



National Association *of* Insurance Commissioners

Summary of Findings and Determination

France: Autorité de Contrôle Prudentiel et de Résolution (ACPR)

Approved By:

Qualified Jurisdiction (E) Working Group	November 12, 2014
Reinsurance (E) Task Force	December 11, 2014
Executive (EX) Committee and Plenary	December 16, 2014

I. Evaluation of France: Autorité de Contrôle Prudentiel et de Résolution

The Qualified Jurisdiction (E) Working Group of the National Association of Insurance Commissioners (NAIC) has completed this Summary of Findings and Determination with respect to France: Autorité de Contrôle Prudentiel et de Résolution (ACPR). It is the recommendation of the Working Group that the NAIC recognize the ACPR as a Qualified Jurisdiction and place it on the *NAIC List of Qualified Jurisdictions*, to be effective as of January 1, 2015, after which the ACPR will be re-evaluated every five years. Further, the Working Group recommends that California be designated the Lead State for purposes of regulatory cooperation and information sharing with the ACPR, on an interim basis, until the bilateral MOU between the ACPR and New York has been updated, at which time New York will begin acting as the Lead State. These recommendations are based on the following analysis:

II. Procedural History

The NAIC adopted the *Process for Developing and Maintaining the NAIC List of Qualified Jurisdictions* (Qualified Jurisdiction Process) on August 27, 2013 (which was further amended on August 19, 2014). The revised *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786) (collectively, the “Credit for Reinsurance Models”) require an assuming insurer to be licensed and domiciled in a “Qualified Jurisdiction” in order to be eligible for certification by a state as a certified reinsurer for reinsurance collateral reduction purposes. The purpose of the Qualified Jurisdiction Process is to provide a documented evaluation process for creating and maintaining an NAIC list of jurisdictions recommended for recognition by the states as Qualified Jurisdictions. Toward this end, the Qualified Jurisdiction Process designates key elements believed to be basic building blocks for sound (re)insurance regulation. Each jurisdiction under consideration to be included on the *NAIC List of Qualified Jurisdictions* is requested to submit detailed information in support of these criteria. In addition, the NAIC review will also rely on publicly available reports evaluating the reinsurance regulatory practices of each jurisdiction.

The ACPR submitted an application to the Delaware Department of Insurance on October 18, 2013, to be considered a Conditional Qualified Jurisdiction pursuant to the expedited review procedure under the Qualified Jurisdiction Process. The NAIC formally invited the ACPR to participate in a review under the Qualified Jurisdiction Process by letter dated March 14, 2014, which was accepted by the ACPR on March 17, 2014. Notice of the ACPR’s agreement to participate in the review procedure was sent to the Federal Insurance Office (FIO) and the United States Trade Representative (USTR) on April 2, 2014. The NAIC issued public notice on its website of the ACPR’s participation in the evaluation process, and requested interested parties to submit public comments with respect to the ACPR by the close of business May 2, 2014. The Working Group received one comment letter by the close of the comment period, which was supportive of designating the ACPR as a Qualified Jurisdiction.

The Working Group met in regulator-to-regulator session on September 5, 2014, to review initial findings prepared by NAIC staff to determine whether the ACPR should be approved as a Qualified Jurisdiction for a 5-year period. The Working Group requested additional supplementary information from the ACPR with respect to specific questions raised during this meeting, which the ACPR provided

to the Working Group on October 2, 2014. The Working Group provided the ACPR with the Preliminary Evaluation Report on October 10, 2014, and the ACPR provided a response to the initial findings and determination on October 29, 2014. This response was considered by the Working Group in the preparation of the Final Evaluation Report, which the Working Group approved on November 7, 2014.

III. Review of Evaluation Materials

Under the requirements of the Qualified Jurisdiction Process, the Working Group performed an initial evaluation of the ACPR's regulatory system by using the information identified in Section A through Section G of the Evaluation Methodology (Evaluation Materials). The Working Group began by undertaking a review of the most recent Detailed Assessment of Observance on Insurance Core Principles under the International Monetary Fund (IMF)/World Bank Financial Sector Assessment Program (FSAP Report), Report on Observance for Standards and Codes (ROSC), and any other publicly available information regarding the laws, regulations, practices and procedures applicable to the reinsurance supervisory system.

The Working Group also reviewed information the ACPR provided to the Delaware Department of Insurance relative to Section A through Section G of the Evaluation Methodology in order to update, complete or supplement publicly available information. The Working Group's review was focused on how the ACPR's laws, regulations, administrative practices and procedures, and regulatory authorities regulate the financial solvency of its domestic reinsurers in comparison to key principles underlying the U.S. financial solvency framework and other factors set forth in the Evaluation Methodology.

The Working Group considered the following information with respect to the evaluation of the ACPR:

1. *International Monetary Fund (IMF), France: Financial Sector Assessment Program—Detailed Assessment of Observance of Insurance Core Principles, June 2013 (IMF Country Report No. 13/181).*
2. *International Monetary Fund (IMF), France: Financial System Stability Assessment, December 2012 (IMF Country Report No. 12/341).*
3. *Enforcement of Foreign Judgments 2013: France (Law Business Research Ltd, 2012).*
4. *Memorandum of Understanding between New York State Insurance Department and Autorite de Controle des Assurances et des Mutuelles dated September 2008.*
5. *Comment letters from interested parties received pursuant to notice (Confidential).*
6. *ACPR's answer to NAIC's questionnaire for approving qualified jurisdictions, October 18, 2013 (Confidential).*
7. *Delaware Department of Insurance Qualified Jurisdiction Review - France, November 26, 2013 (Confidential).*
8. *NAIC Staff Workpapers on Initial Review and Findings dated August 7, 2014 (Confidential).*

9. *ACPR's answers to NAIC's additional questions, October 2, 2014 (Confidential).*
10. *ACPR's response to Preliminary Evaluation Report, October 29, 2014 (Confidential).*

IV. Standard of Review

The evaluation is intended as an outcomes-based comparison to financial solvency regulation under the NAIC Accreditation Program, adherence to international supervisory standards and relevant international guidance for recognition of reinsurance supervision. The standard for qualification of a jurisdiction is that the NAIC must reasonably conclude that the jurisdiction's reinsurance supervisory system achieves a level of effectiveness in financial solvency regulation that is deemed acceptable for purposes of reinsurance collateral reduction, that the jurisdiction's demonstrated practices and procedures with respect to reinsurance supervision are consistent with its reinsurance supervisory system, and that the jurisdiction's laws and practices satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Models.

V. Summary of Findings and Recommendation

The Working Group finds that it has performed the required review of the Evaluation Materials, including review of the publicly available information, and that the ACPR provided the Working Group with information relative to Section A through Section G of the Evaluation Methodology to update and supplement the identified public information. The Working Group further finds that interested parties were given an opportunity to comment on the ACPR's application and that no objections to granting the ACPR Qualified Jurisdiction status were received from interested parties. Further, appropriate notice was provided to the FIO and the USTR. Based on the information provided by the ACPR and the review of the Evaluation Materials, the Working Group has determined that there is no indication that France fails to adequately and promptly enforce final U.S. judgments and arbitration awards.

The ACPR advised the Working Group that "[e]ven though not provided by law, it is general practice for important reinsurers to complete their solvency report with an internal actuarial report, which provides further detailed information on how TPs [technical provisions] are calculated, and includes the reinsurer's actuarial department's opinion on TPs." This information will be relayed by the Working Group to the Reinsurance Financial Analysis (E) Working Group for analysis of individual certified reinsurers.

Finally, the Working Group notes that the New York State Department of Financial Services has entered into a Memorandum of Understanding (MOU) with the ACPR, and has consented to act as the Lead State for purposes of regulatory cooperation and information sharing under the Qualified Jurisdiction Process. The ACPR advised the Working Group that the MOU with New York "would have to be redrafted, insofar as it does not explicitly provide [ACPR] with prior consent as a condition to the passing on of some information." The Working Group notes that both the ACPR and the California Department of Insurance are signatories to the IAIS Multilateral Memorandum of Understanding (MMoU), and that California has consented to act as the Lead State, on an interim basis, until the

bilateral MOU with New York has been updated, at which time New York will begin acting as the Lead State. This Lead State designation for purposes of regulatory cooperation and information sharing should not be confused with the Lead State designation by the Reinsurance Financial Analysis (E) Working Group for individual certified reinsurers for passporting purposes.

The Working Group has reached the conclusion that the ACPR's reinsurance supervisory system achieves a level of effectiveness in financial solvency regulation that is acceptable for purposes of reinsurance collateral reduction, that the ACPR's demonstrated practices and procedures with respect to reinsurance supervision are consistent with its reinsurance supervisory system, and that its laws and practices satisfy the criteria required of Qualified Jurisdictions as set forth in the Credit for Reinsurance Models. Therefore, it is the recommendation of the Working Group that the NAIC recognize the ACPR as a Qualified Jurisdiction and place it on the *NAIC List of Qualified Jurisdictions*, to be effective as of January 1, 2015. This designation as a Qualified Jurisdiction shall be valid for five years (absent a material change in circumstances), after which the ACPR will be re-evaluated under the provisions of the Qualified Jurisdiction Process.