



April 30, 2009

Ramon Calderon
Chair
NAIC International Solvency and Accounting Working Group

Dear Chairman Calderon:

The Group of North American Insurance Enterprises, Inc. (GNAIE) would like to submit the following comments for the NAIC's consideration on the IAIS draft Guidance Paper on the Structure of Capital Resources for Solvency Purposes. Thank you for the opportunity to comment.

In general, GNAIE finds the paper is well researched and worded in a flexible enough manner to accommodate a vast array of "Available Capital" definitions and regimes across jurisdictions while preserving key principles (loss absorption) and characteristics of capital (subordination, permanency, free of mandatory charges).

We do, however, have specific concerns regarding the following sections:

Paragraph 20 refers to the total balance sheet approach in assessment of solvency. This terminology can have many meanings. The NAIC Principles describe the total balance sheet methodology as "considering the overall level of liabilities and capital. The total of reserve liabilities and required capital should be able to absorb significant unforeseen losses." GNAIE supports a total balance sheet approach, but would like to be sure that the NAIC sees its own system as meeting this requirement. If not, the wording in the Guidance Paper should be clarified to encompass the US RBC system.

Paragraph 23 of the guidance paper indicates that "to achieve consistency with this economic approach to setting capital requirements in a total balance sheet approach, capital resources should be regarded as the difference between assets and liabilities on the basis of their economic valuation for solvency purposes." We are concerned that this language could infer a mandatory fair market valuation requirement for assets and liabilities, which we would not support. We suggest dropping the reference to economic valuation in the paragraph so that the sentence reads, "*To achieve consistency with this economic approach to setting capital requirements in the context of a total balance sheet approach, capital resources should broadly be regarded as the difference between assets and liabilities.*"

Paragraph 34 suggests that the deduction approach and capital charge approach should produce similar results, provided there is consistency in the economic assessment of risk. We believe there are two different concepts. Capital charges are appropriate to support the risk associated with the expected cash flows of the assets and liabilities, while the decision as to which assets to include as an allowable asset or not is a matter of prudence or conservatism by the regulator in the determination of capital resources available to cover capital requirements. We recommend this paragraph be deleted.

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Requirement 4: Our most serious concern is with the requirement for an insurer to conduct its own risk and solvency assessment (ORSA). This provision could require companies to build a capital assessment system, parallel to the regulatory one, based on their own views and quantifications.

We agree with the principle that an insurer should be able to show how its assessment of the risks it has within its business links to its own solvency needs (the ORSA). But we are concerned that the ORSA requirements become all-encompassing reducing it to just a bureaucratic exercise with no practical benefits to the insurer. We should be looking for ways to streamline and focus the ORSA on its real purpose (aligning risk management with capital management), rather than burdening the company with additional reporting requirements. In addition, any ORSA should be proportional to the scale and complexity of the company.

In general, when a regulatory regime is founded on substance and focuses on risk, even if it uses approximations and shortcuts, these should be sufficient to ensure proper capitalization without mandating a parallel company internal system. At the same time, having rules in place should not absolve management from applying judgment and assessing risks that may not be well captured by regulatory guidelines since markets often develop instruments faster than regulatory rules covering them.

We recommend that Requirement 4 be removed from the Standards and be included only in the Guidance paper as a recommendation. In the Guidance paper the reference to the ORSA should be re-stated to read: "The supervisory regime should **encourage** the insurer to assess the quality and adequacy of its capital resources..." and add: "as appropriate given the nature, scale and complexity of its business and risks."

Paragraph 82 makes a reference to economic capital. Since not all companies may have full economic capital infrastructure in place, this reference should be dropped.

Paragraph 84 addresses recapitalization. While we do not disagree with the context of the paragraph, we do believe that it assumes capital will be available. As recent events have demonstrated, we think it would be prudent to add a sentence to the paragraph saying, "In doing modeling, a company should not assume that it can always recapitalize."

We would be pleased to discuss these comments with you.

Sincerely,

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Co-chairs, GNAIE Solvency Subcommittee

CC: Rob Esson, Kris DeFrain