

# Memo

To: David Altmaier, Chair (Florida), Group Capital Calculation Working Group

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Cc: Julie Garber, NAIC Senior Manager – Solvency Regulation

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From: Tricia Matson, Partner  
LeeAnne Creevy, Partner  
Matthew Bjorkman, Director

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Date: May 8, 2018

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Subject: RRC response to the questions in the NAIC Staff memo on Scope of the Group

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## **Background**

At the Spring National Meeting, the National Association of Insurance Commissioners (“NAIC”) Group Capital Calculation Working Group (“GCCWG”) exposed a memo from NAIC staff dated February 28<sup>th</sup> (updated for comments from the March 24<sup>th</sup> meeting) that included a proposed approach to determining the scope of the group for purposes of applying the group capital calculation. The memo discusses a possible approach to determining scope and poses seven questions upon which the GCCWG is specifically requesting feedback.

RRC appreciates the opportunity to offer our comments. Should you have any questions, we would be glad to discuss our comments with you and the GCCWG members.

## **RRC Comments**

1. Do you agree the default for the scope of the group for the group capital calculation should start with the ultimate controlling person, but that it should be determined by the lead state based upon their understanding of the group and considering the input of other domestic states or other regulators that have an entity in the group?
  - RRC agrees that the scope of the group for the group capital calculations should start with the ultimate controlling person; however, RRC believes there should be a mechanism for consistency amongst all regulators so that the ability to allow lead states, along with input of other regulators, does not create an inconsistent application of the scope of the group. For example, consider allowing only certain types of entities to be excluded from the scope. The types of entities could be specific to industry and should have no impact on capital contributions to the group or capital strains on the group. It would be expected that this be a rarity rather than the norm, and input from industry to identify the type of entities that fall into this category would be required. RRC would expect any entity that is a material source of capital, material user of capital, or poses a material risk to the group’s capital should be included within the scope of the group.
  
2. Do you see any disadvantages with an approach that allows relevant facts outside of control, as defined with the Holding Company Act, to be considered in making this determination?
  - RRC believes that using relevant facts outside of control, as defined within the Holding Company Act, does pose disadvantages. Those disadvantages primarily relate to the subjectivity possibly involved in determining those facts that would lead to inconsistency

across industries and amongst regulators which would defeat the purpose of developing this tool. The tool and scope should be aligned so that it allows for a consistent application across all companies. While we believe there are disadvantages to using facts outside of control, as noted in our comment to question #1, RRC expects other relevant facts to be considered in determining the scope of the group. Mechanisms and limits would need to be considered that create a level of consistency that allows the GCCWG to develop a group capital calculation that can be used as a tool for group monitoring.

3. To the extent a lead state makes a determination on the scope of the group that differs from the ultimate controlling person, should the calculation still include information on (any of) the entity(ies) excluded from the calculation either individually or in total?
  - Yes. While it is expected that the entities excluded from the group capital calculation won't have a material impact to the calculation, those entities that are excluded should be disclosed as being excluded from the calculation.
  
4. To the extent a lead state makes a determination on the scope of the group that differs from the ultimate controlling person, what type of communication may be appropriate to the other domestic or commercially-domiciled states? Should such communication occur before or after a determination is made by the lead state with input of the domestic states and international regulators?
  - RRC believes disclosure on how a lead state determined scope of the group should be made in all instances. That disclosure should state the entities that are included in the calculation and also specifically state which entities are excluded. Communication should occur after a determination is made by the lead state with input of the domestic states and international regulators.
  
5. Do you have any other suggestions for consideration of this approach?
  - In determining whether an entity is a material source of capital, a material user of capital, or poses a material risk to the group's capital, RRC suggests using a set look-back period in reaching that decision (e.g., 5 years). In the case any other mechanisms or relevant facts are used in determining scope of the group, specific parameters should be set in order to have consistent application of those parameters.
  
6. What criteria should be considered by the lead state when determining whether something other than the ultimate controlling person should be used as the starting point for the group for purposes of the group capital calculation?
  - RRC would like to reiterate that we would expect it to be a rarity rather than the norm that entities within the controlling group would be excluded from the scope of the group capital calculation. Any entity excluded from the scope of the group should not be a material source of capital, a material user of capital, or pose a material risk to the group's capital.
  
7. Do you have any other scope of group (application) issues/comments?
  - Not at this time.