

April 22, 2022

OSI Records and Docketing
New Mexico Office of Superintendent of Insurance
P. O. Box 1689
Santa Fe, NM 87503-1689

RE: In the Matter of Adoption of New Rules 13.2.8 N.M.A.C, Credit for Reinsurance

The American Property Casualty Insurance Association (APCIA) strongly supports adoption of New Mexico's proposed rulemaking revising credit for reinsurance requirements consistent with the NAIC Credit for Reinsurance Model Regulation. APCIA is the primary national trade association for home, auto, and business insurers. APCIA members represent all sizes, structures, and regions – protecting families, communities, and businesses in the U.S. and across the globe.

The federal Dodd-Frank Act authorized the U.S. Treasury Department and the United States Trade Representative (USTR) to negotiate a "Covered Agreement" with foreign governments. In 2017, Treasury and USTR submitted to the Congress the text of a Covered Agreement negotiated with the European Union (EU). Among other things, the Covered Agreement commits the U.S. to eliminating current state law requirements that EU reinsurers post collateral in the U.S. to protect their obligations to U.S. insurers ceding risks to those EU reinsurers. In return, the U.S. allows U.S. insurers with EU operation to avoid burdensome worldwide group capital, corporate governance, and reporting requirements as well as EU local presence and collateral requirements for U.S. reinsurers. In December of 2018, the U.S. concluded negotiations with the United Kingdom (UK) on a nearly identical Covered Agreement to accommodate both U.S. and UK interests post-Brexit.

In order to get the benefit of collateral elimination, the Covered Agreements provide that EU and UK reinsurers and the foreign jurisdictions that regulate them must meet certain stringent requirements to protect U.S. insurers that cede risks to EU and UK reinsurers. Thus, the Covered Agreements are in the interest of both U.S. insurers and overseas reinsurers. Moreover, in the event New Mexico fails to bring its reinsurance collateral laws and regulations into compliance with the Covered Agreements by September of 2022, the Dodd-Frank Act provides that New Mexico's state laws can be preempted by the Covered Agreement.

APCIA has joined with many state regulators in urging that all efforts be made to avoid state law preemption. In 2019 the National Association of Insurance Commissioners (NAIC) approved changes to its Credit for Reinsurance Model Law to implement the Covered Agreements and eliminate state collateral requirements for EU and UK reinsurers. The NAIC also took steps to provide similar collateral reductions for certain reinsurers outside of the EU, including Bermuda, Switzerland, and Japan. The NAIC has also adopted a revised Credit for Reinsurance Model Regulation with the same goals. The recently enacted New Mexico Credit for Reinsurance Act and this proposed regulation reflect these models and are intended to benefit New Mexico ceding insurers and prevent state law from being preempted.

APCIA supported the passage of New Mexico legislation based on the revised NAIC Model Credit for Reinsurance Law, which was signed into law last month. It is important that New Mexico now implement this law and we therefore commend the OSI for initiating this rulemaking and we urge its adoption and promulgation.

Sincerely,



Robert W. Woody
Vice President & Counsel