



March 20, 2017

Christy Neighbors, Chair of the Group Solvency Issues (E) Working Group
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Kansas City, MO 64106-2197
Via e-mail: BJenson@naic.org

Comment Submission on the NAIC Enterprise Risk Report (Form F) Implementation Guide - February 23, 2017 Exposure

Dear Ms. Neighbors,

The North American CRO Council (“CRO Council” or “Council”) appreciates the opportunity to comment on the February 23, 2017 exposure of the NAIC Enterprise Risk Report (Form F) Implementation Guide (“Proposed Guide”). The CRO Council is a professional association of Chief Risk Officers (“CROs”) from leading insurers based in the United States, Canada, and Bermuda. Member CROs currently represent 30 of the largest Life, and Property and Casualty insurers in North America. As a body formed to promote sound practices in risk management, the CRO Council appreciates the opportunity to submit its comments and concerns regarding the Proposed Guide.

The CRO Council understands and supports state regulators’ desire for a continuing dialogue between insurers and their regulators regarding insurers’ key risks and their risk management programs. However, we disagree that the Form F is the best vehicle for that communication. While we recognize that Form F is required under the NAIC’s Insurance Holding Company System Regulatory Act (“Model 440”), the Council believes it would be remiss not to take this opportunity to share its view that an insurer’s Own Risk and Solvency Assessment (“ORSA”) summary report, provided for under the NAIC’s ORSA Model Act, has been appropriately designed to be and should remain the primary vehicle for communicating risks and facilitating dialogue.

The ORSA report, reflecting much development time and effort from regulators, industry and professional organizations, provides a complete assessment and reporting of enterprise risk management and solvency risks to the insurer that is tailored to the individual company and reported to regulators for their information and review. Form F reporting, on the other hand, is by law tied to a specific definition of “enterprise risk” and was designed for a more limited purpose – to provide a “window” on the contagion risks presented by affiliates of an insurer¹. Form F *is not* well-suited to be the vehicle by which companies communicate broadly with regulators on their enterprise risk management frameworks and their own assessments of key enterprise risks. ORSA *is* that vehicle, and the insurers represented on the CRO Council have invested substantial resources to see that ORSA reporting

¹ Model 440 Section 1.H defines “Enterprise Risk” as “any activity, circumstance, event or series of events ***involving one or more affiliates of an insurer*** that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer’s Risk-Based Capital to fall into company action level or would cause the insurer to be in hazardous financial condition.” (***Emphasis added.***)

successfully serves this role.

While the CRO Council strongly believes in effective Enterprise Risk Management practices and the regulator's role in providing oversight that insurers are carrying out appropriate ERM, an inherent risk is created when unclear and/or redundant reporting is mandated by regulators. First, insurers risk losing valuable resources that could be better employed in managing or mitigating these risks, but are instead diverted to preparing unnecessary or redundant regulator reports. Second, there is a risk of establishing a 'check-the-box' mentality at both the insurer and its regulator when unnecessary or redundant reporting is required. To that end, the highly interactive ORSA reporting process between the insurance enterprise and its regulator is the antithesis of a 'check-the-box' enterprise. As currently drafted, the Proposed Guide contains significant requirements that appear unclear and/or redundant, and could create or exacerbate the aforementioned risks.

Appropriateness and Legality of Proposed Guide

While the CRO Council appreciates the desire to maximize 'the usefulness of the Form F by effectively communicating its intent and related regulator expectations', we question whether the introduction of seemingly new/additional requirements via the Proposed Guide is an appropriate means for doing so. Our review of the Proposed Guide relative to Model 440 and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions ("Model 450") has identified several areas that seem to go well beyond the Model 440 requirement to report on 'information necessary and appropriate to identify enterprise risk'² and the previously cited definition of 'Enterprise Risk'. The Proposed Guide in fact acknowledges this expansion of Model 440 authority as such:

'information disclosed through the Form F filing should not be limited to existing risk exposures that meet a strict interpretation of the definition of enterprise risk. Instead, registrants should utilize measures related to the probability/likelihood of occurrence, magnitude of impact/materiality, speed of onset and controllability of potential risk exposures...'³

Examples of areas where the Council believes the Proposed Guide may have inappropriately gone beyond the authority of the Models and its requirements include but are not limited to:

- Describe the process utilized to identify information to be provided within the Form F submission, including definitions of time horizon and materiality utilized for scoping purposes;
- Instances in which risk tolerance/appetite was breached, and the causes for such breaches;
- Remediation plan or risk mitigation strategies for the potential risk or identified concerns;
- Restructuring of the group's organization (including entering into reinsurance pooling agreements);
- The expected time required to integrate new operations associated with significant acquisitions, or to adjust to the loss of a significant business line/entity;
- Business plans for key entities in addition to the consolidated holding company level (if not already provided)

² Model 440 Section 7.1E.2

³ Proposed Guide II.A

While we question the need for and/or overall appropriateness of the Proposed Guide, we would ask that, should it move forward, it be reviewed in light of Model 440 and Model 450 requirements. In addition, given the nature of the information being requested, we would also respectfully ask that the confidentiality protections be revisited to ensure that the same level of protection provided to ORSA submissions also extend to the Form F filing.

Redundancy and Inconsistency with ORSA Guidance

For the growing number of insurers filing the ORSA Report, the Form F Enterprise Risk Report is already a redundant regulatory requirement. The Proposed Guide's overbreadth exacerbates the redundancy and encourages these insurance groups to speculate on "areas that could produce enterprise risk ... that could adversely affect the insurance holding company."⁴ This speculative standard is likely to be inconsistent with the approach insurers take in their ORSA processes and reporting, as ORSA soundly calls for insurers to maintain, and report on, a risk management process that is appropriate to the nature, scale, and complexity of the insurer. As a result, insurers following the Proposed Guide may be reporting on two overlapping, but conflicting standards.

The NAIC's ORSA Model Act – i.e., the Risk Management and Own Risk and Solvency Assessment Model Act, adopted by the majority of states and expected to be adopted by all states by the end of 2017, is an existing regulatory tool that is better suited to enable regulators to have a transparent view into the risk management framework and risk management assessment of insurance groups. As currently drafted, the Proposed Guide contains numerous redundancies and inconsistencies with the current ORSA requirements. Appendix A is a CRO Council-developed table citing just some of these redundancies and inconsistencies. We encourage the NAIC to review these redundancies and inconsistencies understanding that a Form F and ORSA Comparison was completed by NAIC staff in 2016. Appendix B is a comparison of Form F and ORSA requirements developed by NAIC staff.

To highlight an example of unclear guidance, the Proposed Guide requires "Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year" (Table Item # 6, page 6). The Form F is required to be filed with the lead state commissioner of the insurance holding company system. In what circumstances would the lead state commissioner of the insurance holding company system not be a participant in a supervisory college? This requirement of Form F would most likely result in the filer providing information to the lead state commissioner that was originally generated by the lead state commissioner.

Given the significant and material redundancies and inconsistencies between the existing ORSA requirements and the Proposed Guide, the CRO Council would recommend that ORSA filers be exempt from filing Form F. Form F should not be required of any insurance group that already files an ORSA meeting the scope requirements of Form F. Recognizing that our recommendation may require a change to Models 440 and Model 450, we recommend for now that the Proposed Guide explicitly state that it does not apply to certain ORSA filers.

We do recognize that Form F does have a role to play where enterprise risk arising from the holding company system is not addressed in the ORSA report. This may occur in two circumstances: where the scope of the group included within the insurer's ORSA report does not include the entire holding company system; or where the insurer

⁴ Proposed Guide 11.A

is exempt from the ORSA requirement. The Proposed Guide should be re-crafted to address these circumstances in a manner that does not overstep the legal authority established under Models 440 and 450 and remedies the redundancies and inconsistencies described above.

Conclusions and Recommendations

The Council believes that the Proposed Guide goes well beyond the reporting of enterprise risk to regulators anticipated in Model 440 and Model 450. As written, the Proposed Guide is extremely broad, both duplicative of and inconsistent with many facets of existing ORSA requirements. It will put an unnecessary burden on insurance company resources. Those resources would be better employed managing and mitigating risks and fulfilling ORSA's promise as the primary vehicle for insurers to communicate risk to the regulator.

The existing ORSA reporting process, although still in its early years, was developed through collaboration with regulators and the regulated, and is emerging as a highly effective and efficient vehicle for regulators to gain a complete understanding of a company's risk management and mitigation processes. Any identification of current or future improvements to the regulators' oversight of the insurance holding companies' enterprise risk management can be incorporated in changes to ORSA guidance.

The Council also recommends that Form F be refocused for insurance holding company systems that do not file an ORSA or file an ORSA with a different scope than that required by Form F. The Council would be willing to help draft language to that effect in the immediate future. It was not possible to provide more specific language in this comment period, but the Council would be pleased to suggest language in the future.

The CRO Council appreciates the opportunity to provide our comments and concerns on the Proposed Guide. Given that enterprise risk management is our primary focus, the Council would also like to engage with the NAIC during in-person meetings where a more in-depth discussion of risk management practices at insurance groups and regulatory needs can be discussed.

Sincerely,



Mark Verheyen, Chair
North American CRO Council



Michael Slipowitz, Chair
CRO Council State Regulatory Working Group

Appendix A

ORSA Guidance Manual Language	Cite location	Form F Implementation Guide Language	Cite Location
The ORSA has two primary goals: 1....report on material and relevant risks identified by the insurer, and 2. Provide group-level perspective on risk and capital	Section I. 3 rd para, page 1	The purpose of the Form F filing is to report on material risks within the insurance holding company system that could pose enterprise risk to the insurer.	Section I.A 3 rd para, page 1
The ORSA Summary report should describe how the insurer identifies and categorizes relevant and material risks and manages those risks	Section II, 2 nd para, page 6	Form F requires registrants to provide information on areas that “could produce enterprise risk” Describe process for identification of individual exposures, including definitions of time horizon and materiality used for scoping purposes	Section II.A para 4, page 3 Appendix B- Modified Form F Template - Item #1
ORSA Summary Report should describe how the insurer incorporates new risk information in order to monitor and respond to changes in its risk profile	Section II, 2 nd para, page 6	Regulators will expect filings to include information on multiple potential risks to the insurance holding company	Section II.A para 5, page 3
ORSA Summary Report should provide a high-level summary of the quantitative and/or qualitative assessment of risk exposures in both normal and stressed environments....Section 2 may include detailed descriptions and explanations of the	Section III, para 1&2, page 7	Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company	Table Item #4, page 6

material and relevant risks identified by the insurer			
The insurer's capital assessment process should be closely tied to business planning	Section IV B, para 1, page 10	Business plan of the insurance holding company system and summarized strategies for the next 12 months	Table Item #5, page 6
The entire Section 3 of the ORSA	Section 3 – Group Assessment of Risk Capital and Prospective Solvency Assessment	Identification of insurance holding company system capital resources and material distribution patterns	Table Item #7, page 7
ORSA Summary Report should provide a high-level summary of the quantitative and/or qualitative assessment of risk exposures in both normal and stressed environments....Section 2 may include detailed descriptions and explanations of the material and relevant risks identified by the insurer	Section III, para 1&2, page 7	Identification of any negative movement, or discussions with rating agencies which may cause potential negative movement in the credit ratings and individual insurer financial strength ratings assessment on the insurance holding company system (including both the rating score and outlook)	Table Item #8, page 7
The ORSA Summary report should describe how the insurer identifies and categorizes relevant and material risks and manages those risks, and ORSA Summary Report should provide a high-level summary of the quantitative and/or qualitative assessment of risk exposures in both normal and stressed environments	Section II, 2 nd para, page 6, Section III, para 1, page 7	Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could affect the insurance holding company	Table Item #10, page 8

To: Christy Neighbors, Chair of the Group Solvency Issues (E) Working Group
From: NAIC Staff
Date: June 1, 2016
RE: Comparison of Form F and ORSA Reporting Requirements

The following table compares the basic reporting requirements applicable to insurers and insurance holding company groups outlined in the Enterprise Risk Report (Form F) of the NAIC's *Insurance Holding Company System Regulatory Act* (Model #440) against those included in the ORSA Summary Report of the NAIC's *Risk Management And Own Risk And Solvency Assessment Model Act* (Model #505) and *ORSA Guidance Manual*.

	Enterprise Risk Report (Form F)	ORSA Summary Report
Purpose	To identify material risks within the insurance holding company system that could pose enterprise risk to the insurer.	To provide a group-level perspective on risk and capital, as a supplement to the existing legal entity view.
Reporting Level	The Ultimate Controlling Person of every domestic insurer subject to registration.	The domestic insurer, but the ORSA Summary Report may apply to the insurer or the insurance group of which the insurer is a member.
Exemptions	None included in the NAIC Model.	An insurer is exempted if: <ul style="list-style-type: none"> • The insurer has annual direct written and unaffiliated assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000; and, • The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$1,000,000,000.
Entities Covered	<p>The ultimate controlling person of every insurer subject to registration shall file an annual enterprise risk report. The report shall identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer.</p> <p>Insurance holding company system is defined as two or more affiliated persons, one or more of which is an insurer.</p> <p>Affiliate is defined as a person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.</p> <p>Control means the possession, direct or indirect, of the power to direct or cause the direction of</p>	<p>Insurance entities not exempted from the act are required to file an ORSA Summary Report on an annual basis. Alternately, the requirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer and provides an ORSA Summary Report at that level.</p> <p>The term "insurance group" shall mean those insurers and affiliates included within an insurance holding company system as defined in the Insurance Holding Company System Regulatory Act (NAIC #440).</p>

	Enterprise Risk Report (Form F)	ORSA Summary Report
	<p>the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.</p>	
<p>Information to be Reported</p>	<p>The report shall, to the best of the ultimate controlling person’s knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer.</p> <p>The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk:</p> <ul style="list-style-type: none"> • Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system; • Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system; • Any changes of shareholders of the insurance holding company system exceeding ten percent (10%) or more of voting securities; • Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system; • Business plan of the insurance holding company system and summarized strategies for next 12 months; • Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year; • Identification of insurance holding company system capital resources and material distribution patterns; • Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook); • Information on corporate or parental guarantees throughout the holding company 	<p>To allow the commissioner to achieve a high level understanding of the insurer’s ORSA, the ORSA Summary Report should discuss three major areas, which will be referred to as the following sections:</p> <ul style="list-style-type: none"> • Section 1 – Description of the Insurer’s Risk Management Framework • Section 2 – Insurer’s Assessment of Risk Exposure • Section 3 – Group Assessment of Risk Capital and Prospective Solvency Assessment <p>In order to aid the commissioner’s understanding of the information provided in the ORSA Summary Report, it should include certain key information. The ORSA Summary Report should identify the basis of accounting for the report and the date or time period that the numerical information represents. The ORSA Summary Report should also explain the scope of the ORSA conducted such that the report identifies which insurer(s) are included in the report. This may be accomplished by including an organizational chart. The ORSA Summary Report should also include a short summary of material changes to the ORSA from the prior year, including supporting rationale, as well as updates to the sections listed above, if applicable.</p> <p>In analyzing an ORSA Summary Report, the commissioner will expect that the report represents a work product of the ERM framework that include all of the material risks identified by the insurer to which an insurer or insurers (if applicable) is exposed.</p> <p>Section 1 of the ORSA Summary Report should provide a high-level summary of the ERM framework principles, if present.</p> <p>Section 2 of the ORSA Summary Report should provide a high-level summary of the quantitative</p>

	Enterprise Risk Report (Form F)	ORSA Summary Report
	<p>and the expected source of liquidity should such guarantees be called upon; and</p> <ul style="list-style-type: none"> • Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system. 	<p>and/or qualitative assessments of risk exposure in both normal and stressed environments for each material risk category in Section 1. Examples of relevant material risk categories may include, but are not limited to, credit, market, liquidity, underwriting and operational risks.</p> <p>Section 3 of the ORSA Summary Report should describe how the insurer combines the qualitative elements of its risk management policy with the quantitative measures of risk exposure in determining the level of financial resources needed to manage its current business and over a longer term business cycle (e.g., the next one to three years). The group risk capital assessment should be performed as part of the ORSA regardless of the basis (group, legal entity or other subset basis) and in a manner that encompasses the entire insurance group.</p>
Filing Process	<p>The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.</p>	<p>Upon the commissioner’s request, and no more than once each year, an insurer shall submit to the commissioner an ORSA Summary Report or any combination of reports that together contain the information described in the ORSA Guidance Manual, applicable to the insurer and/or the insurance group of which it is a member. Notwithstanding any request from the commissioner, if the insurer is a member of an insurance group, the insurer shall submit the report(s) required by this subsection if the commissioner is the lead state commissioner of the insurance group as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.</p>
Confidentiality	<p>Submission is confidential by law and privileged, not subject to state public records law, not subject to subpoena, and not subject to discovery or admissible in evidence in any private civil action.</p>	<p>Submission is confidential by law and privileged, not subject to state public records law, not subject to subpoena, and not subject to discovery or admissible in evidence in any private civil action. ORSA Summary Reports and related information also recognized as proprietary and containing trade secrets</p>
Information sharing	<p>Form F may be shared with other state, federal and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information, and has verified in writing the</p>	<p>Information may be shared with other state, federal and international financial regulatory agencies, including members of any supervisory college, with the NAIC and with any third-party consultants designated by the commissioner, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials or other information and has verified in writing the</p>

	Enterprise Risk Report (Form F)	ORSA Summary Report
	legal authority to maintain confidentiality. Sharing with another state insurance regulator is conditioned on the receiving state having a law substantially similar to Section 8A of model act.	legal authority to maintain confidentiality
Role of NAIC and other third parties	Authorized to share with NAIC and its affiliates and subsidiaries, but state must maintain agreement with NAIC that specifies procedures and protocols regarding the confidentiality and security of information, including procedures and protocols for sharing by the NAIC with other state, federal or international regulators; specifies that ownership of information shared remains with the commissioner and the NAIC's use of the information is subject to the direction of the commissioner; requires prompt notice to be given to an insurer whose confidential information in the possession of the NAIC is subject to a request or subpoena to the NAIC for disclosure or production; and requires the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information. Third-party consultants not specifically addressed.	Authorized to share with NAIC (but not its affiliates or subsidiaries) and third-party consultants, but state must maintain agreement that specifies procedures and protocols regarding the confidentiality and security of information, including procedures and protocols for sharing by the NAIC with other state regulators from states in which the insurance group has domiciled insurers; specify that ownership of information shared remains with the commissioner and the NAIC's or a third-party consultant's use of the information is subject to the direction of the commissioner; prohibits the NAIC or third-party consultant from storing the information in a permanent database after the underlying analysis is completed; requires prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or a third-party consultant is subject to a request or subpoena to the NAIC or a third-party consultant for disclosure or production; requires the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information; and in the case of an agreement involving a third-party consultant, provides for the insurer's written consent.
Attestation	If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.	The report(s) shall include a signature of the insurer or insurance group's chief risk officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process attesting to the best of his/her belief and knowledge that the insurer applies the enterprise risk management process described in the ORSA Summary Report and that a copy of the report has been provided to the insurer's board of directors or the appropriate committee thereof.