 2014-18BWG, the Supplemental XXX/AXXX Reinsurance Exhibit (Parts 1, 2, 3, and 4). ACLI supports enhanced disclosures for captives and appreciates the work to revise the proposed exhibits as outlined in the Modified Recommendations adopted by the Principle-Based Reserving Implementation (EX) Task Force on June 30, 2014.

We note that the Supplemental Exhibit was purpose-built for a captive framework that is still under development. As we will explain below, there are places where the exhibit does not necessarily harmonize with existing captive transactions, and we ask that you make changes to the exhibit to reflect this fact. Most significantly, as we explain further below, ACLI believes it would be wholly inappropriate and likely misleading to require calculation and disclosure of a “Required Level of Primary Security” for XXX/AXXX captives entered into on or before 1/1/15. Not only is there no such requirement to hold that level of primary security for those captives, but this single number does not take into account other elements of existing transactions. It would also effectively undermine the grandfathering provision that our member companies have understood to be part of the NAIC's framework.

Additionally, we have made suggestions to help improve the consistency and clarity of the exposed instructions for the exhibits.

\(^1\) ACLI is a Washington, D.C.-based trade association with approximately 300 member companies operating in the United State and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums.
PART 1 – ALL XXX and AXXX Cessions

This Exhibit requires a cedant to report data for all XXX and AXXX cessions (with limited exceptions), even if to an unaffiliated reinsurance entity and not associated with a “captive” transaction; however, determining the appropriate responses to many of the columns requires knowledge of the assuming entity and whether or not it satisfies the exemption criteria described in AG-48 (such as the use of permitted practices). When reinsuring to an unaffiliated entity, it may be difficult to gain insight into the assuming entity’s on-going status in regards to these exemption criteria. For this reason, we suggest the instructions be modified for pre-2015 XXX and AXXX reinsurance arrangements to include the exemption criteria for Columns 4 and 5 only if the assuming entity is affiliated. For example, for 2014 reporting, column 7 could read “Enter ‘Yes’ if the reinsurance was ceded to an assuming insurer that meets the applicable requirements of Section 2.C. of the NAIC Credit for Reinsurance Model Law (Model 785), as adopted in the reporting entity’s state of domicile and, if affiliated, also satisfies the criteria for Exemption described in AG-48.” Of course, this change will necessitate separate instructions for pre-2015 and post-2014 reinsurance transactions in future reporting periods.

Additionally, Part 1 excludes YRT, attained age based YRT and certain n-year renewable term reinsurance. However, if a single reinsurance treaty includes these types of reinsurance in addition to other forms of in-scope reinsurance, we request the option to continue to include these amounts in Columns 12 and 13 as a practical expedient.

PART 2 – TRANSACTIONS SUBJECT TO PART 2 DISCLOSURE and PART 3 – COLLATERAL FOR ALL XXX/AXXX REINSURANCE TRANSACTIONS REPORTED ON PART 2

Current Structures
For consistency with Part 3 instructions that state that "For 2014, the reporting entity should report all assets using applicable line numbers under "Other Security" rather than "Primary Security", we request that similar language be added to the instructions for Part 2. Part 2 is simply a summation of the individual security values disclosed in Part 3, and it does not make sense to determine the sums when the individual values are not placed into a “Primary Security” or “Other Security” bucket. This would mean that Column 11 (Other Security) would be used to report all prior year assets and Column 7 (Required Level of Primary Security), Column 8 (Primary Security), Column 9 (Primary Security - Trust), and Column 10 (Primary Security - Funds Withheld) would indicate "N/A". Similarly, Column 18 would display all current year assets, and Columns 14 though 17 would display “N/A”. (Columns 7 and 13 currently reflect this type of instruction for 2014 and we suggest the same for the other columns.)

We notice that there is some inappropriate usage of the term “collateral” in Parts 2 and 3. Technically, modified coinsurance and funds withheld coinsurance do not require “collateral”, and the assets remaining with the ceding company are not restricted to cash and SVO-listed securities in order to receive reserve credit.

1. In Part 2, we note that the descriptions for Columns 8 and 15 use the phrase “Primary Security received by the reporting entity as collateral”. We believe that it would be more appropriate to use “Primary Security determined according to the definition contained in AG 48”, or something to that effect. For certain treaties, the value will be “collateral”, while for others, it will not be collateral. Likewise, the word “collateral” should be changed to “value” in the descriptions of Columns 10 and 17. Alternatively, Columns 8 and 15 could be eliminated, since Columns 9, 10, 16, and 17 will contain the information needed without needing to commingle collateral and assets held in Columns 8 and 15.

2. In Part 3, we note the line for “Other Investments Admissible per the NAIC AP&P Manual” is only listed under Other Security. However, this line should also be listed under Primary Security. Since Part 3 is intended to capture modified coinsurance and coinsurance
funds withheld where the assets remain on the ceding insurer’s balance sheet, the disclosure needs to recognize that those reinsurance arrangements are not limited to the same requirements that trusts held in the assuming company must meet (as collateral). Further, the intent of the Modified Recommendations seems to be that reserve credits are first secured by Primary Security consisting of “assets that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the reporting entity and without taking into consideration any prescribed or permitted practices, and including assets held in trust” (and possibly a corridor of certain LOCs.). Therefore these further restrictions on asset types that were meant for purposes of trust collateral do not belong in the determination of Primary Security.

In addition, while the instructions for the “Required Level of Primary Security” columns state the response should be “N/A” for the 2014 year end reporting period, it leaves open the question of what to do in subsequent reporting periods for these pre-2015 XXX and AXXX cessions. As stated above, we believe that it is wholly inappropriate to require the calculation and disclosure of a “Required Level” when no such requirement exists for pre-2015 captive arrangements. It would be extremely misleading to a reviewer of such an exhibit to show a column of values entitled “Required Level of Primary Security” next to a column of the actual “Primary Security” when the former is not an actual requirement. Therefore, ACLI suggests that existing captive transactions continue to report “N/A” for these columns in future reporting periods. ACLI would also suggest that the value of captive’s assets backing corresponding reserve liabilities continue to be reported as “Other Security” in Part 2, Columns 11 and 18 during the lifespan of all pre-2015 arrangements, assuming such arrangement does not contain “Covered Policies” as defined in the current draft of AG 48.

Value to Be Reported
It is not clear what data is being requested for Part 3. We understood Part 3 to include asset values for all forms of XXX/AXXX reinsurance treaties. If our understanding is correct, we believe that the use of the term “Collateral” in the title and in paragraphs 3 and 5 is inappropriate. If this Part is to include information for modified coinsurance and/or funds withheld coinsurance, we believe a better term within the title would be “Assets Supporting Reserves”. Paragraphs 3 and 5 should also be modified accordingly. In Paragraph 5, the words “asset or” should be inserted before the word “collateral”. And, the first sentence of Paragraph 3 should read:

Part 3 applies to all the cessions identified in Part 2; provided, however, that if the reporting entity has not received security (either modified coinsurance, funds withheld coinsurance, or collateral) in connection with a cession identified in Part 2, the only information required is the Cession ID number, Name of Company, NAIC Company Code, and ID Number.

The instructions to Part 2 and 3 specify, “For assets that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the reporting entity and without taking into consideration any prescribed or permitted practices, and including assets held in trust, the values are to be determined according to statutory accounting procedures under the NAIC Accounting Practices and Procedures Manual as if such assets were held in the reporting insurer’s general account. For all other assets, the values are to be those that were assigned to the collateral for the purpose of determining the amount of reserve credit taken.” Our member companies have some confusion about how to interpret this requirement. We think more clarity would be helpful. Additionally, if the cedant currently does not track a general account carrying value, there are operational challenges with gathering certain data not needed previously, such as knowing when an asset was acquired, to determine the appropriate carrying value. In light of these comments, we would suggest the following clarification:

Regardless of which entity currently reports an asset, provide the value of the asset as if the ceding insurer were to hypothetically carry the asset in its general account and calculate its admitted asset value under the NAIC Accounting Practices and Procedures without the effect of any prescribed or permitted practices. If no value would be ascribed
under this process. **or if the carrying value is not able to be easily determined by the cedant**, report the value assigned to the asset or collateral for the purpose of determining the amount of reserve credit taken.

We note a minor edit suggestion – Part 2: In the second sentence, it appears that an “or” should be inserted after “8,” and before “9”.

**PART 4 – NON-COLLATERAL ASSETS SUPPORTING RESERVES FOR ALL AFFILIATE XXX/AXXX REINSURANCE TRANSACTIONS REPORTED ON PART 2**

We believe we understand this section is to collect information on licensed or accredited insurers that, by law, do not have to have collateral. If this is the intent, we would suggest amending the start of the second paragraph to read, “Part 4 applies to all the cessions identified in Part 2 in which the assuming insurer is an affiliate of the reporting entity and is a licensed or accredited insurer.”

Further, we believe that by adding a new Columns X and Y (Prior Year and Current Year) – Reserve Established by the Affiliate Reinsurer, populated only for line 9999999 Total, the schedule could gather all the amounts sought.

We note a minor edit suggestion. In the title of Part 4, “AFFLIATE” should be “AFFILIATE”.

We appreciate the opportunity to provide comments and look forward to continuing to work with the Task Force as you implement the XXX/AXXX captive framework.

Sincerely,

Steve Clayburn

cc:   Kris DeFrain, NAIC  
      Neil Rector, Rector & Associates  
      Laurie Briggs, Rector & Associates
From: Jakielo, James [mailto:James.Jakielo@ct.gov]
Sent: Tuesday, September 02, 2014 10:48 AM
To: DeFrain, Kris
Cc: Neil Rector
Subject: Proposed Supplemental XXX/AXXX Reinsurance Exhibit

Kris:

On behalf of Connecticut, I would like to submit two suggested changes to Parts 3 and 4 of the proposed Supplemental XXX/AXXX Reinsurance Exhibit.

1. The intent of columns 2 and 4 is to identify collateral instruments with respect to which an affiliate or the parent has made some sort of a guarantee to the issuer of that instrument. Under the assumption that only one amount will be provided for each asset category, the current format would elicit a “YES” response even if only one of numerous LOC’s had an associated parental guarantee. We feel a dollar amount, rather than a YES/NO, response would be more informative, in order to better quantify the degree of affiliate/parental guarantees.

2. It is possible that a pure parental guarantee may be approved as acceptable collateral in some jurisdictions, especially with the advent of captives domiciled in the same state as the reporting entity. We feel it would be advisable, therefore, to add “Affiliate or Parental Guarantee” as a distinctly listed form of Other Security so as to determine how common such a practice may be.

On a related topic, Part 1 refers both the preparers and the users to Actuarial Guideline 48 as to the criteria for “Exemption” to be used in determining a YES or No answer in columns 4, 5, 7 and 8. I believe there is a flaw in the current draft of Section 3(C)(1) of AG48. I believe the reference to “… procedures that reduce … surplus …” should instead refer to “… procedures the increase … surplus...”. I also do not understand why the instructions for column 6 do not contain the same final clause as appears in columns 4, 5, 7 and 8.

Jim Jakielo
September 2, 2014

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Via email: kdefrain@naic.org

Re: Supplemental XXX/AXXX Reinsurance Exhibit to Life and Fraternal Blank (2014-18 BWG, revised 8/22/14)

Dear Commissioner McPeak and Superintendent Torti:

The Northwestern Mutual Life Insurance Company appreciates this opportunity to comment on the revised proposal for a Supplemental XXX/AXXX Reinsurance Exhibit to the Life and Fraternal Blank (the "Supplemental Exhibit") exposed by the Principle-Based Reserving Implementation (EX) Task Force.

As we wrote to this Task Force when commenting on the Initial Rector Report last November:

Transparency is particularly critical to ensure confidence in the strength of reserves and capital and will allow all interested parties to assess and respond to financing innovations. The impact of all financing mechanisms should be publicly reported by the writing insurer in a manner that is uniform and transparent and in accordance with the accounting and reporting standards established by the NAIC.

We hold to that view and believe that the proposed Supplemental Exhibit is a step in the process towards appropriate transparency. We suggest that the Task Force move ahead with the exposed Supplemental Exhibit then set aside time to address enhancements for 2015 reporting, including the suggestions we made to the Blanks (E) Working Group in our August 8 letter.

Sincerely,

Walter M. Givler
Vice President – Solvency Policy
Jacy,

New York submits the following comments regarding the revised blanks proposals in advance of the Principles-Based Reserving Implementation (EX) Task Force conference call this Thursday.

New York recommends that the Supplemental XXX/AXXX Reinsurance Exhibit (“Exhibit”) capture the dollar amount of reserves held by the reinsurer/captive since this amount is not likely to match the reserve credit taken by the cedent in many instances. In addition, New York recommends that the basis for the reserves established by the reinsurer/captive also be captured (Statutory, GAAP, Economic, etc.). The dollar amount of reserves held by the reinsurer/captive along with the basis for the reserve can provide a more complete picture of the transaction.

New York also recommends that the Exhibit capture the RBC impact to the cedent. In New York’s prior analysis, insurers reported an average increase in RBC of approximately 250 percent and we feel it is an important aspect to XXX/AXXX transactions.

The above recommendations should be captured for Part 2 of the Exhibit at a minimum.

Thank you for the opportunity to comment.

Mike

Michael Maffei
Assistant Deputy Superintendent and Chief
Life Bureau
212-480-5027
September 2, 2014

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Attention: Kris DeFrain (kdefrain@naic.org)


Dear Commissioner McPeak and Superintendent Torti:

New York Life Insurance Company appreciates the opportunity to comment on the revised proposal for a new supplemental XXX/AXXX reinsurance exhibit to the 2014 life and fraternal annual statement blank.

As we noted in our prior comment letter of August 8, we believe there is a pressing need for improved public disclosure of life insurer captive financing transactions. In our view, improved disclosure should take effect from year-end 2014. Neil Rector and his team have done an excellent job preparing a revised exhibit that meets this timetable, and that will bring significantly improved transparency to captive transactions in the upcoming annual reporting cycle.

We believe that the captives regulatory framework adopted on June 30 by the Principle-Based Reserving Implementation (EX) Task Force should be implemented in its entirety by the NAIC as soon as possible. It has been our consistent view that the NAIC should work to adopt all of the individual components of the framework as a package by the end of this year. The revised disclosure proposal represents an important first step toward achieving this goal. We therefore strongly support the proposal and urge its swift adoption.

In our prior comment letter, we made several suggestions that would enhance the disclosure provided in the exhibit. Specifically, we believe that the exhibit should include additional disclosure of (1) refinancing risk in captive transactions, and (2) the conditionality of assets used to fund reserves ceded to captives. While it has been deemed impractical by some to incorporate these suggestions by year-end 2014, we believe it is critically
important to include these enhancements in the annual statement blank that will apply in future years. We ask that the NAIC consider these enhancements when it commences work on the 2015 annual statement blank.

* * *

We are grateful for your time and attention to our comments. If you would like to discuss this letter with us, please let us know.

Sincerely,

George Nichols, III
SVP in Charge of the Office of Government Affairs

Joel Steinberg
SVP, Chief Risk Officer & Chief Actuary