

Conference Call

Captive & SPV Use Subgroup of the Financial Condition (E) Committee

Thursday, June 6, 2013

11:00 a.m. ET / 10:00 a.m. CT / 9:00 a.m. MT /8:00 a.m. PT

Texas – Doug Slape, Chair	New York – Bill Carmello
Missouri – Fred Heese	South Carolina – Leslie Jones
Michigan – Judy Weaver	Vermont – Susan Donegan
New Jersey – Rich Schlesinger	
Monitoring Members (Non-Voting):	Rhode Island – Superintendent Torti
	Pennsylvania – Steve Johnson

1. Comments on Re-Exposed Draft
 - ACLI
 - New York Life
 - North American CRO Council
 - Vermont Captive Insurance Association
2. Consider Adoption of Revised White Paper
3. Any Other Matters

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J. Bruce Ferguson
Senior Vice President, State Relations

April 29, 2013

Mr. Douglas Slape
Chief Financial Analyst
Texas Department of Insurance
Chairman, NAIC Captives and Special Purpose Vehicle Use (E) Subgroup
ddaveline@naic.org

Dear Mr. Slape:

The American Council of Life Insurers (ACLI) represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies represent over 90% of the assets and premiums of the U.S. life insurance and annuity industry. We appreciate the opportunity to offer comments on the March 14, 2013, draft NAIC White Paper on Captives and Special Purpose Vehicles.

ACLI supports life insurers' use of captives and their appropriate regulation. The use of captive reinsurance transactions is deeply embedded in the business models of many life insurers. The transactions enable effective risk management, capital efficiency, and policyholder security. We believe that appropriately regulated captive reinsurance transactions are a positive feature of a diverse and innovative insurance market that provides consumers safe and affordable insurance products.

We appreciate that the NAIC has charged its Principles-Based Reserving Implementation (EX) Task Force with considering the recommendations of the Captives and Special Purpose Vehicle Use (E) Subgroup's Report in the context of the proposed PBR system. We will continue to offer input from industry experts, including CEOs as appropriate, to facilitate constructive discussion of the issues raised in the draft White Paper.

Recommendations

ACLI has proposed enhanced transparency and risk analysis of life insurers' captive transactions that would expand regulators' knowledge about life insurers' use of captives. Further, we recommend that regulators consider incorporating into the *Financial Analysis Handbook* a uniform analytical framework for domiciliary regulators to use in supervising captive reinsurance transactions. ACLI believes that this two-track approach, which could be implemented in the very near term, could address regulators' principal concerns.

Transparency and Risk Analysis: Solvency is a paramount objective of our members. Transparency is key to assuring regulators that life insurers using captive reinsurance transactions can and will meet their obligations to policyholders. That is why our February 22, 2013, letter to Superintendent Torti recommends mandating NAIC tracking codes for life insurer-affiliated captives and new disclosures in the life insurer Annual Statement. It also suggests clarifying in the *ORSA Guidance Manual* that all material risks related to captives should be considered in a group's own assessment of its capital adequacy.

Uniformity: State regulators and federal officials are concerned about uniformity. ACLI recognizes this concern and recommends that regulators develop a uniform analytical framework to provide enhanced uniformity of regulatory review of life insurer captive's transactions. The framework or guidelines could be incorporated into the *Financial Analysis Handbook*.

White Paper

Disclosure and Transparency: ACLI recommends enhanced transparency and risk analysis as noted above.

Financial Analysis Handbook Guidance/Uniformity: ACLI supports adding to the *Financial Analysis Handbook* a uniform analytical framework for domiciliary regulators to use in supervising captive reinsurance transactions.

Confidentiality: ACLI supports discretionary disclosure by domestic state regulators to other state regulators whose laws allow them to maintain equivalent confidentiality of information. The ACLI would support changes to states' Freedom of Information Act laws if necessary to allow them to receive such information subject to that confidentiality.

Credit for Reinsurance Model Enhancements: The Credit for Reinsurance Model Law (#785) specifically provides state regulators with the authority to accept "other forms of security acceptable to the commissioner." ACLI and state regulators have long supported this necessary grant of discretion to state regulators. We continue to believe that it is consistent with the framework and goals of state insurance regulation.

As noted in our attached February 22 letter to the PBR Implementation (EX) Task Force, the ACLI urges regulators to use supervisory colleges as a potential forum for discussion among regulators of the subject group's captive reinsurance arrangements. We believe that doing so may address the Subgroup's suggestion that all home state regulators overseeing a holding company should be advised once any affiliate establishes a captive.

IAIS Principles, Standards, and Guidance: ACLI believes that recent changes to the Insurance Holding Company System Regulatory Act, together with the amendments to the *Financial Analysis Handbook* proposed by the Group Solvency Issues Working Group, appropriately address any issues about U.S. supervision of captive reinsurance transactions that may arise in the upcoming FSAP. We recommend that the sentence on p. 4 under this heading be revised to read: "The Subgroup recommends the NAIC closely monitor the on-going developments with respect to IAIS principles, standards and guidance, and consider, where if appropriate, enhancements to the U.S. captive and SPV regulatory framework in preparation for future FSAP reviews."

Accounting Considerations: In addition to captives used for XXX and AXXX reserve financing, captives are also used as a means for aggregating and more efficiently managing certain product risks, such as those that are highly sensitive to current and future economic conditions. In certain instances permitted practices or accounting on a basis more similar to GAAP has been agreed upon with captive regulators to provide a better accounting match between the product liabilities and the assets supporting those liabilities. These assets mitigate the risk of those market sensitivities, and also lead to a more meaningful presentation of the results of this risk management strategy.

ACLI supports NAIC exploring modifications to the current statutory accounting framework to allow “tier two type assets,” such as letters of credit, in certain situations. In undertaking that exploration, it is important to note at the outset that issuers of letters of credit, for example, generally require “ring-fencing” of the business risks into separate legal entities. For this reason and others, captive reinsurance arrangements will likely be useful into the future since they support a pledge of assets to a particular block of business.

Access to Alternative Markets: The NAIC adopted the Special Purpose Reinsurance Vehicle Model Act (#789) in 2001. In the more than 10 years since its adoption, only 4 states have adopted it. That suggests that it may not meet regulators’ or the market’s needs. We believe that an initial step in considering whether #789 could reasonably be reformed to meet those needs would be to conduct a state-by-state comparison of laws and rules that apply to captive reinsurance transactions currently, in order to identify common provisions.

Again, we appreciate the opportunity to offer our views. We look forward to working with you to finalize the Paper.

Very truly yours,



J. Bruce Ferguson

Copies to PBR Implementation (EX) Task Force members



J. Bruce Ferguson
Senior Vice President, State Relations

February 22, 2013

The Honorable Joseph Torti
Superintendent
State of Rhode Island Department of Business Regulation
Chair, NAIC PBR Implementation (EX) Task Force

Dear Superintendent Torti:

The American Council of Life Insurers (ACLI) represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies represent over 90% of the assets and premiums of the U.S. life insurance and annuity industry.

We appreciate the time and effort that NAIC members have devoted to discussing with us regulators' concerns about life insurers' captive transactions. In response to those concerns, ACLI has developed a set of recommendations that, if accepted by the NAIC, would result in significantly enhanced transparency and disclosure of life insurer-affiliated captive transactions. The recommendations are widely supported among our membership.

The substance of our recommended changes is reflected in the attached material. The first page is an overview of the proposed changes. It describes a known regulatory concern, a corresponding ACLI proposal for change in regulation, and the regulatory impact of the proposed enhancement. The rest of the material would implement our recommendations, formatted as regulatory proposals suitable for submission to NAIC working parties.

ACLI supports life insurers' use of captives and their appropriate regulation. Their use is deeply embedded in the business models of many life insurers because they enable effective risk management and capital efficiency. We believe that appropriately regulated captives are a positive component of a diverse and innovative insurance market that can help life insurers provide consumers with affordable insurance products.

We would appreciate the opportunity to discuss our recommendations with your Task Force and any appropriate NAIC working parties.

Very truly yours,

A handwritten signature in black ink that reads "J Bruce Ferguson". The signature is written in a cursive, flowing style.

J Bruce Ferguson

CC: Members of NAIC PBR Implementation (EX) Task Force
NAIC CEO Ben Nelson
NAIC Support Staff Kris DeFrain & Todd Sells



Overview of Proposed Enhanced Transparency and Regulatory Disclosures and Risk Analysis for Life Insurer-Affiliated U.S. Captive¹ Transactions

REGULATORY ISSUES	REGULATORY PROPOSALS	REGULATORY IMPACT
<p>Some Captives do not have company or group codes assigned in the NAIC database. This makes it difficult for regulators to know the scope of Captive activity either on an industry or company basis. It also makes it difficult to map and understand individual transactions.</p>	<p>ACLI supports requiring each Captive to obtain a company code from the NAIC and to reference any related group code in the NAIC database, whether or not it files a statutory blue book.</p>	<p>This new identification requirement will improve interested regulators' ability to ascertain the number of Captives and the extent of Captive activity by utilizing the NAIC database and reviewing ceding companies' Schedule S. It will be much easier to map credit for reinsurance to Captives when the Captive company and group codes are referenced on Schedule S.</p>
<p>There is a perceived lack of transparency regarding Captive reinsurance transactions. It is difficult for regulators to determine whether a transaction involves a Captive in the absence of disclosure provided to domestic state regulators.</p>	<p>ACLI supports requiring a new interrogatory in the Annual Statement mandating that insurers disclose if they have ceded business to Captives and, if so, to identify them by state of domicile and describe the type of business ceded to them.</p>	<p>The new disclosure will provide simple and direct disclosure of an insurer's use of Captives. Interested regulators can obtain additional detail about an insurer's Captive transactions in the proposed, revised Schedule S.</p>
<p>Information in the Annual Statement regarding Captive transactions and related credit for reinsurance is difficult to trace, and there is insufficient disclosure in the Annual Statement with regard to the use of letters of credit, trust agreements, and other forms of approved collateral.</p>	<p>ACLI supports adding three new columns for Captives to Schedule S, Part 3, Section 1, requiring disclosure of Captive LOCs, Captive Trust Agreements, or Captive "Other Forms of Collateral". Also, add new subtotal rows for Captives to Schedule S, Part 3, and to Schedule S, Part 4, and revise the instructions accordingly.</p>	<p>These new disclosures will create a familiar pathway for interested regulators' to trace individual company transactions and evaluate the extent to which a ceding company is utilizing Captive arrangements.</p>
<p>Some regulators perceive that the risks to groups from certain Captive arrangements may not be known by regulators, and they are unfamiliar with the actions insurers are taking to mitigate any unknown risks.</p>	<p>ACLI supports modifying the ORSA Guidance Manual to direct insurers to "consider all material risks related to captive reinsurance." Insurers should address the risk characteristics of captive arrangements, to the extent material, in their ORSAs. Supervisory colleges should also provide a forum for discussion among regulators of Captive (re)insurance programs and any attendant risks perceived.</p>	<p>The ORSA will alleviate concerns of interested regulators from states where a ceding company holds a license regarding the risks related to materially important Captive activity within a group. Also, it will give interested regulators an opportunity to discuss a company's Captive program with its domiciliary regulators, particularly in the supervisory college setting.</p>
<p>Beyond the domestic state regulators of Captives and ceding companies, other regulators of states where ceding companies may be licensed are concerned that they have not received disclosure about licensees' Captive arrangements, and often cannot obtain the relevant information from the Captives' or ceding companies' domestic states.</p>	<p>ACLI supports discretionary disclosure by domestic state regulators to other state regulators whose laws allow them to maintain equivalent confidentiality of information. This would apply to the domestic states of ceding companies and Captives. ACLI will support regulators' proposals to change their FOIA laws if necessary to qualify them to receive such information.</p>	<p>This supports regulator-to-regulator disclosure of information on Captives transactions, limited only by states' confidentiality laws. Where so limited, interested regulators and lawmakers would weigh the need for such disclosure against any perceived benefits of the state laws currently in place.</p>

¹For purposes of this document, "Captive," "Captives," or "Captive(s)" is intended to mean life insurer-affiliated U.S. captive(s).

ACLI Regulatory Proposal #2
ANNUAL STATEMENT FOR THE YEAR 201X
GENERAL INTERROGATORIES

PART 2 - LIFE INTERROGATORIES

- 1.1 Does the reporting entity have any direct Medicare Supplement Insurance in force? _____ Yes [] No []
- 1.2 If yes, indicate premium earned on U.S. business only _____ \$ _____
- 1.3 What portion of Item (1.2) is not reported on the Medicare Supplement Insurance Experience Exhibit? _____ \$ _____
- 1.31 Reason for excluding:

- 1.4 Indicate amount of earned premium attributable to Canadian and/or Other Alien not included in Item (1.2) above. _____ \$ _____
- 1.5 Indicate total incurred claims on all Medicare Supplement insurance. _____ \$ _____ 0
- 1.6 Individual policies:
- Most current three years:
- 1.61 Total premium earned _____ \$ _____ 0
- 1.62 Total incurred claims _____ \$ _____ 0
- 1.63 Number of covered lives _____ 0
- All years prior to most current three years
- 1.64 Total premium earned _____ \$ _____ 0
- 1.65 Total incurred claims _____ \$ _____ 0
- 1.66 Number of covered lives _____ 0
- 1.7 Group policies:
- Most current three years:
- 1.71 Total premium earned _____ \$ _____ 0
- 1.72 Total incurred claims _____ \$ _____ 0
- 1.73 Number of covered lives _____ 0
- All years prior to most current three years
- 1.74 Total premium earned _____ \$ _____ 0
- 1.75 Total incurred claims _____ \$ _____ 0
- 1.76 Number of covered lives _____ 0

2. Health Test:

	1 Current Year	2 Prior Year
2.1 Premium Numerator _____	_____	_____
2.2 Premium Denominator _____	_____	_____
2.3 Premium Ratio (2.1/2.2) _____	_____	_____
2.4 Reserve Numerator _____	_____	_____
2.5 Reserve Denominator _____	_____	_____
2.6 Reserve Ratio (2.4/2.5) _____	_____	_____

- 3.1 Does this reporting entity have Separate Accounts? _____ Yes [] No []
- 3.2 If yes, has a Separate Accounts Statement been filed with this Department? _____ Yes [] No [] N/A []
- 3.3 What portion of capital and surplus funds of the reporting entity covered by assets in the Separate Accounts statement, is not currently distributable from the Separate Accounts to the general account for use by the general account? _____ \$ _____
- 3.4 State the authority under which Separate Accounts are maintained:

- 3.5 Was any of the reporting entity's Separate Accounts business reinsured as of December 31? _____ Yes [] No []
- 3.6 Has the reporting entity assumed by reinsurance any Separate Accounts business as of December 31? _____ Yes [] No []
- 3.7 If the reporting entity has assumed Separate Accounts business, how much, if any, reinsurance assumed receivable for reinsurance of Separate Accounts reserve expense allowances is included as a negative amount in the liability for "Transfers to Separate Accounts due or accrued (net)"? _____

4.1 Does the reporting entity have business ceded to affiliated U.S. captive insurers as of December 31? _____ Yes [] No []

4.2 If yes, identify the captive insurers by NAIC Company Code, state of domicile, and type of business ceded

Entity	NAIC Company Code	State of Domicile	Type of Business Ceded

45.1 Are personnel or facilities of this reporting entity used by another entity or entities or are personnel or facilities of another entity or entities used by this reporting entity (except for activities such as administration of jointly underwritten group contracts and joint mortality or morbidity studies)? _____ Yes [] No []

54.2 Net reimbursement of such expenses between reporting entities:

4.21 Paid _____ \$ _____

4.22 Received _____ \$ _____

65.1 Does the reporting entity write any guaranteed interest contracts? _____ Yes [] No []

65.2 If yes, what amount pertaining to these lines is included in:

5.21 Page 3, Line 1 _____ \$ _____

5.22 Page 4, Line 1 _____ \$ _____

67. FOR STOCK REPORTING ENTITIES ONLY:

ACLI Regulatory Proposal #2
ANNUAL STATEMENT FOR THE YEAR 201X
GENERAL INTERROGATORIES

67.1 Total amount paid in by stockholders as surplus funds since organization of the reporting entity: _____ \$ _____

87. Total dividends paid stockholders since organization of the reporting entity:

87.11 Cash _____ \$ _____
 87.12 Stock _____ \$ _____

98.1 Does the company reinsure any Workers Compensation Carve-Out business defined as: _____ Yes [] No []
 Reinsurance (including retrocessional reinsurance) assumed by life and health insurers of medical, wage loss and death benefits of the occupational illness and accident exposures, but not the employers liability exposures, of business originally written as workers compensation insurance.

98.2 If yes, has the reporting entity completed the Workers Compensation Carve-Out Supplement to the Annual Statement? _____ Yes [] No []

98.3 If 98.1 is yes, the amounts of earned premiums and claims incurred in this statement are:

	1 Reinsurance Assumed	2 Reinsurance Ceded	3 Net Retained
98.31 Earned premium _____	_____	_____	0
98.32 Paid claims _____	_____	_____	0
98.33 Claim liability and reserve (beginning of year) _____	_____	_____	0
98.34 Claim liability and reserve (end of year) _____	_____	_____	0
98.35 Incurred claims _____	0	0	0

98.4 If reinsurance assumed included amounts with attachment points below \$1,000,000, the distribution of the amounts reported in Lines 8.31 and 8.34 for Column (1) are:

	Attachment Point	1 Earned Premium	2 Claim Liability and Reserve
8.41	<\$25,000	_____	_____
8.42	\$25,000 - 99,999	_____	_____
8.43	\$100,000 - 249,999	_____	_____
8.44	\$250,000 - 999,999	_____	_____
8.45	\$1,000,000 or more	_____	_____

98.5 What portion of earned premium reported in 8.31, Column 1 was assumed from pools? _____ \$ _____

109.1 Does the company have variable annuities with guaranteed benefits? _____ Yes [] No []

109.2 If 109.1 is yes, complete the following table for each type of guaranteed benefit.

Type		3	4	5	6	7	8	9
1 Guaranteed Death Benefit	2 Guaranteed Living Benefit	Waiting Period Remaining	Account Value Related to Col. 3	Total Related Account Values	Gross Amount of Reserve	Location of Reserve	Portion Reinsured	Reinsurance Reserve Credit

1140. For reporting entities having sold annuities to another insurer where the insurer purchasing the annuities has obtained a release of liability from the claimant (payee) as the result of the purchase of an annuity from the reporting entity only:

1140.1 Amount of loss reserves established by these annuities during the current year: _____ \$ _____

1140.2 List the name and location of the insurance company purchasing the annuities and the statement value on the purchase date of the annuities.

1	2
P&C Insurance Company And Location	Statement Value on Purchase Date of Annuities (i.e., Present)

1244.1 Do you act as a custodian for health savings accounts? _____ Yes [] No []

1244.2 If yes, please provide the amount of custodial funds held as of the reporting date. _____ \$ _____

1244.3 Do you act as an administrator for health savings accounts? _____ Yes [] No []

1244.4 If yes, please provide the balance of funds administered as of the reporting date. _____ \$ _____

PART 2 – LIFE INTERROGATORIES

1. Item 1.61 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 15, Line 0199999.

Item 1.62 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 16, Line 0199999.

Item 1.63 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 18, Line 0199999.

Item 1.64 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 11, Line 0199999.

Item 1.65 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 12, Line 0199999.

Item 1.66 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 14, Line 0199999.

Item 1.71 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 15, Line 0299999.

Item 1.72 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 16, Line 0299999.

Item 1.73 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 18, Line 0299999.

Item 1.74 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 11, Line 0299999.

Item 1.75 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 12, Line 0299999.

Item 1.76 is equal to the sum of all states reported on the Medicare Supplement Insurance Experience Exhibit, Column 14, Line 0299999.

2. This General Interrogatory is designed to determine whether a reporting entity reports predominantly health lines of business. Health lines include hospital or medical policies or certificates, comprehensive major medical expense insurance and managed care contracts and exclude other health coverage such as credit insurance, disability income coverage, automobile medical coverage, workers compensation, accidental death and dismemberment policies and long term care policies.

All reporting entities should file the test.

Premium and reserve information is obtained from the annual statement sources referenced on the form or from the related risk based capital report for the corresponding premium descriptions relating to the current and prior reporting periods.

Item	Description	Reporting Year Annual Statement Data	Prior Year Annual Statement Data
2.1	Premium Numerator	<p>Health Premium values listed in the statement value column (Column 1) of the reporting year's Life RBC report:</p> <p><u>Individual Lines:</u> Usual and Customary Major Medical and Hospital Medicare Supplement Medicare Part D Dental and Vision</p> <p><u>Group Lines:</u> Usual and Customary Major Medical and Hospital Medicare Supplement Medicare Part D Stop Loss and Minimum Premium Dental and Vision Federal Employee Health and Benefit Plan</p>	<p>Health Premium values listed in the statement value column (Column 1) of the reporting year's Life RBC report:</p> <p><u>Individual Lines:</u> Usual and Customary Major Medical and Hospital Medicare Supplement Medicare Part D Dental and Vision</p> <p><u>Group Lines:</u> Usual and Customary Major Medical and Hospital Medicare Supplement Medicare Part D Stop Loss and Minimum Premium Dental and Vision Federal Employee Health and Benefit Plan</p>
2.2	Premium Denominator	Premium and Annuity Considerations (Page 4, Line 1) of the reporting year's annual statement	Premium and Annuity Considerations (Page 4, Line 1) of the prior year's annual statement
2.3	Premium Ratio	2.1/2.2	2.1/2.2
2.4(a)	Reserve Numerator	Net A&H Policy and Contract Claims without Credit Health (Exhibit 8, Part 1 Line 4.4, Columns 9 and 11) plus Aggregate Reserves for A&H Policies without Credit Health (Exhibit 6, Column 1 less Column 3) for Unearned Premiums (Line 1) and Future Contingent Benefits (Line 4)	Net A&H Policy and Contract Claims without Credit Health (Exhibit 8, Part 1 Line 4.4, Columns 9 and 11) plus Aggregate Reserves for A&H Policies without Credit Health (Exhibit 6, Column 1 less Column 3) for Unearned Premiums (Line 1) and Future Contingent Benefits (Line 4)
2.5	Reserve Denominator	Aggregate Reserve (Page 3, Column 1, Lines 1+2+4.1+4.2) minus additional actuarial reserves (Exhibit 6, Column 1 Lines 3+5+11 plus Exhibit 5, Misc Reserves Section, Line 0799999)	Aggregate Reserve (Page 3, Column 1, Lines 1+2+4.1+4.2) minus additional actuarial reserves (Exhibit 6, Column 1 Lines 3+5+11 plus Exhibit 5, Misc Reserves Section, Line 0799999)
2.6	Reserve Ratio	2.4/2.5	2.4/2.5

(a) Alternative Reserve Numerator – Company records may be used to adjust the reserve numerator to provide consistency between the values reported in the reserve numerator (2.4) and the premium numerator (2.1).

3.3 The total amount of capital and surplus funds of the company, covered by assets in the company’s Separate Accounts statement, is the sum of the amount accrued for expense allowances recognized in separate accounts reserves that is disclosed parenthetically as a negative amount in the caption for Page 3, Line 13 - Transfers to Separate Accounts due or accrued (net) (including \$ _____ accrued for expense allowances recognized in reserves, net of reinsured expense allowances) adjusted to exclude any reinsurance assumed expense allowances, plus the amount of surplus in the Separate Accounts statement that is disclosed parenthetically in the caption for Page 3, Line 37 - Surplus (including \$ _____ in Separate Accounts statement). Exclude any amounts accrued for expense allowances applicable to reinsurance assumed covered by assets in ceding companies’ Separate Accounts statements. Such amounts are covered in Interrogatory 3.7.

In the response to this interrogatory, include only that portion of the above-described amount that the company is currently prohibited from distributing to the general account from the separate accounts. Include all surplus funds that the company is required by law, regulation or regulatory directive to maintain in its separate accounts.

Exclude all amounts that are currently distributable at the discretion of the company, including seed monies currently maintained in the Separate Accounts statement to support the development or growth of separate accounts business.

3.4 Cite applicable insurance statutes for the establishment of separate accounts.

3.7 Report the total amount accrued for reinsurance assumed expense allowances applicable to separate accounts’ reserves held in ceding company Separate Accounts statements. Any such amount is included as a negative amount in both the total and parenthetical amounts reported for Page 3, Line 13, Transfers to Separate Accounts Due or Accrued (Net) (including \$ _____ accrued for expense allowances recognized in reserves, net of reinsured allowances).

4.2 For life insurance companies with business ceded to affiliated U.S. captive insurers, disclose the captive insurer name, NAIC Company Code, state of domicile, and a description of the type of business ceded to the captive insurer.

Illustration:

If the response to 4.1 is “YES”, complete the table for each affiliated U.S. captive insurer.

<u>Entity</u>	<u>NAIC Company Code</u>	<u>State of Domicile</u>	<u>Type of Business Ceded</u>
<u>U.S. Captive Affiliate A</u>	<u>XXXXX</u>	<u>XX</u>	<u>Universal Life</u>

54.1 The response is “YES” if subsidiaries or affiliates use or provide personnel or facilities. Third party expenditures should be excluded.

54.2 Report the amount of expense paid this year by this company for services received in the paid line. Report the amount received by this company for services it provided in the received line.

98.1 Worker’s compensation carve-out business is defined as reinsurance (including retrocessional reinsurance) assumed by life and health insurers of medical, wage loss and death benefits of the occupational illness and accident exposures, but not the employers liability exposures, of business originally written as workers compensation insurance.

109.2 For variable annuities with guaranteed benefits, disclose the type(s) of guaranteed benefit(s), the amount of variable annuity account value related to the benefit(s), the gross amount of the reserve for the benefit(s), the location of the reserve in the Annual Statement, the portion of each benefit reinsured, and the amount of any reinsurance reserve credit being taken for the benefit(s). For contracts that include only one of the two forms, enter “NONE” in the appropriate column.

For those guaranteed benefits that include waiting periods before any benefit can be realized, include the length of the waiting period in the description of the benefit type. In addition, identify the length of time remaining until the end of the waiting period and the amount of account value related to each remaining time period.

For reserves calculated according to Actuarial Guideline XLIII, column 6 (gross reserve) of each row of tables in the interrogatory should be calculated using the reserve allocated to each contract by calculating the difference between the total reserve and the basic adjusted reserve, which would include any excess stochastic reserve.

For Extra Reserve under Actuarial Guideline XLIII, the portion of the reserve calculated according to Actuarial Guideline XLIII held in the general account may be split between a reserve supporting the fixed account portion of the variable annuity and the reserve supporting the guaranteed benefits. The reserve supporting the guaranteed benefits may be reported in either the Annuities section or the Miscellaneous Reserves section of Section 5. However, that reserve should be identified separately.

Illustration:

If the response to 9.1 is “YES”, complete the table for each type of guaranteed benefit.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	Guaranteed Death Benefit	Guaranteed Living Benefit	Waiting Period Remaining	Account Value Related to Column 3	Total Related Account Value	Gross Amount of Reserve	Location of Reserve	Portion Reinsured	Reinsurance Reserve Credit
(1)	Max Anniversary Value (MAV)	GMAB – 110% of prem., 15 yr. waiting period	15 years 14 years Total	\$150 mil \$250 mil \$400 mil	\$400 million	\$2.5 million	Exhibit 5	60% death benefit 40% living benefit	\$1.2 million
(2)	3% Roll-up	GMIB – prem., accum. at 3%, 10 yr. waiting period	9 years 8 years Total	\$ 75 mil \$125 mil \$200 mil	\$200 million	\$3.0 million	Exhibit 5	100%	\$3.0 million
(3)	Greater of MAV and 3% Roll-up	GMIB – return of prem., 10 yr. Waiting period	9 years 8 years Total	\$ 50 mil \$ 50 mil \$100 mil	\$100 million	None	Exhibit 5	None	None
(4)	Greater of MAV, 3% Roll-up, and 40% of the contract earnings	None	N/A	N/A	\$500 million	\$2.0 million	Exhibit 5	None	None

119.1 Disclose the amount of reserves carried by the reporting entity because it has sold annuities with a claimant as payee and to the extent to which the reporting entity is liable for such amounts. Include only annuities for which the property and casualty insurer obtained a release of liability from the claimant as a result of the purchase of an annuity from the reporting entity.

119.2 Disclose the name and location of the insurance company (i.e., legal entity and not group) that purchased the annuities during the current year and the aggregate statement value of annuities purchased, to the extent that the aggregate value of those annuities equals or exceeds \$250,000. Include only annuities for which the property and casualty insurer obtained a release of liability from the claimant as a result of the purchase of an annuity from the reporting entity.

ANNUAL STATEMENT FOR THE YEAR 201X
SCHEDULE S - PART 3 - SECTION 1

Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
NAIC Company Code	Federal ID Number	Effective Date	Name of Company	Domiciliary Jurisdiction	Type of Reinsurance Ceded	Amount in Force at End of Year	Reserve Credit Taken	Reserve Credit Taken	Premiums	Outstanding Surplus Relief	Prior Year	Letters of Credit	Trust Agreements	Other	Modified Coinsurance Reserve	Funds Withheld Under Coinsurance
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Reinsurer A	XX	XX/X	XX	XX	XX	XX	XX	XX	0	0	0	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Reinsurer B	XX	XX/X	XX	XX	XX	XX	XX	XX	0	0	0	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Reinsurer C	XX	XX/X	XX	XX	XX	XX	XX	XX	0	0	0	XX	XX
0199999	General Account - Authorized U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive A	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive B	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive C	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
0299999	General Account - Authorized U.S. Captive Affiliates						0	0	0	0	0	0	0	0	0	0
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Non US Affiliate A	XX	XX/X	XX	XX	XX	XX	XX	XX	0	0	0	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Non US Affiliate B	XX	XX/X	XX	XX	XX	XX	XX	XX	0	0	0	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Non US Affiliate C	XX	XX/X	XX	XX	XX	XX	XX	XX	0	0	0	XX	XX
0999999	General Account - Authorized Non-U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
0499999	Total General Account - Authorized Affiliates						0	0	0	0	0	0	0	0	0	0
0599999	General Account - Authorized U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
0699999	General Account - Authorized Non-U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
0799999	Total General Account - Authorized Non-Affiliates						0	0	0	0	0	0	0	0	0	0
0899999	Total General Account Authorized						0	0	0	0	0	0	0	0	0	0
0999999	General Account - Unauthorized U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive A	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive B	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive C	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
1099999	General Account - Unauthorized U.S. Captive Affiliates						0	0	0	0	0	0	0	0	0	0
1199999	General Account - Unauthorized Non-U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
1299999	Total General Account - Unauthorized Affiliates						0	0	0	0	0	0	0	0	0	0
1399999	General Account - Unauthorized U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
1499999	General Account - Unauthorized Non-U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
1599999	Total General Account - Unauthorized Non-Affiliates						0	0	0	0	0	0	0	0	0	0
1699999	Total General Account Unauthorized						0	0	0	0	0	0	0	0	0	0
1799999	General Account - Certified U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
1899999	General Account - Certified Non-U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
1999999	Total General Account - Certified Affiliates						0	0	0	0	0	0	0	0	0	0
2099999	General Account - Certified U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
2199999	General Account - Certified Non-U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
2299999	Total General Account - Certified Non-Affiliates						0	0	0	0	0	0	0	0	0	0
2399999	Total General Account Certified						0	0	0	0	0	0	0	0	0	0
2499999	Total General Account Authorized, Unauthorized and Certified						0	0	0	0	0	0	0	0	0	0

ANNUAL STATEMENT FOR THE YEAR 201X
SCHEDULE S - PART 3 - SECTION 1

Reinsurance Ceded life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year

1 NAIC Company Code	2 Federal ID Number	3 Effective Date	4 Name of Company	5 Domiciliary Jurisdiction	6 Type of Reinsurance Ceded	7 Amount in Force at End of Year	8 Reserve Credit Taken		10 Premiums	11 Outstanding Surplus Relief		13 Letters of Credit			14 Trust Agreements		15 Other		16 Modified Coinsurance Reserve	17 Funds Withheld Under Coinsurance	
							Current Year	Prior Year		Current Year	Prior Year	Current Year	Prior Year	Current Year	Prior Year	Current Year	Prior Year	Current Year			Prior Year
XXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Reinsurer D	XX	XX/X	XX	XX	XX	XX	XX	XX	0	0	0	0	0	0	0	XX	XX	
XXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Reinsurer E	XX	XX/X	XX	XX	XX	XX	XX	XX	0	0	0	0	0	0	0	XX	XX	
XXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Reinsurer F	XX	XX/X	XX	XX	XX	XX	XX	XX	0	0	0	0	0	0	0	XX	XX	
2799999			Separate Accounts - Authorized U.S. Affiliates						0	0	0	0	0	0	0	0	0	0			
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive A	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive B	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive C	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	
2699999			Separate Accounts - Authorized U.S. Captive Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
2799999			Separate Accounts - Authorized Non-U.S. Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
2899999			Total Separate Accounts - Authorized Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
2999999			Separate Accounts - Authorized U.S. Non-Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
3099999			Separate Accounts - Authorized Non-U.S. Non-Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
3199999			Total Separate Accounts - Authorized Non-Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
3299999			Total Separate Accounts Authorized					0	0	0	0	0	0	0	0	0	0	0	0	0	
3399999			Separate Accounts - Unauthorized U.S. Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive A	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive B	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive C	XX	XX/X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	
3499999			Separate Accounts - Unauthorized U.S. Captive Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
3599999			Separate Accounts - Unauthorized Non-U.S. Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
3699999			Total Separate Accounts - Unauthorized Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
3799999			Separate Accounts - Unauthorized U.S. Non-Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
3899999			Separate Accounts - Unauthorized Non-U.S. Non-Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
3999999			Total Separate Accounts - Unauthorized Non-Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
4099999			Total Separate Accounts Unauthorized					0	0	0	0	0	0	0	0	0	0	0	0	0	
4199999			Separate Accounts - Certified U.S. Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
4299999			Separate Accounts - Certified Non-U.S. Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
4399999			Total Separate Accounts - Certified Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
4499999			Separate Accounts - Certified U.S. Non-Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
4599999			Separate Accounts - Certified Non-U.S. Non-Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
4699999			Total Separate Accounts - Certified Non-Affiliates					0	0	0	0	0	0	0	0	0	0	0	0	0	
4799999			Total Separate Accounts Certified					0	0	0	0	0	0	0	0	0	0	0	0	0	
4899999			Total Separate Accounts Authorized, Unauthorized and Certified					0	0	0	0	0	0	0	0	0	0	0	0	0	
4999999			Total U.S. (Sum of 0199999, 0299999, 0599999, 0899999, 1099999, 1399999, 1799999, 2099999, 2599999, 2699999, 2999999, 3399999, 3499999, 3799999, 4199999 and 4499999)					0	0	0	0	0	0	0	0	0	0	0	0	0	0
5099999			Total Non-U.S. (Sum of 0399999, 0699999, 1199999, 1499999, 1899999, 2199999, 2799999, 3099999, 3599999, 3699999, 4299999 and 4599999)					0	0	0	0	0	0	0	0	0	0	0	0	0	0
5199999			Total (Sum of 2499999 and 4899999)					0	0	0	0	0	0	0	0	0	0	0	0	0	0

SCHEDULE S – PART 3 – SECTION 1

REINSURANCE CEDED LIFE INSURANCE, ANNUITIES, DEPOSIT FUNDS AND OTHER LIABILITIES WITHOUT LIFE OR DISABILITY CONTINGENCIES, AND RELATED BENEFITS LISTED BY REINSURING COMPANY AS OF DECEMBER 31, CURRENT YEAR

NOTE: This schedule is to include Exhibit 7 cessions. Include actual reinsurance ceded on group cases but exclude jointly underwritten group contracts. Amounts recorded under the caption “U.S. Affiliates” should exclude amounts related to “U.S. Captive Affiliates.”

If a reporting entity has any detail lines reported for any of the following required groups, categories, or subcategories, it shall report the subtotal amount of the corresponding group, category, or subcategory, with the specified subtotal line number appearing in the same manner and location as the pre-printed total line and number:

<u>Group or Category</u>	<u>Line Number</u>
General Account	
Authorized	
Affiliates	
U.S. Affiliates	0199999
<u>U.S. Captive Affiliates</u>	<u>0299999</u>
Non-U.S. Affiliates	03299999
Total Authorized Affiliates	04399999
Non-Affiliates	
U.S. Non-Affiliates	05499999
Non-U.S. Non-Affiliates	06599999
Total Authorized Non-Affiliates	07699999
Total General Account Authorized	08799999
Unauthorized	
Affiliates	
U.S. Affiliates	09899999
<u>U.S. Captive Affiliates</u>	<u>1099999</u>
Non-U.S. Affiliates	110999999
Total Unauthorized Affiliates	12099999
Non-Affiliates	
U.S. Non-Affiliates	13499999
Non-U.S. Non-Affiliates	14299999
Total Unauthorized Non-Affiliates	15399999
Total General Account Unauthorized	16499999
Certified	
Affiliates	
U.S. Affiliates	17599999
Non-U.S. Affiliates	18699999
Total Certified Affiliates	194799999
Non-Affiliates	
U.S. Non-Affiliates	204899999
Non-U.S. Non-Affiliates	214999999
Total Certified Non-Affiliates	222099999
Total General Account Certified	232499999
Total General Account Authorized, Unauthorized and Certified	242299999

Separate Accounts

Authorized

Affiliates

U.S. Affiliates	25399999
<u>U.S. Captive Affiliates.....</u>	<u>2699999</u>
Non-U.S. Affiliates	27499999
Total Authorized Affiliates	28599999

Non-Affiliates

U.S. Non-Affiliates	29699999
Non-U.S. Non-Affiliates	302799999
Total Authorized Non-Affiliates	312899999

Total Separate Accounts Authorized.....	322999999
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Unauthorized

Affiliates

U.S. Affiliates	33099999
<u>U.S. Captive Affiliates.....</u>	<u>3499999</u>
Non-U.S. Affiliates	35199999
Total Unauthorized Affiliates	36299999

Non-Affiliates

U.S. Non-Affiliates	37399999
Non-U.S. Non-Affiliates	38499999
Total Unauthorized Non-Affiliates	39599999

Total Separate Accounts Unauthorized.....	403699999
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Certified

Affiliates

U.S. Affiliates	413799999
Non-U.S. Affiliates	423899999
Total Certified Affiliates.....	433999999

Non-Affiliates

U.S. Non-Affiliates	444099999
Non-U.S. Non-Affiliates	45499999
Total Certified Non-Affiliates	46299999

Total Separate Accounts Certified.....	47399999
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Total Separate Accounts Authorized, Unauthorized and Certified.....	48499999
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Total U.S. (Sum of 0199999, 0299999, 05499999, 09899999, 1099999, 13499999, 17599999, 18999999, 20999999, 25399999, 26999999, 29699999, 33099999, 34399999, 37999999, 341799999 and 44099999)....49599999

Total Non-U.S. (Sum of 03299999, 06599999, 11099999, 144299999, 181699999, 214999999, 27499999, 302799999, 35199999, 38499999, 423899999 and 45499999).....504699999

Total (Sum of -24299999 and 4899999499999)514799999

Column 5 – Domiciliary Jurisdiction

Report the two-character postal code abbreviation for the domiciliary jurisdiction for U.S. states, territories and possessions. A comprehensive listing of three-character abbreviations for foreign countries is available in the appendix of these instructions. For abbreviations of foreign countries not found in the appendix, use the three-character abbreviations found at:

www.nationsonline.org/oneworld/countrycodes.htm

If a reinsurer has merged with another entity, report the domiciliary jurisdiction of the surviving entity.

Column 6 – Type of Reinsurance Ceded

Use the following abbreviations to identify the plan and type of reinsurance. For example, group coinsurance with funds withheld should be identified as COFW/G. (If there is more than one type of reinsurance in the same reinsurance company, show each type on a separate line.) NOTE: The type should be entered in all capital letters, and ALL reinsurance types must be followed by /G (for Group) or /I (for Individual).

Abbreviations:

I	Individual
G	Group

{ All Reinsurance Types should be followed by /I or /G.

REINSURANCE TYPES

CO	Coinsurance	ACO	Annuity coinsurance
COFW	Coinsurance with funds withheld	ACOFW	Annuity coinsurance with funds withheld
MCO	Modified coinsurance	AMCO	Annuity modified coinsurance
MCOFW	Modified coinsurance with funds withheld	AMCOFW	Annuity modified coinsurance with funds withheld
COMB	Combination coinsurance/modified coinsurance	ACOMB	Annuity combination coinsurance/modified coinsurance
COMBW	Combination coinsurance/modified coinsurance with funds withheld	ACOMBW	Annuity combination coinsurance/modified coinsurance with funds withheld
YRT	Yearly renewable term	GMDB	Guaranteed minimum death benefit
CAT	Catastrophe	GMDBFW	Guaranteed minimum death benefit funds withheld
OTH	Other reinsurance	ADB	Accidental death benefit
		DIS	Disability benefits

NOTE: The insurance type should be entered in all capital letters.

ACLI Regulatory Proposal #3

Column 7 – Amount in Force at End of Year

Report the ceded amount of the basic life insurance policy only, to agree with Line 22 of the Exhibit of Life Insurance x 1000.

For catastrophe-reinsurance (CAT), disability reinsurance (DIS), accidental death benefit reinsurance (ADB) and annuity reinsurance (ACO and AMCO), leave this column blank.

Column 8 – Reserve Credit Taken Current Year

To agree with appropriate lines in Exhibit 5 and Exhibit 7. See examples for modco transactions contained in the general instructions for Schedule S.

Column 10 – Premiums

Amounts included in this column should represent reinsurance ceded premiums on an incurred basis, to agree with Line 20.3 of Exhibit 1, Part 1, Column 1 less Columns 8, 9 and 10.

For deposit funds and other liabilities without life or disability contingencies, leave this column blank.

Columns 11 & 12 – Outstanding Surplus Relief

Outstanding surplus relief means the amount of surplus not yet reported as income in Commissions and Expense Allowance on Reinsurance Ceded, in the Summary of Operations, attributable to reinsurance agreements described in SSAP No. 61, Life, Deposit-Type and Accident and Health Reinsurance.

Report the amount of initial commissions and expense allowance not yet recovered by the reinsurer for the following types of treaties (individual or group): CO, ACO, MCO, AMCO, COFW, ACOFW, MCOFW, AMCOFW, COMB, ACOMB, ACOMBW AND COMBW. This column does not apply to CAT, DIS, ADB, YRT or other non-proportional reinsurance treaties.

Include the outstanding surplus resulting from reinsurance of separate accounts business.

Columns 13-15

– Captive Transactions

Report the amounts available from Letters of Credit, Trust Agreements, or Other mechanisms established or maintained in connection with reinsurance ceded to affiliated U.S. captive insurers.

Column ~~13~~16 – Modified Coinsurance Reserve

Report the amount of reserves held under modified coinsurance contracts. Include separate accounts modified coinsurance reserves. The General Account total for Column 13 must agree with the sum of the parenthetical amounts on Page 3, Lines 1 and 3.

Column ~~14~~17 – Funds Withheld Under Coinsurance

Report the amount of funds withheld on coinsurance contracts.

ANNUAL STATEMENT FOR THE YEAR 201X
SCHEDULE S - PART 3 - SECTION 2

Reinsurance Ceded Accident and Health Insurance Listed by Reinsuring Company as of December 31, Current Year

1 NAIC Company Code	2 Federal ID Number	3 Effective Date	4 Name of Company	5 Domiciliary Jurisdiction	6 Type	7 Premiums	8 Unearned Premiums (Estimated)	9 Reserve Credit Taken Other than for Unearned Premiums	10 Outstanding Surplus Relief		11 Captive Transactions			15 Modified Coinsurance Reserve	16 Funds Withheld Under Coinsurance	
									Current Year	Prior Year	12 Letters of Credit	13 Trust Agreements	14 Other			
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Reinsurer A	XX	XX / X	XX	XX	XX	XX	XX	0	0	0	XX	XX	
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Reinsurer B	XX	XX / X	XX	XX	XX	XX	XX	0	0	0	XX	XX	
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Reinsurer C	XX	XX / X	XX	XX	XX	XX	XX	0	0	0	XX	XX	
0199999	General Account - Authorized U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
XXXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive A	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive B	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive C	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
0299999	General Account - Authorized U.S. Captive Affiliates						0	0	0	0	0	0	0	0	0	0
XXXXXX	XX-XXXXXXX	XX/XX/XXXX	Non US Affiliate A	XX	XX / X	XX	XX	XX	XX	XX	0	0	0	XX	XX	
XXXXXX	XX-XXXXXXX	XX/XX/XXXX	Non US Affiliate B	XX	XX / X	XX	XX	XX	XX	XX	0	0	0	XX	XX	
XXXXXX	XX-XXXXXXX	XX/XX/XXXX	Non US Affiliate C	XX	XX / X	XX	XX	XX	XX	XX	0	0	0	XX	XX	
0399999	General Account - Authorized Non-U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
0499999	Total General Account - Authorized Affiliates						0	0	0	0	0	0	0	0	0	0
0599999	General Account - Authorized U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
0699999	General Account - Authorized Non-U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
0799999	Total General Account - Authorized Non-Affiliates						0	0	0	0	0	0	0	0	0	0
0899999	Total General Account - Authorized						0	0	0	0	0	0	0	0	0	0
0999999	General Account - Unauthorized U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
XXXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive A	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive B	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive C	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
1099999	General Account - Unauthorized U.S. Captive Affiliates						0	0	0	0	0	0	0	0	0	0
1199999	General Account - Unauthorized Non-U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
1299999	Total General Account - Unauthorized Affiliates						0	0	0	0	0	0	0	0	0	0
1399999	General Account - Unauthorized U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
1499999	General Account - Unauthorized Non-U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
1599999	Total General Account - Unauthorized Non-Affiliates						0	0	0	0	0	0	0	0	0	0
1699999	Total General Account Unauthorized						0	0	0	0	0	0	0	0	0	0
1799999	General Account - Certified U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
1899999	General Account - Certified Non-U.S. Affiliates						0	0	0	0	0	0	0	0	0	0
1999999	Total General Account - Certified Affiliates						0	0	0	0	0	0	0	0	0	0
2099999	General Account - Certified U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
2199999	General Account - Certified Non-U.S. Non-Affiliates						0	0	0	0	0	0	0	0	0	0
2299999	Total General Account - Certified Non-Affiliates						0	0	0	0	0	0	0	0	0	0
2399999	Total General Account Certified						0	0	0	0	0	0	0	0	0	0
2499999	Total General Account Authorized, Unauthorized and Certified						0	0	0	0	0	0	0	0	0	0

ANNUAL STATEMENT FOR THE YEAR 201X
SCHEDULE S - PART 3 - SECTION 2
 Reinsurance Ceded Accident and Health Insurance Listed by Reinsuring Company as of December 31, Current Year

1 NAIC Company Code	2 Federal ID Number	3 Effective Date	4 Name of Company	5 Domiciliary Jurisdiction	6 Type	7 Premiums	8 Unearned Premiums (Estimated)	9 Reserve Credit Taken Other than for Unearned Premiums	10 Outstanding Surplus Relief		12 Letters of Credit	13 Captive Transactions		14 Other	15 Modified Coinsurance Reserve	16 Funds Withheld Under Coinsurance
									Current Year	Prior Year		Trust Agreements	Other			
XXXXX	XX-XXXXXX	XX/XX/XXXX	Affiliate US Reinsurer A	XX	XX / X	XX	XX	XX	XX	XX	0	0	0	0	XX	XX
XXXXX	XX-XXXXXX	XX/XX/XXXX	Affiliate US Reinsurer B	XX	XX / X	XX	XX	XX	XX	XX	0	0	0	0	XX	XX
XXXXX	XX-XXXXXX	XX/XX/XXXX	Affiliate US Reinsurer C	XX	XX / X	XX	XX	XX	XX	XX	0	0	0	0	XX	XX
2699999			Separate Accounts - Authorized U.S. Affiliates				0	0	0	0	0	0	0	0	0	0
XXXXX	XX-XXXXXX	XX/XX/XXXX	Affiliate US Captive D	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXX	XX/XX/XXXX	Affiliate US Captive E	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXX	XX/XX/XXXX	Affiliate US Captive F	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
2699999			Separate Accounts - Authorized U.S. Captive Affiliates				0	0	0	0	0	0	0	0	0	0
2799999			Separate Accounts - Authorized Non-U.S. Affiliates				0	0	0	0	0	0	0	0	0	0
2899999			Total Separate Accounts - Authorized Affiliates				0	0	0	0	0	0	0	0	0	0
2999999			Separate Accounts - Authorized U.S. Non-Affiliates				0	0	0	0	0	0	0	0	0	0
3099999			Separate Accounts - Authorized Non-U.S. Non-Affiliates				0	0	0	0	0	0	0	0	0	0
3199999			Total Separate Accounts - Authorized Non-U.S. Non-Affiliates				0	0	0	0	0	0	0	0	0	0
3299999			Total Separate Accounts Authorized				0	0	0	0	0	0	0	0	0	0
3399999			Separate Accounts - Unauthorized U.S. Affiliates				0	0	0	0	0	0	0	0	0	0
XXXXX	XX-XXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive D	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive E	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Captive F	XX	XX / X	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
3499999			Separate Accounts - Unauthorized U.S. Captive Affiliates				0	0	0	0	0	0	0	0	0	0
3599999			Separate Accounts - Unauthorized Non-U.S. Affiliates				0	0	0	0	0	0	0	0	0	0
3699999			Total Separate Accounts - Unauthorized Affiliates				0	0	0	0	0	0	0	0	0	0
3799999			Separate Accounts - Unauthorized U.S. Non-Affiliates				0	0	0	0	0	0	0	0	0	0
3899999			Separate Accounts - Unauthorized Non-U.S. Non-Affiliates				0	0	0	0	0	0	0	0	0	0
3999999			Total Separate Accounts - Unauthorized Non-Affiliates				0	0	0	0	0	0	0	0	0	0
4099999			Total Separate Accounts Unauthorized				0	0	0	0	0	0	0	0	0	0
4199999			Separate Accounts - Certified U.S. Affiliates				0	0	0	0	0	0	0	0	0	0
4299999			Separate Accounts - Certified Non-U.S. Affiliates				0	0	0	0	0	0	0	0	0	0
4399999			Total Separate Accounts - Certified Affiliates				0	0	0	0	0	0	0	0	0	0
4499999			Separate Accounts - Certified U.S. Non-Affiliates				0	0	0	0	0	0	0	0	0	0
4599999			Separate Accounts - Certified Non-U.S. Non-Affiliates				0	0	0	0	0	0	0	0	0	0
4699999			Total Separate Accounts - Certified Non-Affiliates				0	0	0	0	0	0	0	0	0	0
4799999			Total Separate Accounts Certified				0	0	0	0	0	0	0	0	0	0
4899999			Total Separate Accounts Authorized, Unauthorized and Certified				0	0	0	0	0	0	0	0	0	0
4999999			Total U.S. (Sum of 0199999, 0299999, 0599999, 0899999, 1099999, 1399999, 1799999, 2099999, 2599999, 2699999, 2999999, 3399999, 3499999, 3799999, 4199999 and 4499999)				0	0	0	0	0	0	0	0	0	0
5099999			Total Non-U.S. (Sum of 0399999, 0699999, 1199999, 1499999, 1899999, 2199999, 2799999, 3099999, 3599999, 3899999, 4299999 and 4599999)				0	0	0	0	0	0	0	0	0	0
5199999			Total (Sum of 2499999 and 4899999)				0	0	0	0	0	0	0	0	0	0

SCHEDULE S – PART 3 – SECTION 2

REINSURANCE CEDED ACCIDENT AND HEALTH INSURANCE LISTED BY REINSURING COMPANY
AS OF DECEMBER 31, CURRENT YEAR

NOTE: Amounts recorded under the caption “U.S. Affiliates” should exclude amounts related to “U.S. Captive Affiliates.”

Include actual reinsurance ceded on group cases but exclude jointly underwritten group contracts.

If a reporting entity has any detail lines reported for any of the following required groups, categories, or subcategories it shall report the subtotal amount of the corresponding group, category, or subcategory, with the specified subtotal line number appearing in the same manner and location as the pre-printed total line and number:

Group or Category	Line Number
General Account	
Authorized	
Affiliates	
U.S. Affiliates	0199999
<u>U.S. Captive Affiliates</u>	<u>0299999</u>
Non-U.S. Affiliates	03299999
Total Authorized Affiliates	04399999
Non-Affiliates	
U.S. Non-Affiliates	05499999
Non-U.S. Non-Affiliates	06599999
Total Authorized Non-Affiliates	07699999
Total General Account Authorized	08799999
Unauthorized	
Affiliates	
U.S. Affiliates	09899999
<u>U.S. Captive Affiliates</u>	<u>10999999</u>
Non-U.S. Affiliates	110999999
Total Unauthorized Affiliates	12099999
Non-Affiliates	
U.S. Non-Affiliates	13499999
Non-U.S. Non-Affiliates	14299999
Total Unauthorized Non-Affiliates	15399999
Total General Account Unauthorized	16499999
Certified	
Affiliates	
U.S. Affiliates	17599999
Non-U.S. Affiliates	18699999
Total Certified Affiliates	19799999
Non-Affiliates	
U.S. Non-Affiliates	201899999
Non-U.S. Non-Affiliates	214999999
Total Certified Non-Affiliates	22099999
Total General Account Certified	23499999
Total General Account Authorized, Unauthorized and Certified	24299999

Separate Accounts

Authorized

Affiliates

U.S. Affiliates	25399999
<u>U.S. Captive Affiliates</u>	<u>26999999</u>
Non-U.S. Affiliates	27499999
Total Authorized Affiliates	28599999

Non-Affiliates

U.S. Non-Affiliates	29699999
Non-U.S. Non-Affiliates	302799999
Total Authorized Non-Affiliates	312899999

Total Separate Accounts Authorized	322999999
--	-----------

Unauthorized

Affiliates

U.S. Affiliates	33099999
<u>U.S. Captive Affiliates</u>	<u>34999999</u>
Non-U.S. Affiliates	35199999
Total Unauthorized Affiliates	36299999

Non-Affiliates

U.S. Non-Affiliates	37399999
Non-U.S. Non-Affiliates	38499999
Total Unauthorized Non-Affiliates	39599999

Total Separate Accounts Unauthorized	403699999
--	-----------

Certified

Affiliates

U.S. Affiliates	413799999
Non-U.S. Affiliates	423899999
Total Certified Affiliates	433999999

Non-Affiliates

U.S. Non-Affiliates	44099999
Non-U.S. Non-Affiliates	45199999
Total Certified Non-Affiliates	46299999

Total Separate Accounts Certified	47399999
---	----------

Total Separate Accounts Authorized, Unauthorized and Certified	48499999
--	----------

Total U.S. (Sum of 0199999, <u>0299999</u> , <u>05499999</u> , <u>09899999</u> , <u>1099999</u> , <u>13199999</u> , <u>17599999</u> , <u>20899999</u> , <u>25399999</u> , <u>26999999</u> , <u>293099999</u> , 3399999, <u>3499999</u> , 3799999, <u>4199999</u> and <u>44099999</u>)	49599999
--	----------

Total Non-U.S. (Sum of <u>03299999</u> , <u>06599999</u> , <u>110999999</u> , <u>14299999</u> , <u>18699999</u> , <u>211999999</u> , <u>27499999</u> , <u>302799999</u> , <u>351999999</u> , <u>38499999</u> , <u>342899999</u> and <u>45199999</u>)	504699999
---	-----------

Total (Sum of 2 of 242 99999 and <u>48499999</u>)	514799999
---	-----------

Column 5 – Domiciliary Jurisdiction

Report the two-character U.S. postal code abbreviation for the domiciliary jurisdiction for U.S. states, territories and possessions. A comprehensive listing of three-character abbreviations for foreign countries is available in the appendix of these instructions. For abbreviations of foreign countries not found in the appendix, use the three-character abbreviations found at:

www.nationsonline.org/oneworld/countrycodes.htm

If a reinsurer has merged with another entity, report the domiciliary jurisdiction of the surviving entity.

Column 6 – Type

Use the following abbreviations to identify the plan and type of reinsurance. For example, group coinsurance with funds withheld should be identified as COFW/G. (If there is more than one type of reinsurance in the same reinsurance company, show each type on a separate line.) NOTE: The type should be entered in all capital letters, and ALL reinsurance types must be followed by /G (for Group) or /I (for Individual).

Abbreviations:

I	Individual	{	All Reinsurance Types should be followed by /I or /G.
G	Group		

REINSURANCE TYPES

CO	Coinsurance	COFW	Coinsurance with funds withheld
MCO	Modified coinsurance	MCOFW	Modified coinsurance with funds withheld
COMB	Combination coinsurance/modified coinsurance	COMBW	Combination coinsurance/modified coinsurance with funds withheld
YRT	Yearly renewable term	CAT	Catastrophe
LTC	Long-Term Care	OTH	Other reinsurance

NOTE: The insurance type should be entered in all capital letters.

Column 7 – Premiums

Amounts included in this column should represent reinsurance ceded premiums on an incurred basis and agree with Exhibit 1, Part 1, Line 20.3, Columns 8, 9 and 10.

Column 8 – Unearned Premiums (Estimated)

Amounts represent, by company, the ceded part of the unearned premium reserve included in the Active Life Reserve in Exhibit 6, Line 8.

Column 9 – Reserve Credit Taken Other Than For Unearned Premiums

This column represents the reinsurance ceded portion of the remaining Active Life Reserve (excluding unearned premiums) and the Claim Reserve reported in Exhibit 6. The sum of the totals for Columns 8 and 9 must agree with the sum of the appropriate Lines in Exhibit 6, (Line 8, Column 1 and Line 15, Column 1).

Columns 10 and 11 – Outstanding Surplus Relief

Outstanding surplus relief means the amount of surplus not yet reported as income in Line 6, commissions and expense allowance on reinsurance ceded, of the Summary of Operations, attributable to reinsurance agreements described in SSAP No. 61, Life, Deposit-Type and Accident and Health Reinsurance.

Report the amount of initial commissions and expense allowance not yet recovered by the reinsurer for the following types of treaties (individual or group): CO, MCO, COFW, MCOFW, COMB or COMBW. This column does not apply to YRT or other nonproportional reinsurance treaties.

Columns 12-14

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Captive Transactions

Report the amounts available from Letters of Credit, Trust Agreements, or Other mechanisms established or maintained in connection with reinsurance ceded to affiliated U.S. captive insurers.

Column ~~15~~² – Modified Coinsurance Reserve

Report the amount of reserves held under modified coinsurance contracts. The sum of the total for Column 12 must agree with the parenthetical amount on Page 3, Line 2.

Column ~~16~~³ – Funds Withheld Under Coinsurance

Report the amount of funds withheld on coinsurance contracts.

ANNUAL STATEMENT FOR THE YEAR 201X

SCHEDULE S - PART 4

Reinsurance Ceded to Unauthorized Companies

1 NAIC Company Code	2 Federal ID Number	3 Effective Date	4 Name of Reinsurer	5 Reserve Credit Taken	6 Paid and Unpaid Losses Recoverable (Debit)	7 Other Debits	8 Total (Cols. 5 + 6 + 7)	9 Letters of Credit	10 Letter of Credit Issuing or Confirming Bank		13 Trust Agreements	14 Funds Deposited by and Withheld from Reinsurers	15 Other	16 Miscellaneous Balances (Credit)	17 Sum of Cols. 9+13+14+15+16 but not in excess of Col. 8
									11 American Bankers Association (ABA) Routing Number	12 Letter of Credit Code					
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Reinsurer A	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Reinsurer B	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Unauthorized Affiliate US Reinsurer C	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
0199999	General Account - Life and Annuity U.S. Affiliates			0	0	0	0	0			0	0	0	0	0
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive A	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive B	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive C	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
0299999	General Account - Life and Annuity U.S. Captive Affiliates			0	0	0	0	0			0	0	0	0	0
0399999	General Account - Life and Annuity Non-U.S. Affiliates			0	0	0	0	0			0	0	0	0	0
0499999	Total General Account - Life and Annuity Affiliates			0	0	0	0	0			0	0	0	0	0
0599999	General Account - Life and Annuity U.S. Non-Affiliates			0	0	0	0	0			0	0	0	0	0
0699999	General Account - Life and Annuity Non-U.S. Non-Affiliates			0	0	0	0	0			0	0	0	0	0
0799999	Total General Account - Life and Annuity Non-Affiliates			0	0	0	0	0			0	0	0	0	0
0899999	Total General Account Life and Annuity			0	0	0	0	0			0	0	0	0	0
9999999	General Account - Accident and Health U.S. Affiliates			0	0	0	0	0			0	0	0	0	0
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive A	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive B	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive C	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive C	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
1099999	General Account - Accident and Health U.S. Captive Affiliates			0	0	0	0	0			0	0	0	0	0
1199999	General Account - Accident and Health Non-U.S. Affiliates			0	0	0	0	0			0	0	0	0	0
1299999	Total General Account - Accident and Health Affiliates			0	0	0	0	0			0	0	0	0	0
1399999	General Account - Accident and Health U.S. Non-Affiliates			0	0	0	0	0			0	0	0	0	0
1499999	General Account - Accident and Health Non-U.S. Non-Affiliates			0	0	0	0	0			0	0	0	0	0
1599999	Total General Account - Accident and Health Non-U.S. Non-Affiliates			0	0	0	0	0			0	0	0	0	0
1699999	Total General Account - Accident and Health Non-Affiliates			0	0	0	0	0			0	0	0	0	0
1799999	Total General Account			0	0	0	0	0			0	0	0	0	0
1899999	Separate Accounts - U.S. Affiliates			0	0	0	0	0			0	0	0	0	0
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive A	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive B	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
XXXXX	XX-XXXXXXX	XX/XX/XXXX	Affiliate US Captive C	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX
1999999	Separate Accounts - U.S. Captive Affiliates			0	0	0	0	0			0	0	0	0	0
2099999	Separate Accounts - Non-U.S. Affiliates			0	0	0	0	0			0	0	0	0	0
2199999	Total Separate Accounts - Affiliates			0	0	0	0	0			0	0	0	0	0
2299999	Separate Accounts - U.S. Non-Affiliates			0	0	0	0	0			0	0	0	0	0
2399999	Separate Accounts - Non-U.S. Non-Affiliates			0	0	0	0	0			0	0	0	0	0
2499999	Total Separate Accounts - Non-Affiliates			0	0	0	0	0			0	0	0	0	0
2599999	Total Separate Accounts			0	0	0	0	0			0	0	0	0	0
2699999	Total U.S. (Sum of 0199999, 0299999, 0599999, 1099999, 1399999, 1899999, 1999999 and 2299999)			0	0	0	0	0			0	0	0	0	0
2799999	Total Non-U.S. (Sum of 0399999, 0699999, 1199999, 1499999, 2099999 and 2299999)			0	0	0	0	0			0	0	0	0	0
2899999	Total (Sum of 1699999 and 2599999)			0	0	0	0	0			0	0	0	0	0

SCHEDULE S – PART 4

REINSURANCE CEDED TO UNAUTHORIZED COMPANIES

Contains data on life and accident and health insurance in force that is reinsured with companies not authorized in the state of domicile of the reporting insurance company. The purpose of this schedule is to display reinsurance ceded data used in the development of the liability for reinsurance in unauthorized companies. This liability serves to offset those assets and liability reductions that reflect the result of reinsurance ceded with unauthorized companies.

NOTE: This schedule includes Exhibit 7 cessions. Amounts recorded under the caption “U.S. Affiliates” should exclude amounts related to “U.S. Captive Affiliates.”

Securities held on deposit or held in a trust account should be valued at their fair market value. NAIC published market values must be used when available.

Letters of credit and trust agreements are not to be included in assets or liabilities on Pages 2 or 3 or supporting pages and exhibits.

If a reporting entity has any detail lines reported for any of the following required groups, categories, or subcategories, it shall report the subtotal amount of the corresponding group, category, or subcategory, with the specified subtotal line number appearing in the same manner and location as the pre-printed total line and number:

<u>Group or Category</u>	<u>Line Number</u>
General Account	
Life and Annuity	
Affiliates	
U.S. Affiliates	0199999
<u>U.S. Captive Affiliates</u>	<u>0299999</u>
Non-U.S. Affiliates	0329999
Total Affiliates	<u>0439999</u>
Non-Affiliates	
U.S. Non-Affiliates	0549999
Non-U.S. Non-Affiliates	0659999
Total Non-Affiliates	0769999
Total Life and Annuity	<u>0879999</u>
Accident and Health	
Affiliates	
U.S. Affiliates	0989999
<u>U.S. Captive Affiliates</u>	<u>1099999</u>
Non-U.S. Affiliates	1109999
Total Affiliates	<u>1209999</u>
Non-Affiliates	
U.S. Non-Affiliates	1319999
Non-U.S. Non-Affiliates	1429999
Total Non-Affiliates	1539999
Total Accident and Health	<u>1649999</u>
Total General Account	<u>1759999</u>
Separate Accounts	
Affiliates	
U.S. Affiliates	1869999
<u>U.S. Captive Affiliates</u>	<u>1999999</u>
Non-U.S. Affiliates	2017999
Total Separate Accounts Affiliates	<u>2148999</u>
Non-Affiliates	
U.S. Non-Affiliates	2219999
Non-U.S. Non-Affiliates	2320999
Total Separate Accounts Non-Affiliates	<u>2421999</u>
Total Separate Accounts	<u>2522999</u>
Total U.S. (Sum of 0199999, <u>0299999</u> , 0549999, 0989999, <u>1099999</u> , 1319999, 1869999, <u>1999999</u> and <u>2219999</u>)	<u>2623999</u>
Total Non-U.S. (Sum of 0329999, 0659999, <u>1109999</u> , <u>1412999</u> , <u>2017999</u> and <u>2220999</u>)	<u>2724999</u>
Total (Sum of <u>1659999</u> and <u>2529999</u>)	<u>2825999</u>

- Column 5 – Reserve Credit Taken
- Report the amount by which the aggregate reserve for life contracts (Exhibit 5), deposit-type contracts (Exhibit 7), and accident and health contracts (Exhibit 6) has been reduced on account of reinsurance with unauthorized companies. The amounts by company should be the same as those shown for Life reinsurance ceded in Schedule S, Part 3, Section 1, Column 8 and for accident and health reinsurance ceded in Schedule S, Part 3, Section 2, Columns 8 and 9.
- Column 6 – Paid and Unpaid Losses Recoverable (Debit)
- Report all paid and unpaid losses recoverable, including IBNR.
- Include: Reduction in claim liability on account of reinsurance on incurred but not reported claims (estimated).
- Column 7 – Other Debits
- Report all asset and liability reductions resulting from reinsurance ceded to unauthorized reinsurers not included in Columns 5 and 6. Examples of items included in this column are:
- Unamortized Interest Maintenance Reserve (IMR) liability adjustment, if any, of the ceding company.
 - Commissions and expense allowances due the ceding company.
 - Modified coinsurance reserve adjustments due.
 - Experience rating refunds due.
- Column 10 – Letter of Credit Issuing or Confirming Bank’s American Bankers Association (ABA) Routing Number
- Provide the issuing or confirming bank’s nine-digit American Bankers Association (ABA) routing number.
- For Fronted Letters of Credit, where a single bank issues a letter of credit as the fronting bank and sells to other banks undivided interests in its obligations under the credit, list the fronting bank but not the other banks participating.
- For Syndicated Letters of Credit, where one bank acts as agent for a group of banks issuing the letter of credit but each participating bank is severally, not jointly, liable, leave the column blank. Provide the ABA routing number for all banks in the syndicate in footnote (a).
- For reinsurers providing letters of credit from multiple banks that are not part of a syndicated letter of credit, leave the column blank. Provide the ABA routing number for all of the banks in footnote (a).
- The ABA routing number can be found at the following Web address:
- <http://abanumberlookup.com/#search>**
- Column 11 – Letter of Credit Code
- Enter “1” for single letter of credit that is not a syndicated letter of credit.
 Enter “2” for syndicated letter of credit.
 Enter “3” for multiple letters of credit.
 Leave blank when no letter of credit exists

Column 12 – Letter of Credit Issuing or Confirming Bank Name

Provide the name of the issuing or confirming banks whose ABA routing number was provided in Column 10. The name should be as shown as found on the following Web address:

<http://abanumberlookup.com/#search>

For Syndicated Letters of Credit, where one bank acts as agent for a group of banks issuing the letter of credit but each participating bank is severally, not jointly, liable, enter a reference code number in this column (e.g., 0001, 0002, etc.). Provide the name of each bank in the syndicate in footnote (a).

For reinsurers providing letters of credit from multiple banks that are not part of a syndicated letter of credit, enter a reference code number in this column (e.g., 0001, 0002, etc.). Provide the name of each bank in footnote (a).

Column 14 – Funds Deposited By and Withheld From Reinsurers

Include: Where permissible to be taken as credit against the loss and reserve liabilities in Column 8, amounts deposited by the reinsurer with or for the reporting insurance company, letters of credit, and trust agreements. Securities held on deposit or held in a trust fund should be valued at fair market value.

NAIC published market values must be used when available. Letters of credit and trust agreements are not to be included in assets or liabilities on Pages 2 or 3 or supporting pages and exhibits.

Column 16 – Miscellaneous Balances (Credit)

Report amounts due the reinsurer, as a result of day-to-day transaction activity, held by the reporting insurance company.

Include: Paid premiums due reinsurers, deferred premiums and any similar amounts that would be credited as returnable to the reinsurer should the contract terminate as of the statement date.

Column 17 – Sum of Column 9 + Column 13 + Column 14 + Column 15 + Column 16 but not in excess of Column 8

Amounts are calculated individually by company and represent the maximum allowable credit that may be taken for each.

The Total of Column 17 subtracted from the Total of Column 8 equals the liability for reinsurance in unauthorized companies included on Page 3, Line 24.02.



PROPOSED ADDITION

to

NAIC OWN RISK AND SOLVENCY ASSESSMENT (ORSA) GUIDANCE MANUAL

ACLI proposes to make the redlined insert below in the *OWN RISK AND SOLVENCY ASSESSMENT (ORSA) GUIDANCE MANUAL, IV. Section 3 – GROUP RISK CAPITAL AND PROSPECTIVE SOLVENCY ASSESSMENT, Subsection A. Group Risk Capital Assessment*, in the first full paragraph after the chart:

The approach and assessment of group-wide capital adequacy should also consider the following:

- Elimination of intra-group transactions and double-gearing where the same capital is used simultaneously as a buffer against risk in two or more entities;
- The level of leverage, if any, resulting from holding company debt;
- Diversification credits and restrictions on the fungibility of capital within the holding company system, including the availability and transferability of surplus resources created by holding company system level diversification benefits;
- **All material risks related to captive reinsurance;**
- The effects of contagion risk, concentration risk and complexity risk in the group risk capital assessment; and
- The effect of liquidity risk, or calls on the insurer's cash position, due to micro-economic (i.e. internal operational) and/or macro-economic (i.e. economic shifts) factors.

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New York Life Insurance Company
51 Madison Avenue
New York, NY 10010

The Company You Keep®

April 29, 2013

Via Electronic Delivery

Mr. Douglas Slape

Chief Financial Analyst, Texas Department of Insurance

Chair, NAIC Captives and Special Purpose Vehicle Use (E) Subgroup

Texas Department of Insurance

333 Guadalupe Street

Austin, Texas 78701

Re: Captives and Special Purpose Vehicles White Paper – March 14, 2013 Discussion
Draft

New York Life Insurance Company is pleased to provide comments on the revised Captives and Special Purpose Vehicles White Paper (the “White Paper”), exposed for comment by the National Association of Insurance Commissioners’ (the “NAIC”) Captives and Special Purpose Vehicle Use (E) Subgroup on March 14, 2013. We commend the NAIC on its continued efforts to address this important issue, and fully support the recommendations detailed in the White Paper to strengthen regulation and reporting of captive structures involving life insurers.

New York Life Insurance Company, a *Fortune* 100 company founded in 1845, is the largest mutual life insurance company in the United States¹ and one of the largest life insurers in the world. New York Life has the highest possible financial strength ratings currently awarded to any life insurer from all four of the major credit rating agencies: A.M. Best (A++), Fitch (AAA), Moody’s Investors Service (Aaa), Standard & Poor’s (AA+).² Headquartered in New York City, New York Life’s family of companies offers life insurance, retirement income, investments and long-term care insurance. New York Life Investments³ provides institutional asset management and retirement plan services. Other

¹ Based on revenue as reported by “Fortune 500 ranked within industries, insurance: Life, Health (Mutual),” *Fortune* magazine, May 21, 2012. See <http://www.money.cnn.com/magazines/fortune/fortune500/2012/faq/> for methodology.

² Source: Individual Third Party Ratings Reports as of 2/1/13.

³ New York Life Investments is a service mark used by New York Life Investment Management Holdings LLC and its subsidiary, New York Life Investment Management LLC.

New York Life affiliates provide an array of securities products and services, as well as retail mutual funds.

As detailed in our November 16, 2012 comment letter, we believe that strong, effective and uniform solvency regulation is at the core of the state-based system of insurance regulation. Historically, the insurance industry has successfully weathered financial and other crises in large part because of the strong solvency protections afforded by the state regulatory system. The proactive work by the NAIC to address the issues associated with life insurers' use of captive structures, as evidenced by the White Paper and its recommendations, affirms the commitment by state regulators to strong and uniform solvency standards. Fundamentally, we believe that statutory reserving requirements must be set at appropriately conservative levels. As stated in the White Paper, "captives and SPVs should not be used by commercial insurers to avoid statutory accounting prescribed by the states." Instead, any perceived reserve redundancies should be addressed directly and uniformly through the underlying valuation requirements.

Again, we appreciate the continued efforts of the NAIC to investigate the issues surrounding captives and for your consideration of this comment letter. Please do not hesitate to contact us if you have any questions regarding our comments or if there is additional information that would be useful.

Sincerely,



George Nichols III
SVP in Charge of the Office of Government Affairs



Joel M. Steinberg
SVP, Chief Risk Officer & Chief Actuary

cc: NAIC Captives and Special Purpose Vehicle Use (E) Subgroup
NAIC Executive (EX) Committee

April 29, 2013

Mr. Doug Slape
Chief Analyst, Financial Regulation
Texas Department of Insurance
C/o Dan Daveline, Assistant Director – Financial Regulatory Services
National Association of Insurance Commissioners
100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Via e-mail: ddaveline@naic.org

Cc: Commissioner Joe Torti, Commissioner Julie Mix McPeak, Co-Chairs Principle-Based Reserving Implementation Task Force

Re: Captives and Special Purpose Vehicles White Paper

Dear Mr. Slape and Mr. Daveline,

The North American CRO Council is a professional risk management group that seeks to develop and promote sound practices in risk management throughout the insurance industry. Council members represent Chief Risk Officers of leading insurers based in North America, who as a group, aim to provide thought leadership and direction on the advancement of risk management and risk-based solvency and liquidity assessments.

The Council appreciates the opportunity to provide comments to the NAIC's Captive and Special Purpose Vehicle Subgroup (Subgroup) on the Captive and Special Purpose Vehicles White Paper. The use of captives and special purpose vehicles (herein referred to jointly as "Captives") has been well established by the insurance industry for many years. There are a variety of reasons for the establishment of a Captive, ranging from risk management to risk diversification and capital management. Captives can be an effective risk management tool to enable the ceding company to manage and diversify a wide variety of risk. It is important that this effective risk management tool continue to be available to insurers.

The Council was pleased to see support by the Subgroup for the use of solutions designed to shift risk to the capital markets or provide alternative forms of business financing. Captives that transfer risk are regulated by the home states of the ceding insurer and the Captive. The Captive's home state reviews and approves the Captive's application, including a review of the capital to be used in supporting the obligations that the Captive will assume. The ceding insurer's home state also reviews and approves all reinsurance transactions between the affiliated Captive and the ceding insurer.

Regulators operating in different jurisdictions have expressed concern that the rigor of such approval from state to state may vary. To help address that concern, the Council supports the development of uniform supervisory guidelines that would apply to all regulators. This framework could be used to ensure prudent regulatory practices with regard to the adequacy of assets supporting captive structures, solvency of the captive reinsurer, and the ability of the captive to fulfill its obligations when they become due.

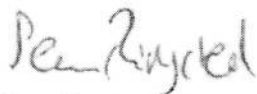
In addition, the Council supports increased disclosure and improved transparency concerning Captives. The Council is supportive of an ACLI proposal that includes mandating NAIC tracking codes for life insurer-affiliated Captives and adding new disclosures to the life insurer Annual Statement. In addition, the ORSA Guidance Manual could be modified to state that all material risk related to Captives should be considered in a group's own assessment of its capital adequacy.

The Subgroup also raised the issue of confidentiality related to Captives and the lack of uniformity in what types of material are considered to be confidential. Specifically, the Subgroup stated it may be appropriate to consider the type of information that should be protected. Taking this approach could prove difficult as insurers and regulators may have different thresholds of confidentiality. As an alternative, the Council proposes that a solution similar to that adopted within the ORSA Model Act ("Act") would be appropriate. Under the Act material is recognized as proprietary, may contain trade secrets and is confidential by state law. However, regulators may share and receive material with written agreement as to how to treat the confidential material. This solution adapted under the Act could serve as a framework for a Captives solution surrounding confidential information which would allow for the confidential sharing of vital information among regulators. Any increased transparency and disclosure needs to be balanced against the business need to keep the financial and proprietary terms of captive reinsurance transactions confidential.

The Council believes that the use of Captives improves the ability of insurers to effectively manage and diversify risk. The existing regulatory framework could be enhanced to include uniformity in how regulators analyze and supervise captive reinsurers. Increased disclosure along with the development of uniform supervisory guidelines will provide additional assurances to regulators of the integrity and solvency of captive arrangements.

The Council would like to reiterate its commitment and support for assisting the NAIC with advancing and refining the discussion around Captives, similar to the assistance the Council provided around the ORSA regulatory requirement. We hope that you'll continue to use the Council as a resource from a practitioner's perspective on leading practices in enterprise risk and capital management. We look forward to continuing to work collaboratively on this and other issues.

Sincerely,



Sean Ringsted, Chair
North American CRO Council



Joe Celentano, Secretary
North American CRO Council



April 29, 2013

VIA ELECTRONIC-MAIL

Doug Slape, Chair
Captives and Special Purpose Vehicle Use (E) Subgroup
of the Financial Condition (E) Committee

c/o Dan Daveline
Assistant Director of Financial Regulatory Services
National Association of Insurance Commissioners
1100 Walnut Street
Suite 1500
Kansas City, MO 64106-2197

Re: Captives and Special Purpose Vehicles White Paper
March 14, 2013 Discussion Draft

Dear Mr. Slape:

The Vermont Captive Insurance Association (the "VCIA") appreciates the opportunity to once again comment on the Captives and Special Purpose Vehicle (E) Subgroup's (the "Subgroup") Captives and Special Purpose Vehicles White Paper (the "White Paper"). The VCIA also appreciates the Subgroup's careful consideration of the comments submitted by the VCIA and other interested parties with regard to the initial draft of the White Paper.

The VCIA is composed of nearly 500 member companies and is the largest captive insurance trade association in the world.¹ The VCIA appreciates the time and effort expended by the Subgroup members and National Association of Insurance Commissioners ("NAIC") staff to study insurers' use of captives and special purpose vehicles and develop conclusions and recommendations based on its research. In general, the VCIA continues to be supportive of efforts to provide guidance to commercial insurers with regard to appropriate use of captives and special purpose vehicles.

¹Established in 1985, VCIA members include 44 of the companies that make up the Fortune 100 and 21 of the companies that make up the Dow 30. VCIA members write over \$25 billion in annual premium.

The VCIA specifically appreciates the Subgroup's consideration of its comments with respect to, and corresponding revisions to, the White Paper's recommendations regarding monitoring of IAIS action with respect to captives and SPVs, confidentiality and information sharing, and accounting considerations at the ceding company level. The VCIA also appreciates the removal of the inflammatory "shadow insurance industry" references from the White Paper.

Notwithstanding the foregoing, the VCIA would respectfully suggest to the Subgroup that the AG38 changes and implementation of Principles-Based Reserving, as referenced in the White Paper's Executive Summary, may not necessarily eliminate the need for captive/SPV use by commercial insurers. As such, the VCIA believes that the timing of the implementation of any proposed changes will be critical in this effort. Curtailing the use of captives in advance of changes that might occur at the ceding company level (e.g., the accounting changes to allow certain transactions at the ceding company level) could be problematic for companies that have ceded to captives/SPVs and should be discouraged.

The VCIA continues to be concerned by the suggestion that the NAIC consider making the Special Purpose Reinsurance Vehicle Model Act (#789) an accreditation standard. Although the VCIA is not opposed to updating the NAIC's Special Purpose Reinsurance Vehicle Model Act (#789), the VCIA would suggest that further analysis of the utility of making this Model an accreditation standard is warranted given its limited use to date. Multi-state classification for captives was thoroughly debated and settled by the NAIC in the early 1990's when it was agreed among the states that Risk Retention Groups (RRGs) that operate in multiple states would be considered "multi-state" and that other captive insurers would not. The issue was raised again in 2008 to the Financial Regulation Standards and Accreditation (F) Committee where, again, regulators determined that only RRGs should be considered multi-state insurance companies. The distinction between a captive operating in a single state and a company operating in multiple jurisdictions is important to maintain since the rationale for the accreditation program ends when an insurance company is regulated by a single state.

In Part VI. Accounting and Reporting and in Part X. Conclusions and Recommendations to the Financial Condition (E) Committee, 1. Accounting Considerations, we believe that the language should be clarified to avoid any impression that state regulators may be approving transactions that are contrary to appropriate accounting requirements. We agree with the Subgroup's statement that it would be inappropriate for captives and SPVs to be used to avoid statutory accounting prescribed by states; however, consistent with the rules applicable to related party reinsurance in most states, appropriate approval and notification from the state regulators of the ceding and assuming companies must generally be obtained.

The VCIA would also suggest the following specific edits with respect to the new Executive Summary section of the White Paper:

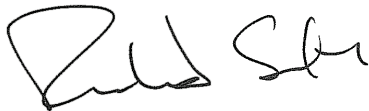
- The term “perceived” used in this section (as well as all other sections throughout the White Paper) should be changed to a term more factually suited, such as “calculated”, “agreed upon”, or “qualified”.
- Further, and in relation to the change in terminology above, the first paragraph in the Executive Summary should provide an explanation substantially similar to:

“The domicile regulator of the commercial insurer should be able to assess the calculation of the statutory reserves and economic reserves to qualify or agree upon the reserves ceded to the captive as part of the approval of the reinsurance contract with the captive.”

- With respect to Recommendation #7 (Financial Analysis Handbook Guidance), the VCIA would suggest that this recommendation specifically refer to the items contained in Appendix B of the White Paper as an appropriate start/approach for the review and analysis of such transactions.

The VCIA appreciates the opportunity to provide these comments on behalf of its members.

Respectfully submitted,



Richard Smith
President

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Captives and Special Purpose Vehicles

An NAIC White Paper

June 6, March 14, 2013

~~DISCUSSION DRAFT~~

Created by the
Captives and Special Purpose Vehicle (SPV) Use (E) Subgroup
of the
Financial Condition (E) Committee

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I. INTRODUCTION

A. EXECUTIVE SUMMARY

The Captive and Special Purpose Vehicle (SPV) Use (E) Subgroup studied the use of captives and special purpose vehicles formed by commercial insurers. The Subgroup concluded commercial insurers cede business to captives for a variety of business purposes. The Subgroup determined that the vast majority use of captives and SPVs by commercial insurers was related to the financing of XXX and AXXX perceived reserve redundancies. The implementation of principle-based reserving (PBR) ~~and more immediately Actuarial Guideline (AG) 38~~ could reduce the need for commercial insurers to create new captives and SPVs to address perceived reserve redundancies; but, existing captives and SPVs that are not addressed by the guidance in AG 38 are likely to remain in existence for several years or decades, until the existing blocks of business are run-off. Regulators need to be able to assess and monitor the risks that captives and SPVs may pose to the holding company system. The current regulatory process should be enhanced to provide standardized tools and processes to be used by all regulators when reviewing such transactions. Commercial insurer owned captives and SPVs should not be used to avoid statutory accounting. To the extent that insurer affiliated captives and SPVs may be created in the future for unforeseen purposes, additional guidance should be developed by the NAIC to assist the states in a uniform review of transactions.

The Subgroup offers the following recommendations to the Financial Condition (E) Committee for their consideration and or/further possible study:

1. Accounting Considerations

The NAIC should form a separate subgroup to develop possible solutions for addressing any remaining XXX and AXXX perceived redundancies. Due to changes made to AG 38 by the NAIC in 2012, the creation of new captives and SPVs should no longer be needed for such financing transactions; but, if there are XXX and AXXX issues that have not been addressed, those issues should be addressed directly, as opposed to through the use of captives and SPVs. Possible solutions could include changes similar to the AG 38 solution, or disclosed prescribed or permitted accounting practices. The NAIC should also consider modifications to the statutory accounting framework to recognize, in strictly limited situations, alternative assets, such as “tier 2” type assets”, to support specific situations (e.g., less likely to develop liabilities), thereby eliminating the need for the separate transaction outside of the commercial insurer.

2. Confidentiality

The Subgroup recommends that the NAIC study the issue of confidentiality related to commercially owned captives and SPVs more closely. This study would pursue greater clarity regarding the specific reasons for and against the use of confidentiality for such entities. The Subgroup believes it may be necessary to develop a framework that would provide greater uniformity in this area. More specifically, it may be appropriate to consider the type of information that should, and should not, be held confidential. This outcome may be more easily achieved in the context of a new framework for alternative market solutions as discussed in recommendation #3 below.

3. Access to Alternative Markets

The Subgroup supports the use of solutions designed to shift risk to the capital markets or provide alternative forms of business financing. The NAIC should consider re-evaluating Model #789 and updating it as necessary to reflect alternative markets solutions acceptable to state insurance regulators to ensure there is a uniform framework for the implementation of alternative market solutions. The NAIC should further encourage the states to adopt Model #789 and should consider making the model an accreditation standard.

4. IAIS Principles, Standards and Guidance

The Subgroup recommends the NAIC closely monitor the on-going developments with respect to IAIS principles, standards and guidance, and consider ~~where-if~~ appropriate, enhancements to the U.S. captive and SPV regulatory framework in preparation for future FSAP reviews.

5. Credit for Reinsurance Model Enhancements

Transactions involving conditional LOCs or parental guarantees effectively permit assets to support reinsurance recoverables, either as collateral or as capital, in forms that may be otherwise inconsistent with requirements under the credit for reinsurance models or other financial solvency requirements applicable to U.S.-domiciled commercial assuming insurers. The Subgroup recommends consideration be given to study further the effects of, and potential limits on, the variability in qualified LOCs or any other security that might not provide the intended protections provided within the *Credit for Reinsurance Model Law* (#785).

6. Disclosure and Transparency

The Subgroup recommends enhanced disclosure in ceding company statements regarding the impact of the transactions on the financial position of the ceding insurer. Development of Note to Financial Statement 10M should be made to provide for disclosure of non-trade-secret captive information and disclosure of the overall utilization of captives.

7. *Financial Analysis Handbook* Guidance

The Subgroup recommends the development of guidance in the *Financial Analysis Handbook* for states' review and on-going analysis of transactions involving captives and SPVs, including specific considerations of such transactions when performing holding company analysis. The guidance should be developed for perspectives of the ceding state, the captive state and the lead state.

Each of these items is discussed in more detail within the rest of this White Paper.

B. BACKGROUND & SCOPE

The Captive and Special Purpose Vehicle (SPV) Use (E) Subgroup was formed under the Financial Condition (E) Committee in early 2012 and was given the following charge:

Study insurers' use of captives and special purpose vehicles to transfer insurance risk, other than self-insured risk, in relation to existing state laws and regulations and establish appropriate regulatory requirements to address concerns identified in this study. The appropriate regulatory requirements may involve modifications to existing NAIC model laws and/or generation of a new NAIC model law.

The Subgroup was formed based upon the need to study whether policyholders of commercial insurers that had formed captive and special purpose vehicles could be subject to risk because of the differences in the regulation of such entities compared with the regulation of commercial insurers. The Subgroup was explicit from the beginning of the study that the following areas would not be studied:

- Pure captives or other similar structures providing insurance against risks of the parent or its subsidiaries only (See section IV-Types of Business and Risks for further discussion).
- Risk retention groups (RRGs) operating under captive laws

However, the Subgroup did acknowledge that it may encounter issues throughout its study that are not related to its charge, but will refer those issues to the Financial Condition (E) Committee for consideration

To initiate this study, a confidential regulator-only request for comment was sent to all of the states and the District of Columbia to respond (in part or in total), as applicable, with regard to commercial insurers domiciled in their respective jurisdiction that transfer risk to captives or SPVs domiciled in the United States or elsewhere, and/or for captives or SPVs licensed in the jurisdiction that accept or cede third-party risk of commercial insurers. Thirty-five responses were received and a summary of those responses was shared publicly. The request for comment specifically addressed the following:

- State Law
- Type of Products
- Affiliate Transactions
- Retrocessions
- Business Purpose
- Solvency Standards
- Mitigation of the Risks
- Credit for Reinsurance
- Impact on Industry
- Accreditation – Regulatory Standards

A compilation of the responses helped to provide the framework for the Subgroup's subsequent discussions.

II. STATE AUTHORITY

A. CAPTIVES

Captives were originally created under state statutes to allow corporations to set up subsidiaries to insure their company's own risk. Therefore, it seemed appropriate that the Subgroup study a summary of such laws to determine the extent to which such laws provide insight into the use of captives by commercial insurers. The following summarizes the most relevant information from this study including among other things the extent to which such laws address the establishment of captives or SPVs by commercial insurers.

According to the states that responded to the request for comment, 26 states indicated that their respective state's laws define captives and nine states indicated that their state's laws do not define captives. The Subgroup noted in its study that the number of captive domiciles has appeared to grow over the past few years. With respect to the 26 states that define captives, all specifically define pure captives and association or group captives. In addition, the following types of captives are specifically defined within the state laws:

- (13) – Industrial
- (10) – Sponsored
- (8) – Special Purpose
- (5) – Branch
- (4) – Agency
- (3) – Reinsurance
- (3) – RRG
- (2) – Protected Cell
- (1) – Incorporated Cell
- (1) – Segregated Account
- (1) – Rental

The Subgroup focused on identifying transactions that involved commercial insurers transferring risk to captives or SPVs to study and understand the motivation for using captives and SPVs. The vast majority of the transactions studied by the Subgroup were transactions used as a means of dealing with perceived XXX¹ and AXXX² perceived reserve redundancies; however the Subgroup did study a limited number of non-XXX and non-AXXX transactions.

General Statutory Authority/Definitions

The following information on general statutory authority is included as a way to summarize some of the responses to the survey.

¹ Used to describe the actuarial reserves required to be held under the NAIC *Valuation of Life Insurance Policies Model Regulation* (#830), which is commonly referred to as Regulation XXX (or, more simply, XXX).

² Used to describe the actuarial reserves required to be held under the NAIC *Actuarial Guidance XXXVIII—The Application of the Valuation of Life Insurance Policies Model Regulation* (AG 38), which is more commonly referred to as AXXX.

State laws on captive insurers generally address the formation of captive insurers, capital and surplus requirements, and captive investments. Captive statutes also address taxation issues and generally require annual statements and/or other reporting requirements with the state of domicile. State laws vary as to the types of captives that are allowed to domicile in their state.

A **pure captive** is generally defined as an insurer that insures only the risks of the company's affiliates and controlled unaffiliated businesses. The majority of captives are formed as pure captives.

An **association (or group) captive** is an insurer that insures the risks of the member organizations of the association and their affiliated companies.

Other typical types of captives include:

Agency captive – A captive insurer that is owned by one or more business entities that are licensed as insurance producers or managing general agents or an agency and only insure risks on policies placed through their owners.

Alien captive – An insurance company formed to write insurance business of a nature the commissioner determines is permissible and is licensed pursuant to the laws of an alien jurisdiction that imposes regulatory standards in a form acceptable to the commissioner on companies transacting insurance in such jurisdiction.

Branch captive – A captive insurance company that is domiciled in an alien jurisdiction and has been issued a certificate of authority to transact insurance through a business unit with a principal place of business in the state

Incorporated cell captive – A protected cell captive that is established as a corporate or other legal entity separate from its incorporated cell that is organized as a separate legal entity.

Industrial insured captive – A captive insurance company that insures risks of business entities belonging to a group organized under federal law as a risk retention group, or otherwise authorized as an industrial insured group under state law.

Protected cell captive – An insurer in which the minimum capital and surplus required by applicable law is provided by one or more sponsors and that segregates participant's liability through protected cells or separate accounts where those assets are not subject to the liabilities of the other cells.

Rental captive – A captive insurer formed to enter into contractual agreements with policyholders or associations to offer some or all of the benefits of a program of captive insurance and that only insures the risks of the policyholders or associations.

Sponsored captive – A captive insurance company in which the minimum capital and surplus is provided by one or more sponsors, is issued a certificate of authority, insures the risks of separate participants through contract and segregates each participant's liability through one or more protected cells.

B. SPVs AND SPECIAL PURPOSE FINANCIAL CAPTIVES

In addition to the more traditional types of captives formed by non-insurance companies, commercial insurers have begun creating captives for reinsurance, securitization or reserve financing purposes. These captives are often referred to as special purpose vehicles (SPVs.) An SPV, where defined under state law, is a captive licensed and designated as an SPV insurance company by the commissioner. SPVs can take several forms. Special purpose financial captives are limited to issue only special purpose financial captive insurer contracts to provide reinsurance protection to the cedant. Special purpose reinsurance vehicles facilitate the securitization of one or more ceding insurers' risks as a means of accessing alternative sources of capital and achieving the benefits of securitization. Limited purpose subsidiaries (LPSs) can also be created for similar purposes.

General Statutory Definitions

According to the states that responded to the request for comment, 10 states indicated that their respective state's laws define SPVs and 25 states indicated that their state's laws do not define SPVs. With respect to the 10 states that define SPVs, the following types of SPVs are specifically defined within the state's laws, and although these definitions may differ slightly, the following summarizes the basic description of each:

(5) – Special Purpose Financial Captive: limited to issue only special purpose financial captive insurer contracts that provide reinsurance protection to the cedant/parent.

(3) – Special Purpose Reinsurance Vehicle: limited to issue only coverage for securitized reinsurance transactions, for which the maximum liability exposure must be fully funded by the bondholders together with the premium paid by the ceding insurer.

(1) – Limited Purpose Subsidiary: a domestic reinsurer that meets certain specific licensing requirements; these entities may act as a reinsurer of XXX or AXXX reserves, which can only be assumed from their affiliated life insurance companies.

(1) – Special Purpose Captive Insurer: established for one specific purpose or transaction, and where it is desirable to isolate the purpose or transaction from the other activities of a party or parties involved in the transaction, or where the transaction dictates that the vehicle should not be treated as controlled or owned by any other party to that transaction.

Special Purpose Reinsurance Vehicle Model Act In 2001, the NAIC adopted the *Special Purpose Reinsurance Vehicle Model Act (#789)*, which provides a framework for the establishment of SPRVs under limited certificates of authority. An SPRV's business must consist exclusively of reinsurance contracts that are tied to the risk of specific triggering events and that are financed by securitizations. The SPRV must be fully funded, meaning that the fair value of the assets held in trust must equal or exceed the aggregate limit of coverage, and the assets must be held in trust for the benefit of the ceding insurer, in the same manner as trusts that are used as collateral to secure a reinsurer's obligations under the *Credit for Reinsurance Model Act*. Credit for reinsurance is expressly limited to the fair value of the assets held in trust. The SPRV Model Act is the only NAIC model that attempts to address special purpose vehicles or special purpose financial captives.

At the time the SPRV Model Act was adopted, catastrophe bonds were the most widely discussed type of securitization transaction, and the Model as originally proposed would have been limited to property

catastrophe coverage. However, the first securitization transactions involved life insurance, so the Model was adopted without any line-of-business restriction, with a drafting note identifying this as an issue that could be considered on a state-by-state basis. To date 4 states have adopted the SPRV Model Act.

Securitization solutions allowed for within the SPRV Model Act are not always being utilized however, as other structures may be preferred today. As the Subgroup progressed through its study, identified issues, and developed recommendations, a consensus emerged that the framework within the SPRV Model Act is an ideal place setting for implementation of many of the Subgroup's recommendation. Thus, the Subgroup recommends the NAIC consider re-evaluating *Special Purpose Reinsurance Vehicle Model Act (#789)*, and updating it as necessary to reflect alternative markets solutions acceptable to state insurance regulators to ensure there is a uniform framework for the implementation of such solutions.

C. OTHER TYPES OF CAPTIVES/SPVs

A significant number of captives and SPVs are formed by commercial insurers in locations outside of the United States. For solutions to any issues uncovered by the Subgroup to be effective, they must encompass solutions that can affect the use of captives and SPVs in non-U.S. jurisdictions and not just in the U.S. captive states. See section IX-Holding Company Analysis Considerations for discussion of procedures that apply to all holding companies, including non-U.S. based insurance groups.

III. TYPES OF BUSINESS AND RISKS

The Subgroup did not include in its study pure captives, risk retention groups, or similar structures providing risk of loss to parent or its subsidiaries. However, the Subgroup believed it may be helpful to consider the different types of business and risk that were either explicitly allowed to be transferred from a commercial insurer to a captive, or explicitly not allowed.

According to the responses from the request for comment, 27 states indicated that they allow insurance risks to be transferred from a domestic insurer to a captive or SPV in their respective state. It should be noted that some of the responses provided by the states were specific to “pure captive” transactions, and, therefore, outside of the scope of this study. Of the states that allow the transfer of insurance risks, 12 states have limitations on the types of products that can be transferred. The following information describes some of the typical results.

Products Typically Not Allowed in Certain States:

- Personal Auto
- Workers’ Compensation
- Long-Term Care
- Critical Care
- Employers Liability
- Homeowners
- Directors and Officers (D&O)

Products Allowed in Certain States:

- Life
- Casualty
- Marine and Transportation
- Marine Protection and Indemnity
- Property
- Liability
- Surety Title
- Credit Life
- Credit Disability
- Other (as Approved)

The majority of the states that responded to the survey observed no expansion in the types of products allowed to be transferred to captives or SPVs in their respective states.

IV. CAPITALIZATION

State laws on captive insurers generally address among other things the capital and surplus requirements. For this reason, and to consider in this White Paper the extent to which such requirements differ from commercial insurers, certain information was gathered on this topic. The following table illustrates some of the requirements.

State	Minimum Capital Requirement for Captives	Allowable Assets	RBC Requirement	RBC Filing as Analysis Tool	GAAP/SAP Filing Requirement
Missouri	\$250,000	LOC*; AAA-Rated Surety Bonds; Financial Guaranty Policies	No	Yes	SAP
Texas	\$10,000,000	LOC Reinsurance Parental Guarantees	Yes	Yes	SAP**
Vermont	\$250,000	LOC	SPV – Yes Captive – No	SPV – Yes Captive – No	SPV – SAP Captive – GAAP
New Jersey	Pure Captives – \$250,000	LOC	No	No	Life/Health SAP Other GAAP (Chg. Requires Commissioner Approval)
Utah	\$250,000	LOC	No	No	Either
District of Columbia	Pure Captives/SPV – \$250,000 Other Captives – \$400,000	LOC	No	No	
Hawaii	Based on Transaction	LOC			
Delaware	\$250,000	LOC	No		GAAP

*Letter of credit (LOC): Only from qualified U.S. financial institutions. Must be irrevocable and contain an evergreen clause and must meet the LOC requirements for credit life reinsurance. If there is a draw-down on the LOC, there may be an agreement in place that requires the parent to pay back the bank.

**The captive can break out the excess reserves between what is SAP and GAAP and can back the excess SAP reserves by other-than-traditional assets, including LOCs, reinsurance and parental guarantees (limited to companies with \$100 million capital and the capital must meet or exceed the amount of the guarantee).

The Subgroup also noted the following key takeaways:

- Commercial insurers are not allowed to use LOCs as admitted assets. LOCs can be deemed admitted assets in captives as security to support statutory reserves in excess of economic reserves.
- Different scenarios appear to be used in determining the beneficiary of the LOC. In a typical pure captive scenario, the LOC is used to capitalize the captive, and, as a result, the beneficiary of the LOC is the commissioner. In a typical SPV transaction, the LOC is used as security to support the reinsurance reserve credit; and as a result, the beneficiary of the LOC is the ceding company. Banks generally require collateral for the LOC. Collateral requirements can vary depending on whether the captive parent is an insurer or private business.
- LOCs utilized in many captive transactions are longer-term (i.e., five years, seven years and 10+ years, where the peak reserves are covered by the term of the LOC) and are designed to mitigate the risk of non-renewal for non-payment of fees by entering into fee agreements that require pre-funding of the LOC fees.
- Some banks have placed certain restrictions on the LOC, such as making the LOC the last available funds before a draw-down can be initiated.
- Some of the states allow LOC reimbursement agreements between the bank and the parent as part of the application process.
- Generally, banks rely on the credit of the holding company when issuing an LOC. There are also specific collateralization requirements, such that if the company's credit rating decreases, then it might have to post specific or additional collateral at the bank.
- There could be differences in the level and type of review states' complete on the banks that issue the LOCs. This is more of a concern for local or regional banks that provide LOCs for traditional captives as most of the transactions used by insurer-owned captive are financed by large national or international banks.
- Some of the states allow parental guarantees, rather than LOCs or other assets equal to "redundant reserves."
- It should be noted that the minimum capital levels are generally lower for captives as compared to commercial insurers, but there are provisions to require more capital as needed based on the transaction.

V. TRANSPARENCY AND CONFIDENTIALITY

As previously indicated, one of the primary purposes of the Subgroup’s study is to determine if policyholders of commercial insurers that form captive or special purpose vehicles could be subject to risk because of the differences in the regulation of such entities compared with the regulation of commercial insurers. One of the questions that arises related to this study is whether there are any risks that are created because of a difference in transparency and confidentiality requirements for captives compared to commercial insurers. Subgroup members discussed the differing requirements and agreed that a higher level of confidentiality should be afforded captive insurers since they do not issue policies to the public but felt that the level of confidentiality relating to captives that assume insurance risk from commercial insurers deserved more study.

The Subgroup began its study of transparency and confidentiality by reviewing requirements of specific jurisdictions that either responded to the survey or provided information to the Subgroup, with the following table noting some of the requirements.

State	Share Information with Other States	Financial Information is Public	Any Planned Changes in Legislation	Requires an NAIC Company Code	Requires Filing to NAIC
District of Columbia	Yes	No	No	No	No
Iowa	Yes	Yes	No	No	No
Nevada	Yes	No	No	No	No
South Carolina	Yes	No	No	No	No
Utah	Yes	No	No	No	No
Vermont	Yes	No	Yes	No	No
New Jersey	Yes	No	Yes	No	No

The Subgroup found varying legal requirements among states. All of the captive states have some form of confidentiality requirements included in state law. Some of the states publish information to varying degrees, but publicly available information is usually limited to the captive or SPV’s name and owner. Filings from captives and SPVs made with the insurance department are considered confidential. While captive states generally have authority to share information with insurance regulators, and many of the states also allow information-sharing with federal regulators, not all states have such authority. In most cases, other regulators must agree to maintain the confidentiality of the information before it can be released.

The Subgroup agreed that confidentiality is warranted for pure captive transactions because such coverage written is only for the parent company and its subsidiaries’ and affiliates’ self-insured risks and there is generally no public interest in their business plan. However, for captives and SPVs owned by commercial insurers that cede insurance risk, the Subgroup had different views on the level of confidentiality that was needed for such transactions.

Some Subgroup members indicated that confidentiality is needed, and that state laws often require it. These Subgroup members noted that captives and SPVs owned by commercial insurers typically are utilized for a single transaction, and expressed concern that if the same level of transparency to financial information was required of captives, that it would be relatively easy for competitors and other parties to

learn the economics of the transactions from the disclosures in financial statements, which could cause harm to the ceding company and the parties in the transactions. These Subgroup members noted that the typical SPV financing transaction represents a commitment from a financial institution to extend credit in unusual circumstances. The amounts involved are usually significant, and even minor variations in terms can have a material impact on the economics of the credit facility. The ceding insurer may enter into a non-disclosure agreement with the counterparty that prevents such information from being disclosed. For these reasons, these Subgroup members believed it would never be appropriate to disclose information that may identify the financing counterparty, the terms of the financing transaction (including rates and repayment provisions) or other ancillary agreements. These Subgroup members believed that, because captives and SPVs have no contractual connection to the individual consumer or even to the third-party insurance companies, the only parties that would actually benefit from public disclosure are the competitors of the ceding insurance company and the financial institution that provided the financing. These Subgroup members also noted that, even if there was a consensus on additional transparency and disclosure, many states' laws would prevent such disclosure.

Some Subgroup members expressed questions about the need for confidentiality and were supportive of public disclosure of at least some level of information, similar to what is disclosed in the statutory annual statement blank. These Subgroup members noted that captives and SPVs owned by commercial insurers were different than pure captives, and asserted that their financial statements should be available to the public. These Subgroup members recognized the concerns noted by the other Subgroup members that some specific information may be more sensitive to insurers, but suggested that the vast majority of such information is similar to other information required by commercial insurers on other types of financial contracts. Moreover, these Subgroup members suggested that most insurers desire to compete with other insurers on the basis of their overall financial strength, and that a consumer or distributor wanting to develop an assessment of such strength should have access to information about the insurer's reliance upon captives and SPVs to make informed decisions about the insurer's financial strength.

Despite these differences, there is and always will be a need for all of the states to have the ability to understand the transactions, and the information-sharing sections in the captive laws and regulator confidentiality agreements should be utilized as needed to address this.

STATES' CONFIDENTIALITY PROTECTIONS

The issues surrounding regulatory access to sensitive, proprietary, confidential and/or privileged information are important to insurance regulators, as well as to regulated entities. In order to carry out the duties of regulating the financial solvency and market conduct of insurers, most of the states have adopted examination laws granting broad access to company information.³ While examination laws generally give regulators extensive (and, in some cases, absolute) access to proprietary information, that information is protected from disclosure by various privileges, privacy laws and confidentiality provisions.⁴

Regulators are charged with protecting the public interest and promoting the solvency of insurance companies, which may compete with insurers' concerns to protect confidential and proprietary information from third-party access while fulfilling their legal and contractual obligations and

³ See Appendix A.

⁴ National Association of Insurance Commissioners, *Regulatory Access to Insurer Information: The Issues of Confidentiality and Privilege*, March 13, 2000, at 47.

competing in the marketplace. Information in the possession of regulators may be subject to public records laws, which make information accessible to third parties unless that information is specifically protected from disclosure. State confidentiality laws exist to ensure that certain items will be considered confidential and privileged and will remain confidential when in the possession of the regulator. This approach is intended to promote communication and protect against unfair treatment or exploitation of trade secrets.

The states that regulate captive insurance companies also ensure that regulators have access to information held by the captive insurer. This is true regardless of whether the state regulates captives through their general examination laws or through a separate captive chapter of the insurance code. Attached to this paper as Appendix A is a chart that outlines confidentiality provisions as they relate to captive insurers.

The majority of the states include confidentiality provisions within their captive laws. In these instances, all confidentiality provisions indicate that information submitted to the insurance department by the captive insurer shall be held confidential. The laws do allow for disclosure in certain circumstances, such as when the information is discoverable, the company consents to the disclosure, for investigation and enforcement purposes or when the information is disclosed to another regulator who will maintain its confidentiality.

Other states regulate the confidentiality of captive insurer data under more general insurance laws. Through their version of the NAIC *Model Law on Examinations* (#390), the states have broad authority to gain access to an insurer's records and hold that information confidential. A few of the states specifically provide that confidentiality requirements applicable to all insurers also apply to captive insurers.

Another aspect of confidentiality that is important to consider is the ability of state insurance regulators to share information with each other, as well as with law enforcement authorities. Current state information-sharing laws generally authorize regulators to share important confidential regulatory information with each other, federal financial regulators and law enforcement agencies.⁵ Maintaining confidentiality, while sharing information, is important because regulators and insurance companies have an interest in ensuring confidentiality when appropriate. State laws often require that the receiving party verify it can maintain the confidentiality of information to be provided by the state, and information-sharing agreements are intended to fulfill this purpose. To achieve this result, all of the states have entered into master information-sharing agreements and many of the states have entered into similar information-sharing agreements with federal regulatory agencies. Those states interested in obtaining information about captive structures utilized by non-domestic insurers that are licensed in their state should contact the domestic regulator of that commercial insurer. The domestic regulator can then provide information and, if necessary, request information from the captive regulator as needed to satisfy those requests for information. Similar issues may exist related to international captives, and regulators should strive to address their concerns in similar ways.

As noted above, the Subgroup could not reach a consensus as it pertains to the transparency needed for commercially owned captive insurers and SPVs. For this reason the Subgroup recommends the NAIC study this issue more closely.

⁵ *Id* at 53.

The Subgroup discussed recommending the development of a database that includes an NAIC company code, name and domiciliary information, the purpose of which would be to allow regulators to quickly respond to questions regarding the states' universe of captives and similar entities. Some captive states already require these types of captives to obtain an NAIC company code or supply information to the NAIC sufficient to assign a code. However, the Subgroup could not reach consensus on making a recommendation for databasing the above type of information with the NAIC partially due to confidentiality issues, and therefore this White Paper includes no suggestions on this issue. It should be noted that the NAIC does collect some captive information from the states, and publish within its annual Insurance Department Resources Report, information regarding the number of domestic captives, and the direct, assumed and total premium written by such entities. However, because this information has its limits, questions about the captive and SPV market will likely require coordinated action by the collective captive states to respond to such inquiries in the future.

The Subgroup did reach consensus that ceding insurers could provide more specific, but-non trade secret, information regarding the insurer's use of captives within Note 10M of the Notes to Financial Statements of the statutory blank. This recommendation is made in order to improve transparency but not at the expense of the privacy of the transaction. U.S. ceding insurers already disclose significant information related to affiliated transactions, as summarized in Appendix B.

The Subgroup also discussed the need for greater transparency and sharing of information on proposed transactions among the ceding state, the captive state and the lead state at a minimum. Consensus was reached that further clarification and guidance is needed; and thus, the Subgroup has recommended additional procedures be added to the NAIC *Financial Analysis Handbook* to address this concern, and that any re-evaluation of Model #789 include considerations of the confidentiality issues.

VI. ACCOUNTING AND REPORTING

Captive SPVs are generally subject to the same accounting and reporting requirements as commercial insurers, with the exception of certain permitted practices for LOCs. Permitted practices are expressly allowed under the NAIC *Accounting Practices and Procedures Manual*. Generally, on an annual basis, captive SPVs report on the financial annual statement for life, accident and health insurers, and are audited by independent auditors in accordance with NAIC standards. Those reports are filed with the captive domicile regulator, the ceding life company state regulator and with rating agencies, in the case of certain large, public life insurers.

Accounting and reporting requirements for captives differ from commercial insurers and may vary from state to state. Such differences exist primarily because, generally, the risks posed by captives differ from commercial insurers. Consequently, U.S. regulators have generally used flexibility in dealing with these different risks. Some of the states require quarterly reporting on a statutory accounting principles (SAP) basis and require the use of the NAIC financial annual statement. Other states have similar requirements, but only on an annual basis. Others allow generally accepted accounting principles (GAAP) reporting on an annual basis in the state-prescribed format. Most of the states require audited financials and actuarial opinions. Additionally, most, if not all, of the states allow for some prescribed accounting for captives and SPVs, such as the admittance of LOCs. Again, such allowance is generally used because the risk is perceived to be different than it is for commercial insurers. Offshore accounting was not studied, but the accounting standards are known to vary by jurisdiction.

The question that arises, however, is whether the accounting and reporting should differ from commercial insurers if the business that is being transacted within the captive or SPV is the assumption of commercial risk from an affiliated commercial insurer. This question is posed because the concern is that such transactions may be consummated, in part, to provide relief from statutory accounting.

As noted previously, results of the regulator-only request for comment suggest that the vast majority of transactions from a commercial insurer to a captive insurer or SPV that were studied are a means of dealing with perceived XXX and AXXX reserve redundancies. Nearly all of the regulators that have been involved in these types of transactions have indicated that they review such proposed transactions in detail to ascertain, at a minimum, that the transaction does, in fact, match its intent, which is to provide alternative finance the redundant/non-economic reserves within the captive or SPV. Most of the states also determine and require that the transaction meets the statutory credit for reinsurance requirements. To do so, the assuming captive or SPV assumes the full statutory reserve liability and secures those reserves in various manners. The economic reserves are typically the expected losses plus a small margin for adverse development and are secured by assets held by the ceding company. The redundant reserves are secured by an LOC that is to the benefit of the ceding company. Therefore, the review entails agreeing that the calculation of the economic reserve is reasonable, follows actuarial principles and the assumptions are reasonable. So, for these types of transactions, the belief is that the regulatory review of the transaction ultimately matches the risk posed by the transaction. However, the question that was raised by the Subgroup is whether an alternative treatment of such transactions could be to deal with the accounting for this transaction within the ceding company, thereby eliminating the need for the separate transaction outside of the commercial insurer.

Notwithstanding the need to address the accounting for dealing with perceived XXX and AXXX reserve redundancies, the general opinion of the Subgroup was that it was inappropriate for captives and SPVs to be used as a means to avoid statutory accounting. Use of other means of accounting may be appropriate when risks under the entity/transaction are perceived to differ from commercial insurance risk. However, the practice of using a different entity or different structure outside of the commercial insurer to engage in a particular activity/risk because of a perception that the regulatory framework does not accurately account for such activity/risk was a concern noted by the Subgroup. The Subgroup specifically discussed, as an example, concerns that such entities might be utilized in the future as a means to discount property/casualty insurance liabilities, where the regulatory structure clearly does not allow discounting. Again, the Subgroup held a consensus view that an alternative accounting treatment of XXX and AXXX reserves should be pursued, as opposed to the use of captive insurers and SPVs, thereby possibly eliminating the need for the separate transaction outside of the commercial insurer simply to address these perceived reserve redundancies.

VII. CREDIT FOR REINSURANCE

The Subgroup’s study included an evaluation of reinsurance issues since reinsurance is the avenue under which commercial insurers transfer risk to a captive or SPV.

Summary of Requirements under NAIC Credit for Reinsurance Models

Under the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786), credit for reinsurance may be allowed to a U.S. ceding insurer when the reinsurance is ceded to an assuming insurer that meets the specific criteria for the appropriate category provided below. The credit for reinsurance requirements are applicable to transactions with affiliated and non-affiliated assuming insurers. However, neither model provides a specific definition of the term “assuming insurer.” Therefore, it is not explicitly clear whether this term was intended to include captives. While the models are not specific with respect to this definition, it was noted that reinsurance captives appear to have originally been used for fronting arrangements, under which a commercial insurance company issues a direct policy to an insured for some type of mandatory insurance coverage (e.g., workers’ compensation or medical professional liability) and then transfers the risk through a reinsurance agreement to a captive insurance company that is owned by the insured.

The following summarize the ways in which credit can be provided under the model.

Assuming Insurer is Licensed in the Ceding Insurer’s Domiciliary State-Credit is allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in the ceding insurer’s domiciliary state.

Assuming Insurer Has Obtained Reinsurer Accreditation-Credit is allowed when the reinsurance is ceded to an assuming insurer that is accredited by the ceding insurer’s domestic commissioner as a reinsurer in that state, which has specific requirements including maintaining a surplus of at least \$20 million.

Assuming Insurer is Domiciled in a State with Substantially Similar Credit for Reinsurance Laws-Credit is allowed when the reinsurance is ceded to an assuming insurer that is domiciled in a state with substantially similar credit for reinsurance laws as the ceding insurer’s domiciliary state.

Assuming Insurer Maintains Trust Funds-Credit is allowed for reinsurance ceded to an assuming insurer that maintains trust funds for a requisite amount in a qualified U.S. financial institution for the payment of the valid claims of its U.S. ceding insurers, their assigns and successors in interest.

Certified Reinsurers-In November 2011, the NAIC adopted revisions to Model #785 and Model #786 to allow credit for reinsurance ceded to a certified reinsurer. These revisions effectively reduce the collateral requirements for non-U.S. licensed reinsurers meeting certain criteria that: 1) are domiciled and licensed in qualified jurisdictions; 2) have been certified in the ceding insurer’s domiciliary state; 3) secure their obligations in accordance with the requirements of the NAIC credit for reinsurance models.

Credit for Reinsurance Required by Law

For those jurisdictions in which reinsurance is required by law, the domestic ceding insurers may take a credit for reinsurance, even though the assuming insurer does not meet the requirements set forth in the above sections. Examples of the assuming insurers for which credit may be allowed include state-owned

or state-controlled insurance or reinsurance companies, guaranty organizations and residual required market mechanisms.

Assuming Insurer Does Not Meet Any of the Previous Categories

Credit for reinsurance may also be granted to the ceding insurer when the assuming insurer does not meet any of the above credit-permitted categories. In these instances, if the ceding insurer holds funds or is exclusively entitled to funds held in a U.S. institution provided as security for reinsurance obligations, the ceding insurer is permitted to take a reduction of liability or record an asset for the reinsurance ceded. The reduction is not permitted to exceed the liabilities carried by the ceding insurer.

The funds held may take the form of cash, qualifying admitted asset securities as indicated by the NAIC Securities Valuation Office, LOCs and/or any other security that has been approved by the insurance commissioner. The NAIC credit for reinsurance models provide that an LOC must be clean, irrevocable, unconditional and issued or confirmed by a qualified U.S. financial institution. In addition, the LOC must have an “evergreen” clause that indicates it cannot expire without 30-day advance notice, and must provide notice on what laws the LOC is governed by (e.g., state law, Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, or any other publication).

In addition to the categories addressed above, the ceding insurer may take credit for unencumbered funds withheld by the U.S. ceding insurer that are under the exclusive control of and subject to sole withdrawal by the ceding insurer.

Dodd-Frank Wall Street Reform and Consumer Protection Act Considerations

On July 21, 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act was signed into law. Title V of this legislation includes the Nonadmitted and Reinsurance Reform Act (NRRA). NRRA Section 532 reserves to a reinsurer’s domiciliary state the sole responsibility for regulating the reinsurer’s financial solvency. NRRA Section 533(5)(A) defines “reinsurer” to mean an insurer that: 1) is principally engaged in the business of reinsurance; 2) does not conduct significant amounts of direct insurance as a percentage of its net premiums; and 3) is not engaged in an ongoing basis in the business of soliciting direct insurance. Section 533(5)(B) goes on to provide that the determination of whether an insurer is a reinsurer shall be made under the laws of the state of domicile in accordance with this paragraph. The U.S. Congress was clear that the definition of reinsurer is not to be construed narrowly, thereby limiting or avoiding the intent of Congress.

The NRRA delegates to the state of domicile the determination of what is a reinsurer. Current NAIC model laws or guidance do not define the term “reinsurer” for purposes of the NRRA. The Subgroup discussed that it was its understanding that there has been some discussion that the Reinsurance (E) Task Force may develop a standard definition of “reinsurer” for the purposes of the NRRA, in an effort to promote uniformity for the application of the NRRA throughout all member jurisdictions. It was noted that if such action takes place, the following terms may need to be interpreted in order to develop an appropriate definition of the term reinsurer: 1) “principally engaged in the business of reinsurance”; 2) “significant amounts of direct insurance as a percentage of net premiums”; and 3) “engaged in an ongoing basis in the business of soliciting direct insurance.”

COMPARISON OF REGULATORY REQUIREMENTS FOR A U.S. PROFESSIONAL REINSURER VS. A CAPTIVE ASSUMING REINSURANCE FROM AN INSURER

If the captive or SPV seeks to be accredited by a non-domestic state, then it would be required to meet the same capital and reporting requirements that any accredited reinsurer would be required to meet. However, questions have been raised as to whether it is appropriate for a captive to be granted accredited reinsurer status, and, specifically, whether a captive can meet the requirements under the credit for reinsurance models in order to be accredited. This is not an issue to be solved by the Subgroup, nor does the Subgroup have any specific recommendations, but it was noted by more than one Subgroup member. These Subgroup members noted that it raises issues as to the following: 1) whether captive licensure is equivalent to commercial insurance licensure for accredited status; 2) whether a captive can submit to the jurisdiction of a non-domestic state; and 3) whether, in some cases, an LOC or parental guarantee is considered acceptable for meeting the \$20 million minimum capital and surplus requirement. It is important to note that, if a captive is granted accredited reinsurer status under the credit for reinsurance models, it would not be required to provide collateral for the benefit of the ceding insurer as security for amounts recoverable under the reinsurance contract.

As mentioned previously, most captives are used for one transaction to finance a particular risk within the insurance holding company system, whereas a professional reinsurer is in the business of reinsuring multiple unaffiliated companies. Typically, a domestic regulator would review an affiliated reinsurance agreement before approving the use of such agreement by the ceding company. This prior approval is typically required by statute/regulation consistent with the U.S. “windows and walls” approach to group regulation. Typically, the domestic regulator would not review a reinsurance agreement with an unaffiliated reinsurer unless it met certain materiality standards. It should be noted that some of these agreements mentioned within this study by the Subgroup were larger and more complex than a typical reinsurance agreement with an unaffiliated company and would typically result in a more detailed review of various aspects of the proposed transaction before being approved. In addition to the reinsurance agreement, all ancillary agreements to the transaction are reviewed, including management, investment and tax-sharing agreements with affiliates and non-affiliates, as well as all agreements with counterparties, such as the LOC facility agreement and reimbursement agreements. The Subgroup noted that regulators need this additional level of information to be able to logically conclude that transactions that utilize the alternative risk transfer market are sound, as well as permissible, under current statutory accounting guidelines. Insurers should be able to articulate these items to regulators, and these points should be emphasized within the *Financial Analysis Handbook*.

The Subgroup noted in the course of studying specific transactions some transactions might not have met the requirements under the NAIC credit for reinsurance models. For example, there have been instances where conditional LOCs were accepted as collateral that define the order of a draw-down on the LOC (i.e., the arrangement requires that other available collateral be exhausted before the LOC can be drawn upon), and such requirements are not generally not allowed under the credit for reinsurance models. It should be noted that the credit for reinsurance models include a provision under which collateral may take the form of “any other form of security that is acceptable to the commissioner;” however, not all of the states have this discretionary provision in their statutes.

Other XXX and AXXX transactions have involved ceding business to a limited purpose subsidiary that is allowed to use a parental guarantee to meet a portion of its capital and surplus requirement. These limited purpose subsidiaries are generally authorized to transact the business of insurance or reinsurance in the domestic state, and are specifically permitted to transact reinsurance with affiliated insurers.

The transactions involving conditional LOCs or parental guarantees effectively permit assets to support reinsurance recoverables, either as collateral or as capital, in forms that are otherwise inconsistent with requirements under the credit for reinsurance models or other financial solvency requirements applicable to U.S.-domiciled commercial assuming insurers. The Subgroup held a consensus view that these types of transactions may not be consistent with the NAIC credit for reinsurance requirements. The Subgroup suggests consideration be given to study further the effects of, and potential limits on, the variability in qualified LOCs or any other security that might not provide the intended protections provided within the *Credit for Reinsurance Model Law* (#785).

VIII. INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS (IAIS) CONSIDERATIONS

In the course of its work the Subgroup reviewed IAIS guidance applicable to captives. The IAIS Insurance Core Principles (ICPs) are intended to provide a globally accepted framework for supervision of the insurance sector, and are used as the basis for assessing insurance supervisory systems under the International Monetary Fund/World Bank Financial Sector Assessment Program (FSAP). The introduction to the ICPs provides that the term “insurance” refers to the business of insurers and reinsurers, including captives. Therefore, it is understood that the framework provided within the ICPs is generally applicable to the supervision of captives, unless otherwise provided in a specific ICP. The introduction also notes it is recognized that supervisors need to tailor certain requirements and actions in accordance with the nature, scale and complexity of individual insurers. It further provides that, in this regard, supervisors should have the flexibility to tailor supervisory requirements and actions so that they are commensurate with the risks posed by individual insurers, as well as the potential risks posed by insurers to the insurance sector or the financial system as a whole. This principle of proportionality is provided within the ICPs and standards where relevant.⁶

While there is not presently a specific ICP with respect to captives or captive supervision, there are various IAIS papers that include some discussion of captives, including a October 2003 paper on Life Insurance Securitization, which specifically references the use of securitizations for XXX reserve funding. ICP 13 also discusses the use of SPVs. The October 2003 paper and the ICP discuss the use of captives by commercial insurers within the context of utilizing SPVs to transfer risk to the capital markets, which the Subgroup supports in its recommendation.

However, the Subgroup also identified other affiliated captive or SPV transactions, more limited in number, that were not designed to transfer risk to the capital markets. In some of these transactions, one indirect effect, intended or not, was to provide relief from what was perceived as overly conservative requirements of statutory accounting. The IAIS guidance for dealing with these types of issues seems to fall back to the principle of proportionality.

In 2008, the IAIS adopted a *Guidance Paper on the Regulation and Supervision of Captive Insurers* in an effort to consider the application of the ICPs and standards to captive insurers, and, where appropriate, provide additional guidance and elaboration. The paper is currently under review by a drafting group of the IAIS Reinsurance and Other Forms of Risk Transfer Subcommittee, primarily due to the adoption of revised ICPs in 2011. The review and any resulting revisions are scheduled to be completed in 2013. While the draft paper provides application guidance for consideration by captive supervisors in general, two specific aspects of the paper appear to be potentially relevant to the charge of the Subgroup:

- The IAIS draft paper has defined a captive insurer as
- “an insurance or reinsurance entity created and owned, directly or indirectly, by one or more industrial, commercial or financial entities, other than an insurance or reinsurance group entity, the purpose of which is to provide insurance or reinsurance cover for risks of the entity or entities to which it belongs, or for entities connected to those entities and only a small part if any of its risk exposure is related to providing insurance or reinsurance to other parties.”

⁶ IAIS Insurance Core Principle, Standards, Guidance, and Assessment Methodology, October 2011

Exclusion of entities owned by insurance or reinsurance groups from the definition is explicitly interpreted by some to suggest such entities be subject to supervision and regulatory requirements similar to traditional commercial insurers or reinsurers under the ICPs.

- With respect to entities meeting the IAIS draft paper definition of a captive insurer (i.e., not owned by insurance or reinsurance group), the paper provides that regulatory risk associated with captives varies by type, suggesting that pure captives represent the lowest risk, while captives undertaking activities that more closely resemble those of commercial insurers present the highest risk. With respect to the latter, the paper provides that supervisors should consider applying regulatory and supervisory requirements similar to those applicable to commercial insurers.

The Subgroup interprets these bulleted highlights to suggest an expectation, subject to the principle of proportionality that captives and SPVs owned by commercial insurance reinsurance groups, particularly those that may be operating in a manner that closely resembles a commercial insurer, should be held to the regulatory and supervisory requirements similar to those imposed of commercial insurers within the same jurisdiction. The Subgroup notes that such expectations may influence future FSAP reviews of the U.S. insurance sector. Thus, the Subgroup believes the NAIC should closely monitor developments with respect to the draft paper and other IAIS guidance regarding captives, and consider where appropriate, enhancements to the U.S. captives and SPV regulatory framework in preparation for future FSAP reviews.

IX. HOLDING COMPANY ANALYSIS CONSIDERATIONS

The Subgroup believes that one of the most important items to consider when evaluating transactions between commercial insurers and commercial owned captives and SPVs, is the impact of the transaction on the entire holding company system and its financial condition.

The Subgroup discussed how one difficulty in trying to apply a uniform framework for captive and SPVs regulation is that no matter what rules or requirements are placed upon U.S. captives, a significant portion of captive transactions occur outside the U.S. The more onerous and costly the regulations make these transactions, the more likely it is that companies will choose jurisdictions that are not as transparent and that are outside the purview of U.S. insurance regulation. Through proper use of the insurance holding company system laws and regulations, these transactions can effectively be monitored such that they do not pose a threat to the policyholders, while still allowing for the approval of transactions with valid business purposes.

As previously mentioned, a majority of the most recent increase in use of captive insurers and SPVs by commercial insurers can be attributed to an intent to finance perceived redundant reserves without actually transferring the risk outside of the insurance holding company system. Notwithstanding the Subgroup's recommendation to develop alternative accounting for such transactions within the ceding company, thereby potentially eliminating the need for the separate transactions outside of the commercial insurer, the most effective method to monitor all captive transactions is through insurance holding company system analysis. The Subgroup discussed that the transactions reviewed within the context of this White Paper can be appropriately assessed through holding company analysis. Consequently, regardless of the approach taken to deal with the XXX and AXXX reserves, it is recommended that the holding company analysis procedures of the *Financial Analysis Handbook* be amended to include a section on alternative risk-transfer arrangements. In this regard, it may be worth considering the development of ceding company procedures for alternative risk-transfer arrangements similar to other holding company procedures to help document the review and approval of the transaction. Under such an approach, the *Financial Analysis Handbook* procedures would consider the overall materiality of such arrangements, the exposure to the insurance holding company system regarding parental guarantees and reimbursement obligations, and other unique exposures retained within the insurance holding company system that present risk associated with the use of captives, SPVs and/or other such vehicles.

Subgroup members discussed how procedures used to analyze holding companies can consider among other things the amount of risk involved, as well as determine the ability of the parent to meet obligations pertaining to reimbursing LOCs, parental guarantees and/or other similar arrangements. Any proposed procedures may need to consider transactions that have occurred in the past which includes the need to: 1) encourage communication and coordination between captive regulators and ceding company regulators; 2) request, on an annual basis from the company actuary, comments on where there might be significant or adverse differences from original projections; and 3) ensure that, under stress, the entities are able to meet the guarantees. Also worth considering is the need for ongoing analysis and stress testing for changing economic environments and assumptions that could affect the business. The states should be conducting an enterprise risk management analysis of the holding company to see if they are assessing and measuring the risk on an enterprise-wide basis and to see if they are keeping up with their obligations, in addition to requiring results of stress tests.

X. TAKEAWAYS FROM CASE STUDIES (NOT COMPANY-SPECIFIC)

- The majority of the transactions identified by the Subgroup were related to life insurance products, primarily due to XXX and AXXX reserve requirements.
- Use was primarily limited to affiliated captive reinsurers and SPVs.
- Domestic regulators have approval authority over these transactions.
- Domestic captive regulators coordinate with the ceding company regulators and, in most cases, hire third-party consultants to examine the merits of each captive transaction.
- Credit for reinsurance requirements for some transactions were met with some commissioner discretion for some ceding company states that allow discretion within their law.
- Most non-XXX/AXXX transactions reviewed were conducted for various business purposes to access the capital markets to provide alternative financing to certain business risks for better cost and use of capital than retaining the risk or reinsuring the risk.

XI. CONCLUSIONS AND RECOMMENDATIONS TO FINANCIAL CONDITION (E) COMMITTEE

Commercial insurers cede business to captives for a variety of business purposes. In general, the Subgroup determined that cessions to unaffiliated captives operating similar to pure or agency captives was not an area of concern, given that state insurance regulators have a long history of experience with such transactions. The Subgroup also considered the question of whether captives are competing with professional reinsurers and determined that, while such a development would be cause for concern, nothing today suggests that captives are directly competing with professional reinsurers in the U.S.

Thus, the primary focus of the Subgroup was upon U.S. commercial insurers' use of affiliated captives or SPVs. The use of captives outside the U.S. was not studied, but is considered to be significant. The Subgroup is aware that its recommendations regarding domestic captive regulation require communication between the ceding company state, the captive state and the lead state, which may not be possible to apply to captive domiciles outside of the U.S. Further, the Subgroup is keenly aware that onerous requirements placed on U.S. captive domiciles could lead to the increased use of non-U.S. captives, where transparency may be more limited. Even if such a situation develops U.S. insurance regulators' exercise of their authority to thoroughly analyze and comprehend the risks associated with domestic company sessions to captives outside the U.S. should compensate for such limits

The Subgroup determined that the majority use of captives and SPVs by commercial insurers was related to the financing⁷ of XXX and AXXX perceived reserve redundancies. Various structures have been utilized to finance these reserves, including:

- Captives as a conduit to securitizations that provide capital market financing of reserves.
- Captives capitalized by LOCs accounted for as assets in support of redundant reserves.
- Captives or SPVs capitalized by parental guarantees accounted for as assets in support of redundant reserves.
- Captives capitalized by a surplus note owned by an affiliate

The creation and maintenance of these structures comes at a cost however, from the burden of operating and reporting on another legal entity to the cost of financing reserves through securitizations or LOCs. Even parental guarantees could impact assessments of leverage and reduce financial flexibility of the parent.

The Subgroup also identified other affiliated captive or SPV transactions, more limited in number, that were not related to perceived reserve redundancies. In some of these transactions, one indirect effect, intended or not, was to provide relief from what was perceived as overly conservative requirements of statutory accounting, and, in some instances, by allowing a captive or SPV to account for LOCs or parental guarantees as assets, something not permitted in the current statutory accounting framework. The Subgroup acknowledges that there are business reasons other than statutory accounting relief for the use of a captive or SPV, such as financing; however, the Subgroup would prefer that there be alternatives that are more transparent than the solutions to the issues that captives and SPVs were designed to address.

⁷ The term "financing" as used herein includes transferring risk to other non-insurance members of the holding company system.

The implementation of principle-based reserving (PBR) and more immediately Actuarial Guideline (AG) 38 could reduce the need for commercial insurers to create new captives and SPVs to address perceived reserve redundancies, but existing captives and SPVs that are not addressed by the guidance in AG 38 are likely to remain in existence for several years or decades, until the existing blocks of business are run-off. Regulators need to be aware of and monitor the risks that captives and SPVs may pose to the holding company system, as well as to the legal entity insurer. With the proper tools and communication, regulators can adequately analyze transactions to ensure that the proper protections for policyholders are included.

In transactions reviewed by the Subgroup, regulators of the ceding company and captive worked together to ensure that alternative assets, such as LOCs or parental guarantees, were used to support only those reserves considered redundant. Regulators require the companies engaging in these transactions to support economic reserves, plus some margin, with investment grade, liquid assets. The net result of the transactions is that, collectively, the ceding insurer and the captive have liquid assets supporting GAAP equivalent reserves, plus a margin for reasonably adverse development.

The Subgroup offers the following recommendations to address the issues presented in this paper.

1. Accounting Considerations

As noted throughout this paper, captives and SPVs have often been a means of dealing with XXX and AXXX perceived reserve redundancies. The practice of using a different entity or different structure outside of the commercial insurer to engage in a particular activity because of a perception that the regulatory framework does not accurately account for such activity should be discouraged. The Subgroup held a consensus view that captives and SPVs should not be used by commercial insurers to avoid statutory accounting prescribed by the states. The Subgroup believes that an alternative treatment of such transactions should be to deal with the accounting and reserving issues within the ceding company, thereby eliminating the need for separate transactions outside of the commercial insurer. Specifically, the Subgroup held a consensus view that the Financial Condition (E) Committee should form a separate subgroup to develop possible solutions for addressing any remaining XXX and AXXX perceived redundancies. Due to changes made to AG 38 by the NAIC in 2012, the use of captives and SPVs should no longer be needed for universal life with secondary guaranty transactions but it's possible there may be some remaining AXXX issues that have not been addressed and that should be addressed directly, as opposed to through the use of captives and SPVs. Possible solutions could include changes similar to the AG 38 solution, or disclosed prescribed or permitted accounting practices. The NAIC should also consider modifications to the statutory accounting framework to recognize, in strictly limited situations, alternative assets, such as "tier 2" type assets" to support specific situations (e.g., less likely to develop liabilities), thereby eliminating the need for the separate transaction outside of the commercial insurer.

2. Confidentiality

The Subgroup recommends that the NAIC study the issue of confidentiality related to commercially owned captives and SPVs more closely. This study would pursue greater clarity regarding the specific reasons for and against the use of confidentiality for such entities. The Subgroup believes it may be necessary to develop a framework that would provide greater uniformity in this area. More specifically, it may be appropriate to consider the type of information that should, and should not, be held confidential. This outcome may be more easily achieved in the context of a new framework for alternative market solutions (as discussed in recommendation #3 below).

Further work should be done to ensure that the state (or other functional regulator) of a group obtains additional information from the captive regulator on a confidential basis to understand the details of captive and SPV transactions, for U.S and non-U.S captives. This may be in addition to any changes made to the *Financial Analysis Handbook* that may suggest specific considerations when performing holding company analysis on groups that utilize such arrangements. One recommendation in this regard is that each state that has a domestic insurer in the holding company structure should be notified of a transaction of an affiliate that involves captives or SPVs, even if that state's domestic insurer is not a party to the transaction. Additionally, the ability to ensure future communication of information through supervisory colleges should be addressed

3. Access to Alternative Markets

The Subgroup supports the use of solutions designed to shift risk to the capital markets or provide alternative forms of business financing. The *Special Purpose Reinsurance Vehicle Model Act* (#789) was developed to provide a uniform framework for the implementation of capital market securitizations of commercial insurers' reserves. However, securitization solutions allowed for within Model #789 are no longer being utilized, as other solutions are preferred today. The NAIC should consider re-evaluating Model #789 and updating it as necessary to reflect alternative markets solutions acceptable to state insurance regulators to ensure there is a uniform framework for the implementation of alternative market solutions. The NAIC should further encourage the states to adopt Model #789 and should consider making the model an accreditation standard in those states that have an active captive and SPV market. This should be referred to the appropriate NAIC working group for consideration.

4. IAIS Principles, Standards and Guidance

The Subgroup recommends the NAIC closely monitor the on-going developments with respect to IAIS principles, standards and guidance, and consider where appropriate, enhancements to the U.S. captive and SPV regulatory framework in preparation for future FSAP reviews.

5. **Credit for Reinsurance Model Enhancements**

Transactions involving conditional LOCs or parental guarantees effectively permit assets to support reinsurance recoverables, either as collateral or as capital, in forms that are otherwise inconsistent with requirements under the credit for reinsurance models or other financial solvency requirements applicable to U.S.-domiciled commercial assuming insurers. The Subgroup held a consensus view that these types of transactions are not consistent with the NAIC credit for reinsurance requirements. The Subgroup recommends consideration be given to study further the effects of, and potential limits on, the variability in qualified LOCs or any other security that might not provide the intended protections provided within the *Credit for Reinsurance Model Law* (#785).

6. **Disclosure and Transparency**

The Subgroup recommends enhanced disclosure in ceding company statements regarding the impact of the transactions on the financial position of the ceding insurer. Development of Note to Financial Statement 10M should be made to provide for disclosure of non-trade-secret captive information and disclosure of the overall utilization of captives.

7. ***Financial Analysis Handbook* Guidance**

To the extent affiliated captives and SPVs may be created in the future for today unseen purposes, additional guidance should be developed by the NAIC to assist the states in a uniform review of transactions, including recommendations for minimum analysis to be performed, as well as ongoing monitoring of the ceding insurer, the captive and the holding company. The guidance should be developed for perspectives of the ceding state, the captive state and the lead state. Once developed, the guidance should be considered to be added to the accreditation standards to ensure consistency and uniformity among the states.

It is recommended that the *Financial Analysis Handbook* be amended to include a section on alternative risk-transfer arrangements. In this regard, it may be worth considering the development of ceding company procedures for alternative risk-transfer arrangements similar to other holding company procedures to help document the review and approval of the transaction. Under such an approach, *Financial Analysis Handbook* procedures would consider the overall materiality of such arrangements, the exposure to the insurance holding company system regarding parental guarantees and reimbursement obligations, and other unique exposures retained within the insurance holding company system that present risk associated with the use of captives, SPVs and/or other such vehicles. Example procedures could address: 1) communication and coordination between captive regulators and ceding company regulators; 2) monitoring of variances from actuarial projections; 3) routine stress testing of assumptions, particularly for changing economic environments; and, 4) enterprise risk management of the risks inherent to alternative risk-transfer arrangements.

XII. APPENDIX A – TYPES OF CAPTIVE INSURERS DEFINED

TYPES OF CAPTIVE INSURERS DEFINED

Information current as of June 12, 2012

Citation	Type of Captive	Summary
Alabama (07/12)		
§27-31B-2	Pure captive	Any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.
	Association captive	Any company that insures risks of the member organizations of the association, and their affiliated companies.
	Industrial captive	Any company that insures risks of the industrial insured that comprise the industrial insured group, and their affiliated companies.
	Sponsored captive	Any captive insurance company that has minimum capital and surplus that is provided by one or more sponsor, is formed and licensed, insures the risks of separate participants through participant contracts, and funds its liability to each participant through protected cells and segregates the assets of each cell from the assets of other cells and separate from the sponsored captive’s general account.
	Branch captive	Any alien captive insurance company licensed by the commissioner to transact business of insurance in this state through a business unit with its principal place of business in this state.
	Protected cell	A separate account established by a sponsored captive in which assets are maintained for one or more participants in accordance with the participant contracts to fund the liability of the sponsored captive to the participants.
§27-31B-3	Confidentiality	Information shall be and remain confidential except in certain circumstances such as when information is discoverable, or when the information is disclosed to a public officer who shall maintain its confidentiality.
Alaska (07/12)		
§§21.06.150; 21.06.060	Confidentiality	Information relating to an examination obtained by the director is confidential and may not be published unless the matter is of public concern; examination synopses submitted to the director by the NAIC are confidential. Director may disclose confidential information to the legislature, state, federal, or international regulatory or law enforcement agencies, and the NAIC provided these recipients will maintain confidentiality.
Arizona (07/12)		
§20-1098	Pure captive	A captive insurer that insures only the risks of its affiliates and controlled unaffiliated business.
	Group captive	Any of the following: (a) a risk retention group; (b) an industry group captive insurer; or (c) an association captive insurer.
	Association captive	A captive insurer that is completely under the direct or indirect voting control of an association.
	Agency captive	A captive insurer that is owned by one or more business entities that are licensed in any state as insurance producers or managing general agents and that only insure risks on policies placed through their owners.
	Protected cell captive	A captive insurer: (a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors; (b) that is formed and licensed under this article; (c) that insures the risks of participants through participant contracts; and (d) that segregates liability under a participant contract through one or more protected cells.
	Industry group captive	Captive insurer that is completely under the direct or indirect voting of control of an industry group (two or more business entities or persons that are engaged in business or activities related with respect to the liability they are exposed to

Citation	Type of Captive	Summary
		by virtue of common business, trade, practice, service, product, etc.).
	Branch captive	An alien captive that is licensed to transact business of insurance through a business unit with its principal place of business in this state.
	Risk retention group	Captive insurer that is organized pursuant to 15 U.S.C. §§3901-02.
§ 20-1098.23	Confidentiality	Information submitted is confidential. Shall not provide the information without the permission of the captive insurer, or unless the information is submitted for regulatory purpose, due to subpoena, is discoverable, or is disclosed to a public official.
Arkansas (07/12)		
§23-63-1601	Pure captive	A company that insures risks of its parent and affiliated companies or controlled unaffiliated business.
	Association captive	A company that insures risks of the member organizations of the association and their affiliated companies.
	Industrial captive	A company that insures risks of the industrial insured and their affiliated companies.
	Sponsored captive	Captive in which the minimum capital and surplus required is provided by one or more sponsors. Captive must be licensed, must insure the risks of sponsors through contracts, and must segregate each participant's liability through one or more protected cell.
	Special purpose captive	A captive insurer that does not meet the definition of any other type of captive insurer defined in this section.
	Branch captive	An alien captive licensed by the commissioner to transact business of insurance through a business unit with its principal place of business in this state.
	Protected cell	Separate account established and maintained by a sponsored captive for one participant, or by a producer reinsurance captive insurer.
§23-63-1602	Confidentiality	Information submitted is confidential and may not be made public without written consent of company unless; the information is discoverable, or is disclosed to a public official who shall maintain its confidentiality.
California (07/12)		
Ins. §735.5	Confidentiality	All information obtained by or disclosed to the commissioner or any other person in the course of an examination shall be given confidential treatment and not be made public. The commissioner may disclose information to other insurance departments, law enforcement officials, state or federal agencies, and the NAIC provided these recipients will maintain confidentiality of information.
Colorado (07/12)		
§10-6-103	Pure captive	Any domestic insurance company licensed under the provisions of this article for the purpose of making insurance and reinsurance. Such insurance and reinsurance shall be limited to the risks, hazards, and liabilities of its parent and affiliated entities along with employee benefits coverages.
	Group captive	Any domestic insurance company licensed under the provisions of this article for the purpose of making insurance and reinsurance, including any company organized under the federal "Liability Risk Retention Act of 1986," as amended, 15 U.S.C. §3901-3905.. Such insurance and reinsurance shall be limited to the risks, hazards and liabilities of its group members and employee benefits coverages.
§§10-3-807, 10-6-130	Confidentiality	All information obtained during an examination or investigation and all information disclosed to commissioner is confidential and shall not be made public without consent of insurer unless commissioner, after notifying insurer, deems it appropriate to disclose; Applies to captive insurers per §10-6-130.
Connecticut (07/12)		
§38a-91aa	Pure captive	Any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.
	Association captive	Any company that insures risks of the member organizations of the association and their affiliated companies.
	Industrial	Any company that insures risks of the industrial insured and their affiliated

Citation	Type of Captive	Summary
	captive	companies.
	Risk retention group	Captive insurer organized under 15 U.S.C. §§3901-02, as a stock or mutual corporation, a reciprocal or other limited liability entity.
§ 38a-91bb	Confidentiality	Information submitted is confidential and shall not be made public without written consent of company, unless the information is discoverable or the information is disclosed to a public official who shall maintain its confidentiality.
District of Columbia (07/12)		
31-3931.01	Pure captive	A captive insurer that only insures or reinsures risks of its parent and affiliated companies or controlled unaffiliated business. The parent of a pure captive insurer includes an employee benefit plan or trust.
	Association captive	A captive insurer that only insures risks of the member organizations of an association and the affiliated companies of those members and the employee benefit plans or trusts of such organizations or companies.
	Agency captive	A captive insurer that is owned by an insurance agency or brokerage and that only insures risks of policies that are placed by or through the agency or brokerage.
	Branch captive	Any alien captive licensed by the commissioner to transact the business of insurance through a business with its principal place of business in the District.
	Rental captive	A captive insurer formed to enter into contractual agreements with policyholders or associations to offer some or all of the benefits of a program of captive insurance and that only insures risks of the policyholders or associations.
	Segregated account	Separate account established and maintained by a captive in which the minimum capital and surplus required is provided by one or more persons, is licensed under this chapter, insures the risks of separate participants through contracts, is comprised of one or more participants authorized to act on matters relating to segregated account, and that segregates each participant's liability through one or more segregate accounts.
31-1404; 31-3931.14(c)	Confidentiality	All information disclosed to the mayor or commissioner in the course of an examination shall be treated as confidential and privileged. Commissioner may share information with other state, federal, or international regulatory agencies, the NAIC, and with law enforcement authorities provided these individuals will maintain confidentiality of information. Applied to captive insurers per 31-3931.14(c).
Florida (07/12)		
§628.901	Captive	A domestic insurer established under this part. A captive insurance company includes a pure captive insurance company, special purpose captive insurance company, or industrial insured captive insurance company formed and licensed under this part.
	Captive reinsurance	A reinsurance company that is formed and licensed under this part and is wholly owned by a qualifying reinsurance parent company. A captive reinsurance company is a stock corporation and may not directly insure risks. A captive reinsurance company may reinsure only risks.
	Industrial captive	A captive insurance company that provides insurance only to the industrial insureds that are its stockholders or members, and affiliates thereof, or to the stockholders, and affiliates thereof, of its parent corporation. An industrial insured captive insurance company can also provide reinsurance to insurers only on risks written by such insurers for the industrial insureds that are the stockholders or members, and affiliates thereof, of the industrial insured captive insurer, or the stockholders, and affiliates thereof, of the parent corporation of the industrial insured captive insurer.
	Pure captive	A company that insures risks of its parent, affiliated companies, controlled unaffiliated businesses, or a combination thereof.
	Special purpose	A captive insurance company that is formed or licensed under this chapter that does not meet the definition of any other type of captive insurance company

Citation	Type of Captive	Summary
		defined in this section.
§§624.82, 624.319; §628.909	Confidentiality	All information in possession of the insurance department that relates to the supervision of any insurer is confidential. Information may be disclosed to another insurance department, agency, or instrumentality of this or another state or the United States if disclosure is deemed necessary and proper. Examination and investigative reports are confidential until the case ceases to be active, and portions of such reports may remain confidential even after the examination or investigation ceases. These provisions apply to captive insurers.
Georgia (07/12)		
33-41-2	Pure captive	Any domestic insurance company granted a certificate of authority under this chapter to insure or reinsure the risks of its parent and affiliates of its parent.
	Association captive	Any domestic insurance company granted a certificate of authority under this chapter to insure or reinsure the similar or related risks of members and affiliates of members of its association.
	Industrial captive	Any domestic insurance company granted a certificate of authority to insure or reinsure the risks of industrial insureds and their affiliates and which has as its shareholders or members only industrial insureds that are insured or reinsured by the industrial insured captive or which has as its sole shareholder or sole member a corporation whose only shareholders are industrial insureds that are insured or reinsured by the industrial insured captive.
	Risk retention group	Any pure, association or industrial captive that has been granted a certificate of authority under this chapter and determined by the commissioner to be established and maintained as a “risk retention group” as defined under the federal Liability Risk Retention Act of 1986.
33-13-7; 33-41-16	Confidentiality	All information obtained by or disclosed to the commissioner in the course of an examination or investigation shall be given confidential treatment and may not be made public without consent of insurer. Commissioner may, after giving notice, disclose information to public if deemed appropriate.
Hawaii (07/12)		
431:19-101	Pure captive	Any company that only insures or reinsures risks of its parent and affiliated entities.
	Association captive	Any company that insures risks of the member organizations of the association, and their affiliated companies.
	Sponsored captive	Any captive insurance company in which the minimum required capital and surplus is provided by one or more sponsors and is formed or licensed under this article. A sponsored captive insurance company insures the risks only of its participants through separate participant contracts and may fund its liability to each participant through one or more protected cells. A sponsored captive insurance company segregates the assets of each protected cell from the assets of other protected cells and from the assets of the sponsored captive insurance company’s general account.
	Branch captive	An outside captive licensed under this article by the commissioner to transact the business of insurance in this state through a business unit that has its principal place of business in this state.
	Risk retention group	A captive that is formed as a “risk retention group.”
	Protected cell	Separate account established by a sponsored captive in which assets are maintained for one or more participants in accordance with the terms of one or more participant contracts to fund the liability of the sponsored captive insurance company assumed on behalf of the participants as set forth in the participant contracts.
	Outside captive	An insurance company licensed under the laws of a jurisdiction other than this State and not otherwise admitted to do business as an insurance company in this state that insures the risks of its parent or any affiliated companies.
431:19-101.2	Confidentiality	Information submitted shall be treated as confidential and not disclosed to the public. Commissioner shall give captive insurer three days’ notice before

Citation	Type of Captive	Summary
		disclosing any information commissioner deems necessary to make public. Commissioner may disclose information to court official, regulatory agencies and/or insurance departments without giving such notice.
Idaho (07/12)		
§41-227, 41-249,	Confidentiality	All information obtained by or disclosed to the director during the course of an examination shall not be made public. The director may provide any information to any federal, state, or foreign regulatory or law enforcement agency, or to the NAIC, as long as such entity maintains confidentiality.
Illinois (07/12)		
215 ILCS 5/123C-1	Pure captive	Any company that insures only risks of its parent or affiliated companies or both.
	Association captive	Any company that insures risks of (i) the member organizations of an association; and (ii) their affiliated companies.
	Industrial captive	Any company that insures risks of industrial insureds that are members of the industrial insured group, and their affiliated companies.
215 ILCS 5/132.5; 5/123C-10	Confidentiality	All information obtained by or disclosed to commissioner in the course of an examination must be given confidential treatment and shall not be made available to the public. Access may be made available for the insurance department of any other state or country, law enforcement officials, agencies and NAIC as long as these individuals agree to maintain confidentiality. Applies to captive insurers pers 5/123C-10.
Indiana (07/12)		
27-1-3.1-14	Confidentiality	Content of an examination report shall be held confidential for a period of 30 days and thereafter the report will be made public. Information obtained during the course of the examination shall be confidential. The commissioner may share this information with the NAIC, the insurance department of any other state or country, or law enforcement officials of any state or the federal government as long as the agency receiving the information agrees to keep it confidential.
Iowa		
508.33A	Limited purpose subsidiary	A person as defined in §521A.1 who directly or indirectly through one or more intermediaries wholly owns the organizing life insurance company.
507.14	Confidentiality	All information obtained by or disclosed to the commissioner in the course of examination shall be privileged and confidential. This information can be disclosed to regulatory officials, federal agencies, other countries, and the NAIC provided these individuals maintain confidentiality of information.
Kansas (07/12)		
40-4301	Pure captive	Any company that insures risks of its parent and affiliated companies.
	Aircraft captive	Any pure captive insurance company which is formed under the provisions of this act by a corporation or an affiliated company of a corporation engaged in the manufacture of aircraft and having its principal place of business within the state of Kansas and that insures only risks in the same corporate system.
	Industrial captive	Any company that insures risks of the industrial insureds that comprise the industrial insured group, and their affiliated companies.
40-3308	Confidentiality	All information obtained by or disclosed to the commissioner in the course of examination or investigation shall be given confidential treatment and not made public. Commissioner may disclose to public officials, after giving insurer notice, if such disclosure is deemed appropriate.
Kentucky (07/12)		
304.49-010	Pure captive	Any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.
	Agency captive	A captive insurer that is owned by one or more business entities that are licensed insurance producers and that only insure risks on policies placed through their owners.
	Branch captive	Any foreign captive insurer issued a certificate of authority by the commissioner

Citation	Type of Captive	Summary
		to transact the business of insurance in Kentucky through a business unit with a principal place of business in Kentucky.
	Foreign captive	Any insurer formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of any state other than Kentucky which imposes statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in that jurisdiction.
	Industrial captive	Any company that insures risks of the industrial insureds that comprise the industrial insured group, and their affiliated companies.
	Special purpose captive	Any person that is licensed and designated as a special purpose captive insurer by the commissioner. A person may be designated if it is established for one specific purpose or transaction, and where it is desirable to isolate the purpose or transaction from the other activities of a party or parties involved in the transaction, or where the transaction dictates that the vehicle should not be treated as controlled or owned by any other party to that transaction.
	Sponsored captive	Any captive insurer in which the minimum capital and surplus is provided by one or more sponsors, is issued a certificate of authority, insures the risks of separate participants through contract, and segregates each participant's liability through one or more protected cell.
304.49-020	Confidentiality	Information submitted shall be given confidential treatment and shall not be made public or disclosed to another except when it is disclosed to a state's insurance department, or to a law enforcement agent who shall maintain its confidentiality.
Louisiana (07/12)		
22:550.2	Pure captive	A captive insurer that insures only the risks of its parent and affiliated companies.
	Association captive	Any company that insures only the risks of the member organizations of the association, affiliated companies of the member organizations, and the risks of the association itself.
22:550.7	Confidentiality	Information submitted shall be treated as confidential and may not be made public without written consent of insurer unless such information is discoverable or is disclosed to a public official who shall maintain its confidentiality.
Maine (07/12)		
Tit. 24-A §6701	Pure captive	Any company that insures risks of its parent and affiliated companies or controlled unaffiliated businesses but does not include those insurers that otherwise qualify for and elect to hold a certificate of authority as an insurer under §414.
	Association captive	Any company that insures risks of the member organizations of the association and their affiliated companies.
	Industrial captive	Any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.
24-A §6715	Confidentiality	Information submitted is confidential and shall not be made public unless information is disclosed to a public official who shall maintain its confidentiality.
Maryland (07/12)		
Ins. §2-209	Confidentiality	Information obtained or generated in the course of an examination is confidential and privileged. Information may be disclosed to state, federal, or international regulatory and law enforcement agencies and the NAIC provided these entities agree to maintain confidentiality of information.
Massachusetts (07/12)		
Ch. 175 §4	Confidentiality	Information pertaining to any examination or inspection shall be confidential and not open to the public. Access to confidential information may be granted to the NAIC, the insurance department of any state, or to law enforcement officials of this or any other state or agency of the federal government, so long as the agency receiving the information agrees to hold such information confidential.
Michigan (07/12)		

Citation	Type of Captive	Summary
§500.4601	Pure captive	A company that insures risks of its parent, affiliated companies, controlled unaffiliated business, or a combination of its parent, affiliated companies, and controlled unaffiliated business.
	Association captive	A company that insures risks of the member organizations of the association and their affiliated companies.
	Alien captive	An insurer formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of a country other than the United States or any state, district, commonwealth, territory or possession of the United States.
	Branch captive	An alien captive insurance company authorized by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.
	Industrial captive	A company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.
	Protected cell	A segregated account established and maintained by a sponsored captive insurance company for one participant.
	Special purpose captive	A captive insurance company that is authorized under this chapter that does not meet the definition of any other type of captive insurance company defined in this section.
	Sponsored captive	A captive insurance company in which the minimum capital and retained earnings required by applicable law is provided by one or more sponsors, is authorized under this chapter, insures the risks of separate participants through the participant contract, and segregates each participant's liability through one or more protected cells.
§500.4609	Confidentiality	Information submitted is confidential and shall not be made public without written consent from company or unless the information is disclosed to the governor or attorney general, any relevant regulatory agency, law enforcement officials, or persons authorized by courts to receive such information.
Minnesota (07/12)		
§60A.031	Confidentiality	All information obtained by or disclosed to the commissioner in the course of an examination must be given confidential treatment and not be made public. Access may be granted to the insurance department of any state, law enforcement officials of this or any state or agency of the federal government, the NAIC, FINRA, any national securities association, so long as the receiving agency agrees to keep the information confidential.
Mississippi (07/12)		
§83-6-29	Confidentiality	Any information obtained by or disclosed to the commissioner in the course of an examination or investigation may be designated as confidential. Any information designated confidential shall not be made public, except that it may be disclosed to other insurance departments.
Missouri (07/12)		
§379.1300	Pure captive	Any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.
	Alien captive	Any insurance company formed to write insurance business for its parents and affiliates and licensed under the laws of an alien jurisdiction that imposes statutory or regulatory standards in a form acceptable to the director on companies transacting the business of insurance in such jurisdiction.
	Association captive	Any company that insures risks of the member organizations of the association and their affiliated companies; except that, association captive insurance company shall not include, without limitation, any reciprocal insurer that has not chosen to apply for and is not licensed as a captive insurance company under §379.1302..
	Branch captive	Any alien captive insurance company licensed by the director to transact the business of insurance in this state through a business unit with a principal place of business in this state.
	Industrial captive	Any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

Citation	Type of Captive	Summary
	Special Purpose Life Insurance Captive	A captive insurance company that has received a license from the director for the limited purposes provided for in sections 379.1353 to 379.1421.
§379.1302	Confidentiality	Information submitted is confidential and shall not be made public without written consent of company, or unless information is discoverable, or is disclosed to a public officer who shall maintain its confidentiality.
Montana (07/12)		
33-28-101	Pure captive	Any company that insures risks of its parent and affiliated companies and controlled unaffiliated business entities.
	Association captive	Any company that insures risks of the members and the affiliated companies of members.
	Branch captive	Any foreign captive insurance company licensed by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.
	Foreign captive	Any captive insurance company formed under the laws of any jurisdiction other than this state.
	Incorporated cell captive	A protected cell captive insurance company that is established as a corporate or other legal entity separate from its incorporated cell that is organized as a separate legal entity.
	Protective cell captive	Any captive insurance company: (a) in which the minimum capital and surplus required by applicable law are provided by one or more sponsors; (b) that is formed or licensed under the provisions of this chapter; (c) that insures the risks of separate participants through participant contracts; and (d) that funds its liability to each participant through one or more protected cells and segregates the assets of each protected cell from the assets of other protected cells and from the assets of the protected cell captive insurance company's general account.
	Risk retention group	A captive insurance risk retention group formed under the laws of this chapter and pursuant to Title 33, chapter 11.
	Special purpose captive	A captive insurance company that is formed or licensed under this chapter that does not meet the definition of any other type of captive insurance company defined in this section.
33-28-102; 33-28-108	Confidentiality provisions	Information submitted or obtained during an examination shall be and remain confidential, and may not be made public by the commissioner without the written consent of the company, except that such information may be discoverable by a party in a civil action or contested case to which the captive insurance company is a party, provided that the information sought is necessary for the furtherance of such action or case, is unavailable elsewhere, and has been subpoenaed. The commissioner may disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that such public official shall agree in writing to maintain the information's confidentiality and the laws of the state in which such public official serves require such information to remain confidential.
Nebraska (07/12)		
§44-5906	Confidentiality	All information obtained by or disclosed to the director in the course of an examination shall be confidential and may not be made public. The director may disclose the information to the NAIC, and to state, federal, or foreign regulatory or law enforcement agencies, as long as recipient agrees to maintain confidentiality.
Nevada (07/12)		
§694C.120	Pure captive	A captive insurer that only insures risks of its parent and affiliated companies or controlled unaffiliated businesses and, unless otherwise provided by the commissioner, includes a branch captive insurer.
§694C.050	Association captive	A captive insurer that only insures risks of the member organizations of an association and the affiliated companies of those members, if: 1. The association or the member organizations of the association: (a) Own, control or hold with the power to vote all the outstanding voting

Citation	Type of Captive	Summary
		<p>securities of the association captive insurer, if the association captive insurer is incorporated as a stock insurer; or</p> <p>(b) Have complete voting control over the captive insurer, if the captive insurer is formed as a mutual insurer; and</p> <p>2. The member organizations of the association collectively constitute all the subscribers of the captive insurer, if the captive insurer is formed as a reciprocal insurer.</p>
§694C.035	Alien captive insurer	Any insurer that is formed to write insurance business for its parents and affiliates and is licensed pursuant to the laws of an alien jurisdiction which imposes statutory or regulatory standards acceptable to the commissioner on companies transacting the business of insurance in such jurisdiction.
694C.030	Agency captive	A captive insurer that is owned or directly or indirectly controlled by an insurance agency or brokerage and that only insures risks of policies which are placed by or through the agency or brokerage.
§ 694C.055	Branch captive insurer	An alien captive insurer licensed pursuant to this chapter to transact the business of insurance through a business unit with a principal place of business in this state.
§694C.117	Protected cell	A separate account established by a sponsored captive insurer in which assets are maintained for one or more participants in accordance with the terms of one or more participant contracts that fund the liability of the sponsored captive insurer assumed on behalf of the participants as set forth in the participant contracts.
§694C.140	Rental captive	A captive insurer formed to enter into contractual agreements with policyholders or associations to offer some or all of the benefits of a program of captive insurance and that only insures risks of such policyholders or associations.
§694C.147	Sponsored captive insurer	Any captive insurer In which the minimum capital and surplus required by applicable law is provided by one or more sponsors; That is formed or licensed pursuant to this chapter; That only insures the risks of its participants through separate participant contracts; and That funds the liability for each participant through one or more protected cells where the assets of each protected cell are segregated from the assets of other protected cells and the assets of the general account of the sponsored captive insurer.
§694C.410	Confidentiality	The provisions of NRS 679B.230 to 679B.287, inclusive, apply to examinations conducted on captive insurers.
§679B.285 (West)	Examination confidentiality	All information obtained by or disclosed to the commissioner or any other person during an examination made under this chapter are confidential, are not subject to subpoena, and may not be made public by the commissioner or any other person, except as necessary. A person to whom information is given must agree in writing before receiving the information to provide to it the same confidential treatment, unless the prior written consent of the insurer to which it pertains has been obtained.
New Hampshire (07/12)		
§400-A:37	Confidentiality	All information obtained by or disclosed to the commissioner in the course of an examination or investigation shall be treated as confidential and shall not be made public. The commissioner may disclose information to the insurance department of this or any other state, to law enforcement official of this or any other state agency of the federal government, or to the NAIC so long as the office receiving the report agrees to hold it confidential.
New Jersey (07/12)		
17:47B-1	Pure captive	A company that insures risks of its parent and affiliated companies or controlled unaffiliated businesses.
	Association captive	A company that insures risks of the member organizations of the association and their affiliated companies.
	Alien captive insurance	Insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of a jurisdiction other than this state

Citation	Type of Captive	Summary
	company	which imposes statutory or regulatory standards in a form acceptable to the commissioner on companies transacting the business of insurance in that jurisdiction.
	Industrial insured captive	A company that insures risks of the industrial insureds that comprise the industrial insured group, and their affiliated companies.
	Branch captive	An alien captive insurance company licensed by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.
	Protected cell	A separate account established and maintained by a sponsored captive insurance company for one participant.
17:47B-2; 17:47B-6; 17:47B-7	Confidentiality	<p>Information submitted regarding the formation or redomestication of a captive insurance company and any annual financial report(s) of the captive insurance company submitted to the commissioner, including any additional information required by the commissioner, shall be and remain confidential and shall not be made public by the commissioner without the consent of the company, except that such information may be discoverable by a party in a civil action or contested case to which the captive insurance company is a party, provided the information sought is necessary for the furtherance of such action or case, is unavailable elsewhere, and has been subpoenaed. The commissioner may disclose such information to another state's insurance regulator if the regulator agrees in writing to maintain the confidentiality of the information and the laws of the states require the information to remain confidential.</p> <p>Information obtained or submitted during an examination of the captive insurance company by the New Jersey Department of Banking and Insurance is confidential and not subject to subpoena and shall not be made public by the commissioner without the written consent of the company, except the commissioner may grant access to the information to insurance regulators from other states or countries or to law enforcement officers of this State, any other state or agency of the federal government, so long as the officers receiving the information agree in writing to hold it confidential.</p>
New Mexico (07/12)		
§§59A-4-11, 59A-4-7, 59A-4-13	Confidentiality	All information obtained by or disclosed to the superintendent in the course of an examination shall remain confidential and not be made public. Access to information may be granted to NAIC on the condition that information remains confidential. Superintendent may disclose information to further any legal or regulatory action as the superintendent deems appropriate. Superintendent may disclose confidential information to this or any state's insurance department, law enforcement officials or regulatory agencies of this or any state, or federal government, so long as the agency maintains confidentiality.
New York (07/12)		
Ins. Law §7002	Pure captive	Any company that: (1) is a subsidiary of an industrial insured which is one hundred percent owned by or is a statutory subsidiary of the industrial insured; and (2) is licensed under the provisions of this article for the primary purpose of providing insurance or reinsurance covering the risks of its parent and affiliated companies.
	Group captive	Any domestic insurance company licensed under the provisions of this article for the primary purpose of providing insurance or reinsurance covering the risks of the industrial insureds that comprise the industrial insured group.
Ins. Law §7003	Confidentiality	Any material filed with the superintendent in the course of applying for a license to do business as a captive insurer shall be given confidential treatment and shall not be subject to public inspection, or to discovery, except to the extent the superintendent finds release of information necessary to protect the public or necessary to initiate any proceeding or action or except where a court of competent jurisdiction in an action involving a private litigant and a captive

Citation	Type of Captive	Summary
		insurer finds that discovery of same should be allowed upon a showing that such information is essential to the establishment of the claim or defense brought or asserted and the party seeking discovery has demonstrated to the satisfaction of the court that such party is unable to otherwise obtain the substantial equivalent of the material.
North Carolina (07/12)		
§58-2-132	Confidentiality	All information obtained by or disclosed to the commissioner in the course of an examination shall be given confidential treatment and not be made public. The commissioner may share information with other state, federal, or international regulatory agencies; state, federal, or international law enforcement agencies; and the NAIC as long as the receiving agency agrees to maintain confidentiality.
North Dakota (07/12)		
§26.1-03-19.2	Authority to examine	The commissioner or any of the commissioner’s examiners may conduct an examination of any company whenever the commissioner in the commissioner’s sole discretion deems appropriate but shall at a minimum, conduct an examination of every insurer licensed in this state not less frequently than once every five years.
§26.1-03-19.4 (West)	Confidentiality	All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of a financial examination made under this chapter must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person.
Ohio (07/12)		
Ohio Rev. Code Ann. §3901.48 (West)	Confidentiality	The work papers of the superintendent or of the person appointed by the superintendent, resulting from the conduct of an examination made pursuant to §3901.07 of the Revised Code or from the conduct of a financial analysis of any entity subject to examination by the superintendent, including but not limited to any insurance company, health insuring corporation, fraternal benefit society, or multiple employer welfare arrangement, are confidential and privileged and are not a public record as defined in §149.43 of the Revised Code. The original work papers and any copies of them are not subject to subpoena and shall not be made public.
§3901.07	Authority to examine	“Insurer” means any person doing or authorized to do any insurance business in this state. Before issuing any license to do the business of insurance in this state, the superintendent of insurance, or a person appointed by him, may examine the financial affairs of any insurer or as often as he considers it desirable, the financial affairs of the insurer or to the examination.
Oklahoma (07/12)		
36 §6470.2	Pure captive	A company that insures risks of its parent, affiliated companies, controlled unaffiliated business, or a combination thereof.
	Association captive	A company that insures risks of the member organizations of the association and their affiliated companies.
	Alien captive insurance company	An insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction that imposes statutory or regulatory standards in a form acceptable to the insurance commissioner on companies transacting the business of insurance in such jurisdiction.
	Branch captive	An alien captive insurance company licensed by the insurance commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.
	Captive reinsurance company	A reinsurance company that is formed or licensed pursuant to the Oklahoma Captive Insurance Company Act and is wholly owned by a qualifying reinsurance parent company. A captive reinsurance company is a stock corporation.
	Industrial insured captive	A company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

Citation	Type of Captive	Summary
	Protected cell	A separate account established and maintained by a sponsored captive insurance company for one participant.
	Special purpose captive	A captive insurance company that is formed or licensed under the Oklahoma Insurance Code that does not meet the definition of any other type of captive insurance company defined in this section.
	Sponsored captive	Means a captive insurance company in which the minimum capital and surplus required by applicable law is provided by one or more sponsors, that is formed or licensed under the Oklahoma Captive Insurance Company Act, that insures the risks of separate participants through the contract, and that segregates the liability of each participant through one or more protected cells.
36, §§6470.3; 6470.13;	Confidentiality	Information submitted or obtained during an examination shall be and remain confidential, and may not be made public by the commissioner without the written consent of the company, except that such information may be discoverable by a party in a civil action or contested case to which the captive insurance company is a party, provided that the information sought is necessary for the furtherance of such action or case, is unavailable elsewhere, and has been subpoenaed. The commissioner may disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that such public official shall agree in writing to maintain the information's confidentiality and the laws of the state in which such public official serves require such information to remain confidential.
Oregon (07/12)		
Uncodified SB 1547 §2 (2012)	Branch captive	An alien captive insurer that holds a certificate of authority from the director of the Department of Consumer and Business Services to transact insurance in this state through a business division with a principal place of business in this state.
	Association captive	A business entity that insures the risks of a member organization of the association, an affiliate of a member organization of the association, or the association.
	Captive reinsurer	A reinsurer that is formed or holds a certificate of authority under §2-22 of this 2012 Act, wholly owned by a qualifying reinsurer parent company; and a stock corporation.
	Pure captive	A business entity that insures risks of a parent or affiliate of the business.
Uncodified SB 1547 §5 (2012)	Confidential documents	All documents, materials and other information in the possession of the Department of Consumer and Business Services under §2-22 of this 2012 Act are confidential and subject to public disclosure only as provided in ORS 705.137.
Pennsylvania (07/12)		
40 Pa. Stat. Ann. §323.3	Authority to examine	The department or any of its examiners shall examine any company once every five years. The department may examine or investigate any person or the business of any person insofar as such examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company.
40 Pa. Stat. Ann. §323.5 (West)	Confidentiality	The department shall hold the content of the examination report as private and confidential information for a period of 30 days except to the extent provided in subsection (b). Thereafter, the department may open the report for public inspection. All information produced by, obtained by or disclosed to the department or any other person in the course of an examination made under this article shall be given confidential treatment and are not subject to subpoena and may not be made public by the department or any other person except to the extent provided in subsection.
Puerto Rico (02/13)		
Title 26 § 4302	International insurer	An insurer (a) organized under Ch. 43, or the laws of another jurisdiction and operates a branch in PR, (b) holds Class 1, 2, 3, 4 or 5 Authority, and (c) does not provide direct insurance on risks located or to be executed in PR unless authorized to transact surplus lines insurance, provided that these provisions do limit the authority to assume reinsurance on risks located or to be executed in

Citation	Type of Captive	Summary
		PR.
	Class 1 Authority	Authority of the international insurer to transact insurance or reinsurance of all types, except disability insurance, life insurance, high limit accident insurance and property catastrophe insurance, with respect to the sole owner of the international insurer, any affiliated owner or other affiliate of the international insurer.
	Class 2 Authority	Authority of the international insurer to transact all types of insurance or reinsurance, except disability insurance, life insurance, high limit accident insurance and property catastrophe reinsurance, with respect to the risks of the owners (affiliated or not) of the international insurer or any of their respective affiliates, risks arising from the businesses or commercial operations of such owners or affiliates, or any other risk not exceeding 20% of the net written premiums of the international insurer.
Title 26 § 4325	Confidentiality	The information submitted to the commissioner according to this chapter and related regulations shall be maintained as confidential, except when disclosure is required by law or court order, or by formal request from a domestic or foreign government agency when the commissioner has grounds to believe it is in the public interest. The information shall be provided under a binding confidentiality agreement, but client information shall not be provided. The commissioner may, at his/her discretion, disclose information in all cases where it is made for the purposes of assisting the commissioner in the exercise of regulatory duties.
Rhode Island (07/12)		
27-43-1	Association captive	Any company that insures risks of the member organizations of the association, and their affiliated companies.
	Industrial insured captive	Any company that insures risks of the industrial insured that comprise the industrial insured group, and their affiliated companies.
27-43-3	Confidentiality	Information submitted shall be and remain confidential, and may not be made public by the commissioner without the written consent of the company, except that such information may be discoverable by a party in a civil action or contested case to which the captive insurance company is a party, provided that the information sought is necessary for the furtherance of such action or case, is unavailable elsewhere, and has been subpoenaed. The commissioner may disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that such public official shall agree in writing to maintain the information's confidentiality and the laws of the state in which such public official serves require to remain confidential.
South Carolina (07/12)		
38-90-10	Pure captive	A company that insures risks of its parent, affiliated companies, controlled unaffiliated business, or a combination thereof.
	Association captive	A company that insures risks of the member organizations of the association and their affiliated companies.
	Special purpose captive	A captive insurance company that is formed or licensed under this chapter that does not meet the definition of any other type of captive insurance company defined in this section.
	Protected cell	Separate account established and maintained by a sponsored captive insurance company for one participant.
	Branch captive	Alien captive insurance company licensed by the director to transact the business of insurance in this state through a business unit with a principal place of business in this state.
	Captive reinsurance company	Reinsurance company that is formed or licensed pursuant to this chapter and is wholly owned by a qualifying reinsurance parent company. A captive reinsurance company is a stock corporation.
	Industrial insured captive	Company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.
38-90-420	Special Purpose	"SPFC" or "Special Purpose Financial Captive" means a captive insurance

Citation	Type of Captive	Summary
	Financial Captive	company which has received a certificate of authority from the director for the limited purposes provided for in this article.
38-90-25	Confidentiality for captive reinsurers	Information submitted pursuant to this section is confidential, except that information is discoverable by a party in a civil action or contested case to which the captive is a necessary party to the action and not joined only for the purposes of evading the confidentiality provisions of this chapter and the information sought is relevant, material to, and necessary for the prosecution or defense of the claim asserted in litigation and the information sought is not available through another source.
38-90-35; 38-90-80; 38-90-70; 38-90-20, 38-90-560, 38-90-610	Confidentiality	Information submitted or obtained during an examination pursuant to this section is confidential, except that information is discoverable by a party in a civil action or contested case to which the captive is a necessary party to the action and not joined only for the purposes of evading the confidentiality provisions of this chapter and the information sought is relevant, material to, and necessary for the prosecution or defense of the claim asserted in litigation and the information sought is not available through another source. This does not apply to final reports produced by the director examining a captive insurance company formed as a risk retention group. The director or his designee may use and, if appropriate, make public a preliminary examination report, examiner or insurer work papers or other documents, or other information discovered or developed during the course of an examination in the furtherance of a legal or regulatory action.
South Dakota (07/12)		
58-46-1	Pure captive	Any company that insures risks of its parent and affiliated companies or a controlled unaffiliated business.
	Group captive	Any company that insures the risks of the member organizations of the group, the risks of the affiliated companies of the member organizations, or the risks of the association.
58-3-1.1; 58-3-14; 58-3-21.	Confidentiality	The director shall hold the content of the examination report as confidential information for 30 days. The director may disclose the contents of an examination report, preliminary examination report or results, or any matter or documentation relating thereto, to the insurance department of this or any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, if the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter. Any examination report, preliminary examiners report or results or any material or documentation relating thereto received by the director from another jurisdiction is confidential unless otherwise indicated by that jurisdiction.
§58-46-6	Applicability to Captives	The provisions of chapter 58-3 apply to examinations, investigations, and processing conducted on a captive insurer.
Tennessee (07/12)		
56-13-102	Pure captive	Any company that insures risks of its parent and affiliated companies or a controlled unaffiliated business or businesses.
	Association captive	Any company that insures risks of the member organizations of an association, and that also may insure the risks of affiliated companies of the member organizations and the risks of the association itself.
	Incorporated cell captive insurance company	Protected cell captive insurance company that is established as a corporation or other legal entity separate from its incorporated cells that are also organized as separate legal entities.
	Incorporated cell	Protected cell of an incorporated cell captive insurance company that is organized as a corporation or other legal entity separate from the incorporated cell captive insurance company.
	Industrial insured captive	Any company that insures risks of the industrial insureds that comprise the industrial insured group, and that may insure the risks of the affiliated

Citation	Type of Captive	Summary
	insurance company	companies of the industrial insureds and the risks of the controlled unaffiliated business of an industrial insured or its affiliated companies.
	Risk retention group	A captive insurance company organized under the laws of this state pursuant to the federal Liability Risk Retention Act of 1986, as amended, compiled in 15 U.S.C. §3901 et seq., as a stock or mutual corporation, a reciprocal or other limited liability entity. Risk retention groups formed under this chapter are subject to all applicable insurance laws including, but not limited to any applicable provisions in chapters 1, 2, 5, 6, 11 and 45 of this title.
56-13-109; 56-13-103; 56-13-404	Confidentiality provision	Information submitted or obtained during an examination shall be and remain confidential, and may not be made public by the commissioner without the written consent of the company, except that such information may be discoverable by a party in a civil action or contested case to which the captive insurance company is a party, provided that the information sought is necessary for the furtherance of such action or case, is unavailable elsewhere, and has been subpoenaed. The commissioner may disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that such public official shall agree in writing to maintain the information's confidentiality and the laws of the state in which such public official serves require such information to remain confidential.
Texas (07/12)		
Tex. Ins. Code Ann. §401.051 (West)	Authority to examine insurers	The department or an examiner appointed by the department may visit the carrier at the carrier's office for the purpose of investigating the carrier's affairs and condition. The department or an examiner appointed by the department shall examine the carrier's financial condition and ability to meet the carrier's liabilities and compliance with the laws of this state.
Tex. Ins. Code Ann. §401.058	Confidentiality	A final or preliminary examination report and any information obtained during an examination are confidential and are not subject to disclosure under Chapter 552, Government Code.
Tex. Ins. Code Ann. Ch. 823 Subchapter H	Authority to Examine Insurers or Affiliates	The commissioner may order an insurer that is a member of an insurance holding company system required to be registered in Texas registered to produce information in its possession, or in the possession of an affiliate, necessary to determine the financial condition of the insurer.
Tex. Ins. Code Ann. § 823.011	Confidentiality	Information obtained under Ch. 823, Subchapter H is confidential and privileged.
Tex. Ins. Code Ann. Ch. 841, Subchapter I	Limited Purpose Subsidiary Life Insurance Companies	A life insurance company licensed in Texas may organize a limited purpose subsidiary life insurance company; the LPSLIC requires a certificate of authority. The only business which the LPSLIC may engage in is reinsuring the risks of the organizing entity, which must also be its affiliate. Applies only for business sold until January 1 of the year in which principle-based reserve requirements become operative in Texas through a statutory change.
Utah (07/12)		
31A-37-102	Pure captive	A business entity that insures risks of a parent or affiliate of the business entity.
	Association captive	A business entity that insures risks of: (a) a member organization of the association; (b) an affiliate of a member organization of the association; and (c) the association.
	Branch captive insurance company	Alien captive insurance company that has a certificate of authority from the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.
	Captive reinsurance company	Reinsurer that is formed or has a certificate of authority pursuant to this chapter; wholly owned by a qualifying reinsurer parent company; and a stock corporation.
	Industrial insured captive insurance company	A business entity that insures risks of the industrial insureds that comprise the industrial insured group; and may insure the risks of: an affiliated company of an industrial insured; or a controlled unaffiliated business of: an industrial insured; or an affiliated company of an industrial insured.

Citation	Type of Captive	Summary
	Protected cell	A separate account established and maintained by a sponsored captive insurance company for one participant.
§31A-37a-102	Special purpose financial captive insurance company	A captive insurance company has a certificate of authority under this chapter from the commissioner to operate as a special purpose financial captive insurance company pursuant to this chapter.
31A-37-202	Captive insurer applicants	Information submitted to the commissioner is classified. The commissioner may disclose information submitted to a public official having jurisdiction over the regulation of insurance in another state If the public official agrees in writing to maintain the confidentiality of the information the laws of the state in which the public official serves require the information to be confidential. This does not apply to information provided by an industrial insured captive insurance company insuring the risks of an industrial insured group.
31A-37-602	Confidentiality	Information submitted shall be and remain confidential, and may not be made public by the commissioner without the written consent of the company, except that such information may be discoverable by a party in a civil action or contested case to which the captive insurance company is a party, provided that the information sought is necessary for the furtherance of such action or case, is unavailable elsewhere, and has been subpoenaed. The commissioner may disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that such public official shall agree in writing to maintain the information's confidentiality and the laws of the state require such information to remain confidential.
Vermont (07/12)		
8 §6001	Pure captive	Any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.
	Association captive	Any company that insures risks of the member organizations of the association, and that also may insure the risks of affiliated companies of the member organizations and the risks of the association itself.
8 §6048c	Special purpose financial captive	A captive insurance company that has received a license from the commissioner to operate as a special purpose financial captive insurance company pursuant to this subchapter.
8, §6002	Confidentiality	Information submitted shall be and remain confidential, and may not be made public by the commissioner without the written consent of the company, except that such information may be discoverable by a party in a civil action or contested case to which the captive insurance company is a party, provided that the information sought is necessary for the furtherance of such action or case, is unavailable elsewhere, and has been subpoenaed. The commissioner may disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that such public official shall agree in writing to maintain the information's confidentiality and the laws of the state in which such public official serves require such information to remain confidential.
Virgin Islands (07/12)		
§1314 Definitions, 22 V.I.C. §1314	Alien captive insurance company	An insurance company formed to write insurance business for its parents and affiliates and licensed pursuant to the laws of an alien jurisdiction, a non-United States domicile, which imposes statutory or regulatory standards in a form acceptable to the SAM (superintendent of alternative markets) on companies transacting the business of insurance in such jurisdiction.
	Branch captive insurance company	An alien captive insurance company licensed by the SAM to transact the business of insurance in this territory through a business unit with a principal place of business in this territory.
	Protected cell	A separate account established and maintained by a protected cell insurance company for one or more participant.
	Protected cell	A company that has been approved by the SAM to maintain segregated accounts

Citation	Type of Captive	Summary
	insurance company	and to segregate each participant's assets, liabilities, and activities from each other and whose owner meets appropriate capital and surplus(C & S) requires appropriate C & S and reinsurance from each participants [sic].
	Special purpose financial captive co.	A captive insurance company that is formed or licensed under this chapter which does not meet the definition of any other type of captive insurance company defined in this chapter.
22 V.I.C. §1333	Confidentiality	All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies of documents produced by, obtained by, or disclosed to the SAM or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and may not be made public by the SAM or an employee or agent of the SAM without the prior written consent of the company, except to the extent provided in this subsection.
Virginia (07/12)		
38.2-1101	Pure captive	Any domestic insurer transacting the business of insurance and reinsurance only on risks, hazards and liabilities of its parent, subsidiary companies of its parent, and associated and affiliated companies.
	Association captive	Any domestic insurer transacting the business of insurance and reinsurance only on risks, hazards, and liabilities of an insurance association.
§§38.2-1317.1	Confidentiality	All information produced by, obtained by, or disclosed to the commissioner or any other person in the course of an investigation shall be given confidential treatment, is not subject to subpoena, and may not be made public.
Code Ann. §38.2-1109	Applicability to captives	This title applies to insurers writing the same classes of insurance that captive insurers are permitted to write, shall apply in every respect to captive insurers.
Washington (07/12)		
§48.03.010	Examinations generally	The commissioner shall examine the affairs, transactions, accounts, records, documents and assets of each authorized insurer every five years.
§48.03.040	Confidentiality	The commissioner shall hold the content of the examination report as private and confidential for a period of five days. Thereafter, the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication. The commissioner may disclose an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.
West Virginia (07/12)		
33-31-1	Pure captive	Any company that insures risks of its parent and affiliated companies or controlled unaffiliated business.
	Association captive	Any company that insures risks of the member organizations of the association, and their affiliated companies.
	Branch captive insurance company	Any alien captive insurance company licensed by the commissioner to transact the business of insurance in this state through a business unit with a principal place of business in this state.
	Industrial insured captive	Any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.
	Risk retention group	A captive insurance company organized under the laws of this state pursuant to the federal Liability Risk Retention Act of 1986, 15 U.S.C. §3901, et seq., as amended, as a stock or mutual corporation, a reciprocal or other limited liability entity.
§§33-31-2; 33-31-8	Confidentiality	Information submitted or obtained during an examination shall be and remain confidential, and may not be made public by the commissioner without the written consent of the company, except that such information may be discoverable by a party in a civil action or contested case to which the captive insurance company is a party, provided that the information sought is necessary

Citation	Type of Captive	Summary
		for the furtherance of such action or case, is unavailable elsewhere, and has been subpoenaed. The commissioner may disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that such public official shall agree in writing to maintain the information's confidentiality and the laws of the state in which such public official serves require such information to remain confidential.
Wisconsin (07/12)		
Wis. Stat. Ann. §601.43 (West)	Examinations generally	Whenever the commissioner deems it necessary to inform himself or herself about any matter, the commissioner may examine the affairs and condition of any licensee or permittee or applicant for a license or permit, of any person or organization of persons doing or in process of organizing to do an insurance business in this state, and of any advisory organization in this state.
601.465; Wis. Admin. Code Ins §50.50	Confidentiality	The office may refuse to disclose and may prevent any other person from disclosing testimony, reports, records and information that are obtained, produced or created in the course of an inquiry under an investigation or examination of an insurer.
Wyoming (07/12)		
Wyo. Stat. Ann. §26-2-116 (West)	Examinations generally	The commissioner or any of his examiners may examine any insurer as often as he, in his sole discretion, deems advisable. He shall examine each insurer licensed in this state not less frequently than every five years.
Wyo. Stat. Ann. §26-2-121 (West)	Confidentiality	All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under W.S. §26-2-116 through §26-2-124 shall be given confidential treatment and are not subject to subpoena and shall not be made public by the commissioner or any other person.
Blue Cells	Indicate that the state has an explicit confidentiality provision within the captives provisions	
Yellow Cells	Indicate that the state does not mention confidentiality within the captives provisions, but states elsewhere that the general confidentiality provision within the Insurance code applies to captives	
Green Cells	Indicate that the state does not mention captives or what provisions apply directly to captives, but has a general confidentiality provision that applies to any insurer	

XIII. APPENDIX B – LISTING OF CERTAIN EXISTING DISCLOSURE REQUIREMENTS ON INSURERS

Current Disclosures and Requirements

Current U.S. laws and regulations provide for on-going monitoring of the ceding insurer, the captive, and the holding company. The ceding insurer makes a holding company act filing with its domestic state disclosing relevant information about material transactions with affiliates. Other current, robust disclosures that allow regulatory monitoring include:

Notes to Financial Statement – Note 10 requires disclosures of ‘all material related party transactions,’ including transactions with captive insurance companies. Note 10 paragraph E. requires disclosures of any guarantees or undertakings, including the nature of the relationship to the beneficiary of the guarantee or undertaking. Note 23, Part A, requires relevant disclosures about the Ceded Reinsurance Report.

SSAP 25 – Accounting for and Disclosures about Transactions with Affiliates and Other Related Parties, which states that “related party transactions require specialized accounting rules and increased regulatory scrutiny. This statement establishes statutory accounting principles and disclosure requirements for related party transactions.” After the introductory language quoted above, the standard describes the required disclosures in detail including the nature of transactions, the relationship, and quantitative impacts of material transactions. The ~~disclosures from this statement do not apply to reinsurance transactions standard does not distinguish transactions with captive insurers from other related party transactions.~~

Schedule Y – This schedule is designed to identify all entities affiliated with the reporting insurer including the upstream direct and indirect parent, downstream subsidiary, insurance affiliate, non-insurance affiliate, and “other” with an explanation.

Schedule S – This schedule is designed to report the impact of reinsurance on the reporting insurer with the following parts (similar requirements exist for property casualty insurers within Schedule F):

Part 1, Section 1 – Reinsurance Assumed Life Insurance Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits

Part 1, Section 2 – Reinsurance Assumed Accident and Health Insurance

Part 2 – Reinsurance Recoverable on Paid and Unpaid Losses

Part 3, Section 1 – Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits

Part 3, Section 2 – Reinsurance Ceded Accident and Health Insurance

Part 4 – Reinsurance Ceded to Unauthorized Companies

Part 5 – Reinsurance Ceded to Certified Reinsurers

Part 6 – Five-Year Exhibit of Reinsurance Ceded Business

Part 7 – Restatement of Balance Sheet to Identify Net Credit for Ceded Reinsurance

Notable fields in the Schedule include reinsurers categorized by affiliates and non-affiliates, amounts in-force, and reserve credit taken.

Schedule BA – This schedule lists all other long term assets owned by the insurer. Depending on the organizational structure of the affiliate, the value of the ownership of such affiliate may appear here along with related transactions impacting the statement value.

Schedule D – This Schedule lists all securities owned by the insurer and certain related transactions impacting the statement value. The value of the ownership of any affiliate owned all or in-part by the insurer is recorded here along with amounts effecting changes in value between periods. The changes in value would include capital contributions.

Statutory M D&A – This is the management discussion and analysis which requires answers to pertinent questions on off balance sheet arrangements and capital resources.

Actuarial Memorandum—It is the Appointed Actuary’s professional responsibility to determine whether a company has adequate reserves. In performing his/her duties, the actuary needs to take into account any material reinsurance transaction(s), which would include captives. The Actuarial Memorandum should include documentation of how captive reinsurers were treated in the asset adequacy analysis.

Other reporting by publicly held insurers: Audited GAAP financial statements for holding company of ceding insurers and captive subsidiaries; footnotes contain additional disclosures.

Future Additional Disclosures and Requirements

The NAIC’s Solvency Modernization Initiative has produced additional disclosures. Significant disclosures will include:

Form F in the Model Holding Company Act – The revisions to the Model Insurance Holding Company System Regulatory Act require the ultimate controlling person to file an Enterprise Risk Report (Form F) identifying material risks within the holding company system. Form F will include the business plan of the insurance holding company system and summarized strategies for the next 12 months as well as information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon.

Supervisory Colleges in the Model Holding Company Act – Revisions to the Model Insurance Holding Company System Regulatory Act also authorize supervisory colleges, which will promote communication within a confidential setting among regulators and with an insurance group’s management.

Own Risk Solvency Assessment (ORSA) – The new ORSA requirement will also require material disclosures in the cedant’s ORSA Summary Report. Under the current ORSA Guidance Manual, Section 1 of the Summary Report will include a description of the insurer’s risk management framework, including specific key principles. Section 2 will report an insurer’s assessment of its risk exposure, including quantitative and/or qualitative assessments of risk exposure in both normal and stressed environments for each material risk category. In Section 3, the insurer will report on its group risk capital and prospective solvency assessments. Underlying this reporting is the expectation, set forth in the ORSA Guidance Manual, that insurers should have sound processes for assessing capital adequacy in relation to their risk profile and those processes should be integrated into the insurer’s management and decision-making culture. These processes may assess risk capital through multiple lenses, reflecting varying time horizons and valuation approaches.