

April 10, 2012

## The NAIC Releases Draft ORSA Model Act for Public Comment

On April 4, the National Association of Insurance Commissioners (NAIC) Group Solvency Issues (E) Working Group released a draft Own Risk and Solvency Assessment (ORSA) Model Act (the ORSA Model Act) for public comment. Comments on the ORSA Model Act are due by the close of business on Friday, May 11. A copy of the [ORSA Model Act](#) is available. The ORSA Model Act is currently proposed to become effective on January 1, 2014.

The ORSA Model Act requires all insurers meeting certain size thresholds and their “insurance groups” (which are defined to include those insurers and affiliates in an insurance holding company system) to conduct an ORSA, in accordance with the NAIC ORSA Guidance Manual, annually. The NAIC adopted its ORSA Guidance Manual (which provides insurers and regulators with guidance on what an ORSA should entail and what an ORSA Summary Report should address) during the NAIC’s 2011 Fall National Meeting. An insurer’s ORSA must be appropriate to its “nature, scale and complexity.”

Under the ORSA Model Act, an insurer would be required to provide an ORSA Summary Report to a commissioner, if requested, within 30 days. Commissioners are also granted the authority to request additional documentation and supporting information related to an insurer’s ORSA. The ORSA Summary Report and any additional documentation or information provided by an insurer to a commissioner is granted confidential treatment under the ORSA Model Act.

The ORSA Model Act exempts an insurer from the ORSA requirement if: (i) the insurer has annual direct written and unaffiliated assumed premiums, including international direct and assumed premiums, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$500 million; and (ii) the insurer’s insurance group has annual direct written and unaffiliated assumed premiums, including international direct and assumed premiums, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1 billion. However, a commissioner may require an ORSA Summary Report from an insurer that is otherwise exempt under certain specified circumstances (e.g., the insurer meets one or more standards of an insurer deemed to be in a “hazardous financial condition,” or the insurer has risk-based capital (RBC) for a company action level event).

The Working Group has been seeking a way to formalize an annual ORSA requirement for some time. This goal is due, in part, to certain members of the Working Group who feel pressured to have express authority to require an ORSA in order to satisfy international expectations as expressed in the International Association of Insurance Supervisors Insurance Core Principle No. 16 (ICP-16).

During the NAIC’s 2012 Spring National Meeting, the NAIC began to develop training materials related to the ORSA Guidance Manual, and regulators announced that 15 insurance companies have agreed to participate in an “ORSA Feedback Project” that will enable regulators to discuss the ORSA requirement with the industry prior to the effective date of the ORSA Model Act. In addition, the NAIC is working on a glossary of terms used in the ORSA Guidance Manual. The NAIC has noted that it expects to host a series of webinars and possibly conduct an interim meeting for regulators and the industry on ORSA. The rapid pace of work on the ORSA project is partially driven by the NAIC’s stated goal of complying with ICP-16 prior to the next assessment of the U.S. regulatory system under the International Monetary Fund’s Financial Sector Assessment Program.

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