

# NAIC Addresses U.S. Insurers' Use of Offshore Reinsurance

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On June 20, 2023, the National Association of Insurance Commissioners (“NAIC”) Macroprudential Working Group (“MWG”) adopted a reinsurance comparison worksheet (the “Worksheet”) intended as an optional disclosure form for states seeking better visibility into the economic purpose and impact of offshore reinsurance transactions.

The Worksheet emerged during regulators’ discussions about cross-border reinsurance, which were themselves the result of the NAIC’s “Regulatory Considerations Applicable (But Not Exclusive) to Private Equity Owned Insurers” adopted by the NAIC in June 2022, as we previously described [here](#) and [here](#). The Regulatory Considerations identified 13 specific issues for regulators to review, including the final consideration which was:

Insurers’ use of offshore reinsurers (including captives) and complex affiliated sidecar vehicles to maximize capital efficiency, reduce reserves, increase investment risk, and introduce complexities into the group structure.

The MWG previously held confidential discussions with industry participants and foreign jurisdictions regarding the use of offshore reinsurers and complex affiliated reinsurance vehicles, with the ultimate intent of identifying the best mechanism to ensure that reviewing regulators can identify the “true economic impact” of reinsurance transactions. At the March 2023 NAIC National Meeting, the MWG exposed a first draft of the Worksheet for public comment. Comment letters from industry and trade groups focused on (i) the information called for in the Worksheet already being available to regulators through existing filings, including those required by state holding company and material transaction statutes, annual statement reinsurance schedules, and other financial statements; (ii) the Worksheet not being used as a means for evaluating non U.S. jurisdictions as the NAIC already has an established process for evaluating “qualified” and “reciprocal” jurisdictions; and (iii) safeguards to protect confidential and proprietary information submitted to regulators.

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The Worksheet itself calls for detailed balance sheet information, including a comparison of various asset and liability groupings on a pre- and post-transaction statutory basis, a listing of asset types and amounts backing the ceded business (including book and market values and NRSRO rating) and granular details on the transaction, jurisdictions and parties involved.

The adopted version of the Worksheet also updated the accompanying “instructions” from the earlier released draft and included the following list (copied verbatim):

- This worksheet is designed as an **OPTIONAL** tool to assist lead state/domiciliary regulators when reviewing reinsurance transactions to allow them to obtain the information necessary to understand the economic impacts, typically upon initial review of the proposed transaction but also potentially when the lead state/domiciliary regulator is performing a historical review of the transaction for some specific purpose.
- **NOT AN ONGOING FILING:** This worksheet is **NOT** for use as an ongoing filing with the NAIC and/or the lead/domiciliary state. It is an **EDUCATIONAL** tool for lead state/domiciliary regulators to use on an ad hoc basis as needed.
- **ONLY USED IF NEEDED:** The worksheet is **NOT** designed to be used with **EVERY** reinsurance transaction. It is designed as a consistent tool for lead state/domiciliary regulators to use when reviewing reinsurance transactions for which they need to determine the economic impacts of said reinsurance transactions. If a reinsurance transaction is easily understood without the use of this worksheet, then a worksheet would not be used by the lead state/domiciliary regulator.
- **NOT A FIXED TEMPLATE:** The worksheet is **NOT** a fixed template which **MUST** be used to answer the lead state/domiciliary regulators’ information needs. If an insurer has materials used in its own assessment of the reinsurance transaction which answer the information needs of the lead state/domiciliary regulator expressed in the worksheet, then those materials may be accepted by the lead state/domiciliary regulator rather than requiring the insurer to use the worksheet format. Every effort should be made to avoid duplicate requests for information.
- **OPEN TO REINSURANCE TYPE:** The worksheet was designed with life reinsurance transactions as the initial focus, but there is no reason to limit this tool to life reinsurance transactions. If the lead state/domiciliary regulator has a P/C reinsurance transaction for which they are struggling to understand the economic impact (despite any existing notes, interrogatories, and Schedule F disclosures for already approved transactions), the lead state/domiciliary regulator would be able to use the worksheet to request the needed information, with appropriate edits. Again, this

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worksheet should not be used if the lead state/domiciliary regulator has a clear understanding of the transaction from data already provided.

- Similarly, the worksheet was designed with affiliated transactions as the initial focus, but a lead state/domiciliary regulator should use the template for unaffiliated transactions if existing information does not provide a clear understanding of the transaction.
- **NOT REINSURANCE POLICY:** The Macroprudential (E) Working Group is working in coordination with the Reinsurance (E) Task Force. This optional, informational tool is not intended to impact any of its reinsurance policies or procedures, such as the qualified/reciprocal jurisdiction evaluation process or the U.S. Covered Agreement.
- **ONLY REFERENCED IN HANDBOOKS:** The worksheet is not included in the Financial Analysis Handbook or the Examination Handbook, although it may be referenced there as an optional tool. The worksheet will be available on StateNet.
- **CONFIDENTIALITY:** The worksheet would be confidential under a lead/domiciliary state's existing confidentiality laws and regulations in place to allow the regulator to assess such transactions.

Companies that make use of off-shore reinsurance, particularly with affiliates, will want to consider how the disclosures in the Worksheet could impact the regulatory review of their reinsurance transactions.



**Eric Dinallo**  
Partner, New York  
+1 212 909 6565  
edinallo@debevoise.com



**Marilyn A. Lion**  
Partner, New York  
+1 2121 909 6108  
malion@debevoise.com



**Nicholas F. Potter**  
Partner, New York  
+1 212 909 6459  
nfpotter@debevoise.com



**Robert M. Fettman**  
Counsel, New York  
+1 212 909 6635  
rmfettman@debevoise.com