



National Association *of* Insurance Commissioners

**Summary of Findings and Determination**  
**BERMUDA MONETARY AUTHORITY**

Issued for Public Comment By:

Qualified Jurisdiction (E) Working Group

November 12, 2014

## **I. Evaluation of Bermuda Monetary Authority**

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 the Bermuda Monetary Authority (BMA). It is the recommendation of the Working Group that the NAIC recognize the BMA 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 BMA will be re-evaluated every five years. Further, the Working Group recommends that the BMA's status as a Qualified Jurisdiction only be applicable to (re)insurers of Class 3A, Class 3B and Class 4, and long-term insurers of Class C, Class D and Class E. Finally, the Working Group recommends that Florida be designated the Lead State for purposes of regulatory cooperation and information sharing with the BMA. 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 NAIC invited the BMA to participate in an expedited review under the Qualified Jurisdiction Process by letter dated August 29, 2013, which was immediately accepted by the BMA. Notice of the BMA agreement to participate in the expedited review procedure was sent to the Federal Insurance Office (FIO) and the United States Trade Representative (USTR) on October 9, 2013. The NAIC issued public notice on its website of the BMA's participation in the evaluation process, and requested interested parties to submit public comments with respect to the BMA by the close of business October 18, 2013. The Working Group received one comment letter by the close of the comment period, which was supportive of designating the BMA a Conditional Qualified Jurisdiction.

The NAIC designated the BMA as a Conditional Qualified Jurisdiction effective January 1, 2014, with the designation to continue for one year, unless: (1) an extension is granted by the Working Group; or (2) a determination is made that the jurisdiction is not a Qualified Jurisdiction. The Working Group met in regulator-to-regulator session on September 10, 2014, to review initial findings prepared by NAIC staff to determine whether the BMA should be approved as a Qualified Jurisdiction for a 5-year period.

The Working Group requested additional supplementary information from the BMA with respect to specific questions raised during this meeting, which the BMA provided to the Working Group on September 17, 2014. The BMA also participated in discussions with NAIC staff on the questions identified. The Working Group provided the BMA with the Preliminary Evaluation Report on October 10, 2014, and the BMA provided a response to the initial findings and determination on October 14, 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 BMA'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 invited the BMA to provide information 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 BMA'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 preliminary evaluation of the BMA:

1. *International Monetary Fund (IMF) Country Report No. 08/336, Bermuda: Assessment of Financial Sector Supervision and Regulation – September 8, 2008.*
2. *Annex I [to the IMF Report]: Report on the Observance of Standards and Codes (ROSC) for the International Association of Insurance Supervisors' (IAIS) Insurance Core Principles.*
3. *Update on Assessment of Financial Sector Supervision and Regulation—Bermuda's Observance of Insurance Core Principles (IMF Country Report No. 08/336).*
4. *EIOPA Advice to the European Commission: Equivalence assessment of the Bermudian supervisory system in relation to articles 172, 227 and 260 of the Solvency II Directive, (former Consultation Paper no. 4/2011).*
5. *Enforcement of Foreign Judgments 2013: Bermuda (Law Business Research Ltd, 2012).*
6. *Memorandum of Understanding between Florida Office of Insurance Regulation and Bermuda Monetary Authority, September 24, 2009.*
7. *Comment letters from interested parties received pursuant to notice (Confidential).*
8. *BMA comment letter dated November 25, 2013 (Confidential).*

9. *BMA NAIC Qualified Jurisdiction Assessment: Summary of Appendices A & B, August 13, 2014 (Confidential).*
10. *NAIC Staff Workpapers on Initial Findings dated August 27, 2014 (Confidential).*
11. *BMA's answers to NAIC's additional questions, September 17, 2014 (Confidential).*
12. *BMA's response to Preliminary Evaluation Report, October 14, 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 BMA 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 BMA's application and that no objections to granting the BMA 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 BMA and the review of the Evaluation Materials, the Working Group has determined that there is no indication that Bermuda fails to adequately and promptly enforce final U.S. judgments and arbitration awards.

Finally, the Working Group notes that the Florida Office of Insurance Regulation has entered into a Memorandum of Understanding (MOU) with the BMA, and has consented to act as the Lead State for purposes of regulatory cooperation and information sharing under the Qualified Jurisdiction Process, and further that the BMA has consented to the designation of Florida as the Lead State, with the requirement that in circumstances where requests are made to share information with other U.S. states, especially those who are not already signatories to the IAIS MMoU or where the BMA does not have a bilateral MoU, the BMA would be required to assess the state's confidentiality and information sharing framework and ensure that this framework is similar to that of Bermuda's. 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 BMA's reinsurance supervisory system achieves a level of effectiveness in financial solvency regulation that is acceptable for purposes of reinsurance collateral reduction, that the BMA'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 BMA as a Qualified Jurisdiction and place it on the *NAIC List of Qualified Jurisdictions*, to be effective as of January 1, 2015. Further, the Working Group recommends that the BMA's status as a Qualified Jurisdiction only be applicable to (re)insurers of Class 3A, Class 3B and Class 4, and long-term insurers of Class C, Class D and Class E. This designation as a Qualified Jurisdiction shall be valid for five years (absent a material change in circumstances), after which the BMA will be re-evaluated under the provisions of the Qualified Jurisdiction Process.