

To: Director John M. Huff (MO)  
Chair, Financial Regulation Standards and Accreditation (F) Committee

From: NAIC Staff

Date: February 24, 2015

Re: Revisions to Part A Preamble Regarding Captive Life/Health Reinsurers

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At the 2014 Spring National Meeting, NAIC staff prepared proposed revisions of the preambles to Part A and Part B of the NAIC *Accreditation Program Manual* that (1) clarified that a multi-state reinsurer that assumes business written in any state other than its state of domicile constitutes multi-state business, and would subject such a multi-state reinsurer to the accreditation standards; (2) exempted from the accreditation standards those traditional captive insurers owned by non-insurance entities for the management of their own risk; (3) did not limit the application of the revisions to XXX/AXXX reserves, but also recognized that these revisions would potentially be impacted by the recommendations to the Principle-Based Reserving Implementation (EX) Task Force; and (4) the revisions would be given prospective-only effect, and would not have an effect on in-force business.

Based on the comments that were received, NAIC staff was then directed to prepare revised preambles that would provide that certain captive insurers, special purpose vehicles and other entities assuming insurance business would be subject to the general accreditation standards, but the application would be limited to only the following lines of reinsurance business: (1) XXX/AXXX policies (which are now defined under *Actuarial Guideline XLVIII* (AG 48) to apply to those policies that are required to be valued under Sections 6 or 7 of the NAIC *Valuation of Life Insurance Policies Model Regulation* (Model #830)); (2) variable annuities valued under *Actuarial Guideline XLIII—CARVM for Variable Annuities* (AG 43); and (3) long-term care insurance valued under the NAIC *Health Insurance Reserves Model Regulation* (Model #10). It was also the consensus opinion that it would be necessary to prepare new and completely revised preambles in order to provide both clarity and accuracy to the proposed revisions.

Attached please find a draft of a completely revised Preamble for Part A prepared by NAIC staff. Please note the following items in the draft:

- The Preamble no longer refers to “Traditional” insurers. Instead, we have divided the Preamble into three sections: 1) life/health & property/casualty insurers that are not RRG captives; 2) captive reinsurers; and 3) other types of insurers.
- The Part A standards would only apply to captive reinsurers that assume the following business: 1) XXX/AXXX; 2) variable annuities; and 3) long term care. If a captive reinsurer complies with the NAIC’s XXX/AXXX Captive Reinsurance Framework and AG 48 (as adopted by the NAIC), then it will be deemed to meet the Part A standards. No effective dates have yet been determined for variable annuity and long term care business.
- We have not as yet drafted revisions to the preamble to Part B: Regulatory Practices and Procedures; however, they will also need to be revised to make them consistent with any changes ultimately adopted to the Part A preamble.

Attachment

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**NAIC POLICY STATEMENT ON  
FINANCIAL REGULATION STANDARDS**

**PART A: LAWS AND REGULATIONS**

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**Preamble for Part A**

**Purpose of the Part A Standards**

The purpose of the Part A: Laws and Regulations standards are to assure that an accredited state has sufficient authority to regulate the solvency of its multi-state domestic insurance industry in an effective manner. The Part A standards are the product of laws and regulations that are considered to be basic building blocks for effective financial solvency regulation. A state may demonstrate compliance with a Part A standard through a law, a regulation, or an administrative practice that implements the general authority granted to the commissioner, or any combination thereof, which achieves the objective of the standard. The term “state” as used herein is intended to include any NAIC member jurisdiction, including U.S. territories. The term “commissioner” means commissioners, directors, superintendents or other officials who by law are charged with the principal responsibility of supervising the business of insurance within each state.

**Scope of the Part A Standards (Excluding Risk Retention Groups Organized as Captives)**

Life/Health and Property/Casualty Insurers

The following Part A standards apply to a state’s domestic insurers licensed as life/health and property/casualty insurers, but only if the insurer is a multi-state insurer. For purposes of Part A, a life/health or property/casualty insurer that meets any of the following conditions is considered to be a multi-state insurer and subject to the Part A standards:

1. A property/casualty or life/health domestic insurer that is licensed in at least one state other than its state of domicile.
2. A property/casualty or life/health domestic insurer that is operating in at least one state other than its state of domicile.
3. A property/casualty or life/health domestic insurer that is accredited or certified as a reinsurer in at least one state other than its state of domicile.
4. A property/casualty or life/health domestic insurer that is reinsuring business that was directly written by the ceding insurer in at least two states.
5. A property/casualty domestic insurer that is accepting business on an exported basis as an excess or surplus line insurer in at least one state other than its state of domicile.

### Captive Life/Health Reinsurers

The following Part A standards apply to those domestic captive life/health insurers, special purpose vehicles or any other entities that reinsure business that was directly written by a ceding insurer in at least two states, but only with respect to the following lines of business:

1. Policies that are required to be valued under Sections 6 or 7 of the *Valuation of Life Insurance Policies Model Regulation* (Model #830) (commonly referred to as XXX/AXXX policies). The application of this provision is intended to have a prospective-only effect, so that captive insurers, special purpose vehicles and any other entities that reinsure these types of policies will not be subject to the Part A standards if the policies assumed were both (1) issued prior to Jan. 1, 2015, and (2) ceded so that they were part of a reinsurance arrangement as of Dec. 31, 2014.
2. Variable annuities valued under Actuarial Guideline XLIII—CARVM for Variable Annuities (AG 43). [Drafting Note: Effective date for compliance to be determined.]
3. Long term care insurance valued under the *Health Insurance Reserves Model Regulation* (Model #10). [Drafting Note: Effective date for compliance to be determined.]

The NAIC Executive (EX) Committee adopted the XXX/AXXX Reinsurance Framework in concept on Aug. 7, 2014, and the NAIC is currently in the process of adopting actions necessary for its full implementation. With regard to a captive insurer, special purpose vehicle, or any other entity assuming XXX/AXXX business, the entity is deemed to satisfy the Part A accreditation requirements if it satisfies the XXX/AXXX Reinsurance Framework requirements adopted by the NAIC and in effect as of that time. The Part A standards with respect to entities assuming variable annuities and long term care reinsurance business are effective with respect to both currently in-force and future business. [Drafting Note: The effective dates for variable annuities and long term care insurance and their application to in-force business need further discussion].

### Other Types of Insurers

For clarity purposes, the scope of the Part A standards excludes those insurers licensed as fraternal orders and title insurers. The scope of the Part A standards also excludes health organizations, except that compliance with the “Capital and Surplus Requirement” standard is required for entities licensed as health organizations (including health maintenance organizations, limited health service organizations, dental or vision plans, hospital, medical and indemnity or service corporations, or other managed care organizations) to the extent the insurance department regulates such entities. This definition does not include an organization that is licensed as either a life/health insurer or a property/casualty insurer, which are subject to the full Part A accreditation standards.

[List Part A standards here.]

### **Scope of the Part A Standards (Risk Retention Groups Organized as Captives)**

The following Part A standards apply to RRGs incorporated as captive insurers. This scope includes RRGs that are chartered in the accredited state and registered or operating in at least one other state.

[List Part A standards for captive RRGs here.]