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CLIENT ALERT

Holding Company Act Revisions Could Change Definition of "Control"; Roundup of NAIC Reinsurance Developments

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Potential Revisions to Holding Company Models

At its meeting scheduled for Tuesday, November 17, 2026, the Financial Condition (E) Committee (the "(E) Committee") of the National Association of Insurance Commissioners (the "NAIC") intends to consider a Request for NAIC Model Law Development (the "Request") to amend the Insurance Holding Company System Regulatory Act (#440) and Model Regulation (#450) (the "Holding Company Models").

The proposed amendment would entail (i) "[e]dits to the definition of control to include a presumption of control related to board representation – or – voting interest – or – economic interest thresholds," and (ii) edits to filing requirements for affiliated transactions to reference "initial or additional [i]nvestments with an affiliate, whether a direct loan or investment, or a securitization or similar vehicle such as mutual funds, limited partnerships and limited liability companies with an affiliate as sponsor, originator, manager, servicer or other similar influential role that in aggregate would equal or exceed XX% of admitted assets."

As background for this proposal, the Request states that "[t]he life insurance sector has seen a growing complexity in its investments over the last decade with an increasing number of affiliated investments, which were always intended to be subject to regulatory approval."

Although the exact scope of the potential edits to the Holding Company Models is yet to be confirmed, if adopted, they could impact change of control (Form A) and affiliated transaction (Form D) filing requirements applicable to investors and insurance companies. We will follow these developments closely. The Request is available at Attachment Twelve to the (E) Committee materials here.

Reinsurance Roundup

I. Background

Since the adoption of zero collateral requirements for qualifying non-U.S. reinsurers with the 2019 amendments to the NAIC Credit for Reinsurance Model Law (No. 785) and Model Regulation (No. 786) (the "Credit for Reinsurance Models") (as we discussed here), U.S. insurance regulators have continued to assess the impact of cross-border reinsurance on the domestic entities they regulate. As offshore reinsurance transactions become more common, particularly for U.S. life and annuity insurers, the NAIC has taken various steps to enhance regulatory oversight in a changing industry. These steps have included not only updates to NAIC Model Laws but also to statutory accounting principles, actuarial guidelines and analytical resources for regulators. In this alert, we summarize current initiatives underway at the NAIC and recap previous milestones.

II. Current Activities

As we discussed in detail in our report of the NAIC's 2026 Summer National Meeting (the "Summer National Meeting"), available here, reinsurance oversight continues to be a critical area of focus for regulators. We note the following areas expected to see activity through the remainder of 2026 and beyond:

- **Life RBC Changes to Address Recapture and Counterparty Risk**. At the Summer National Meeting, members of the (E) Committee indicated that based on AG 55 reporting (as described in Section III below), insurance regulators held a "general belief" that "immediate action is needed" to respond to a significant increase in U.S. reinsurance activity and the identification of certain transactions that may pose risk to U.S. cedants. Accordingly, the (E) Committee approved a referral to the Life Risk-Based Capital (E) Working Group (the "Life RBC Working Group") to develop (1) a reinsurance recapture risk-based capital ("RBC") factor for ceded reserves and modified coinsurance balances outside reciprocal jurisdictions, reflecting the additional capital needed if recapture occurs; and (2) alignment of the life RBC reinsurance credit-risk methodology with the property and casualty RBC approach to account for reinsurers with lower financial strength ratings. As a result, the "disclosure-only" approach in AG 55 may ultimately result in substantive RBC requirements for ceding insurers.

The Life RBC Working Group is currently prioritizing the first part of the referral but intends to turn to the second part of the referral shortly, since the (E) Committee has prioritized both of the reinsurance-related RBC changes for year-end 2027 implementation.

At a meeting on October 29, 2026, the (E) Committee shared a letter with additional background for the requested recapture factor. The letter notes that review of insurer reports pursuant to AG 55 indicated that "approximately 70% of life insurers ceding to non-reciprocal jurisdictions . . . have portfolios of comparatively riskier assets supporting very generous annuity guarantees that raise significant concerns about the ability to pay future claims under reasonable economic scenarios." The (E) Committee has posted its letter here for interested party comment until November 12, 2026 and further discussion at the NAIC 2026 Fall National Meeting (the "Fall National Meeting").

On November 4, 2026, the Life RBC Working Group released a draft proposal (available here) revising the life RBC instructions to apply a post-tax factor of 3.8% (4.81% pre-tax) to reserves and modified coinsurance balances for all reinsurance located outside reciprocal jurisdictions, to account for the additional capital that would be required if a ceding company had to recapture those reserves. The 3.8% post-tax factor was proposed based on a study by Bridgeway Analytics, a financial and regulatory analytics firm engaged by the NAIC. Collateral above 100% of ceded reserves lowers the charge, reaching zero at 104.81%, but only if the insurer could access that collateral upon recapture. A collateral shortfall below 100% increases the charge dollar for dollar. The calculation is transaction-specific, meaning that excess collateral for one transaction cannot offset the shortfall for another. The insurer is subject to the greater of the new charge or its current charge for the same transaction.

The proposal also includes revisions to the life annual statement blanks for insurers to report the collateral that secures their transactions with reinsurers in non-reciprocal jurisdictions, in order to calculate the overcollateralization charge or credit amount. The amount of collateral eligible for recognition is comprised of the reported modified coinsurance reserve and funds withheld under coinsurance and other qualifying collateral, *i.e.*, collateral meeting the requirements of the Credit for Reinsurance Models. It does not include ineligible collateral, *i.e.*, "non-admitted assets, assets permitted to be admitted by the ceding company's domiciliary regulator but which are otherwise non-admitted, letters of credit, contingent notes, credit-linked notes, excess of loss (XOL) reinsurance, parental and affiliate guarantees," along with any collateral that would not be available to the ceding company upon recapture under the terms of the reinsurance agreement.

The Life RBC Working Group will discuss the draft proposal at the Fall National Meeting and may then release it for public comment. If adopted, the reporting changes would first apply to 2027 annual statements.

- **Potential Model Law Changes for Disclosing Material Reinsurance Transactions**. The (E) Committee is also considering revising the reporting thresholds for reinsurance transactions in the Disclosure of Material Transactions Model Act (#285) ("Model 285"). At the Summer National Meeting, regulators noted that they have authority to review affiliated reinsurance agreements under the Holding Company Models but are seeking additional insight into unaffiliated agreements, given the increasing number of U.S. life and annuity

insurers that have been ceding large portions of their business. Model 285 requires post-closing reporting of specified transactions including material nonrenewals, cancellations or revisions of ceded reinsurance agreements or new ceded reinsurance agreements affecting in-force life insurance business, where material is generally defined for property and casualty insurers as more than 50% of an insurer's total ceded written premium or indemnity and loss adjustment reserves, and for life insurers as more than 50% of the total reserve credit taken for business ceded, on an annualized basis.

On October 29, 2026, the (E) Committee heard preliminary comments on this initiative from interested parties, who requested consistency with reporting under AG 55 and the Credit for Reinsurance Models and consideration of any changes to Model 285 in coordination with the Life RBC Working Group's work. The (E) Committee has not yet committed to reopening Model 285 for revision and has set a public comment period ending December 28, 2026 to receive additional input from interested parties.

- **NAIC Handbook Revisions on Offshore and Asset-Intensive Reinsurance**. The NAIC is revising the guidance in the *Financial Analysis Handbook* ("FAH") and *Financial Condition Examiners Handbook* ("FCEH") for regulators when they review insurer financial statements, consider Form Ds with respect to affiliated reinsurance transactions, and conduct financial examinations of insurers.

  The proposed FAH guidance notably covers: (1) verifying the credit quality and liquidity of funds-withheld assets supporting the reinsurance agreement, including assessing risks associated with complex assets backing the agreements; (2) reviewing information provided in the insurer's AG 55 report; and (3) for assets managed by third-party reinsurers or asset managers, review of assets to identify relationships with the reinsurer and ensure compliance with ceding company guidelines and state investment laws, among other revisions. The proposal also updates the FAH with a new section, "Assessment of Form D –Asset Intensive Reinsurance Transactions Placed Through Modco or FWH Agreements (Life/A&H Insurers)," with best practices for pre- and post-approval review of ceded reinsurance involving unauthorized offshore reinsurers. The guidance states that the new section is for analysts "evaluating the significant reinsurance arrangements ceded to reinsurers domiciled in certain jurisdictions presenting additional jurisdictional transparency, capital, reserving, or collateral-related risks." The Financial Analysis Solvency Tools (E) Working Group adopted the revisions (available here) on November 9, 2026.

  The FCEH guidance, currently available here, would direct examiners to review investment management agreements associated with significant reinsurance arrangements, review the insurer's post-agreement assessments of significant reinsurance arrangements and reinsurer financial condition, and evaluate whether reinsurer results are consistent with expected performance, the extent that the ceding insurer is dependent on the reinsurer, and whether ceded reserves are appropriately supported. The Financial Examiners Handbook (E) Technical Group adopted the guidance on November 10, 2026.

  We expect that the (E) Committee may consider the FAH and FCEH guidance at the Fall National Meeting.

- **Macroprudential Interconnectedness Initiative**. A draft of the NAIC's Macroprudential Risk Dashboard Summary Report for the U.S. Insurance Industry as of December 31, 2025 highlighted:

  > "an increased level of cross-border life reinsurance, which exposes U.S. insurers to additional credit and potentially recapture risk, if the ceded business does not perform up to expectations." The report stated that while some regulatory enhancements are already underway (e.g., AG 55), "the significance of this trend could warrant additional policy considerations, including capital and reserve considerations."

  The report further noted that given "increasing complexity in investment practices, increased use of asset-intensive offshore reinsurance, and increased use of off-balance sheet special purpose vehicles," which can lead to less transparent types of interconnectivities among insurers, NAIC groups should discuss ways to improve identification and assessment of interconnectedness. Accordingly, on October 7, 2026, the Financial Stability (E) Task Force adopted a new 2027 charge for the Macroprudential (E) Working Group to "[d]evelop and implement a comprehensive process to assess the direct and indirect insurance industry's interconnectedness with other sectors of the economy, including the identification of risk-transmission channels and the buildup of risks that could contribute to contagion."

III. Previous Milestones

Leading up to this year, the NAIC completed several other projects aimed at increasing transparency and refining the regulatory evaluation process with respect to complex reinsurance transactions, especially those involving offshore reinsurers. Below we outline significant milestones.

- **AG 55**. In August 2025, the NAIC adopted *Actuarial Guideline LV, the Application of the Valuation Manual for Testing the Adequacy of Reserves Related to Certain Life Reinsurance Treaties* ("AG 55"). AG 55 was drafted to address risks presented by domestic life insurers entering into reinsurance transactions with offshore reinsurers that materially lower the total asset requirement (the sum of reserves and required capital) supporting asset-intensive business. AG 55 created enhancements to reserve adequacy requirements for life insurance companies by requiring that asset adequacy testing use a cash flow testing methodology that evaluates ceded reinsurance as an integral component of asset-intensive business. We reported in detail on the scope and requirements of AG 55 here. The first insurer reports under AG 55 were due on April 1, 2026. Although AG 55 is "disclosure only," meaning that there are no prescriptive requirements within AG 55 to post additional reserves to support ceded business, following such disclosure regulators will continue to have the right to require additional reserves to be posted. To date, the Life Actuarial (A) Task Force has reported that it has received and reviewed filings from 80 U.S. ceding insurers representing at least 100 treaties.

- **2025 Statutory Accounting Changes**. During 2025, the NAIC revised certain statutory reporting requirements to aid regulators in understanding the inner workings of increasingly large and complex reinsurance transactions.

In May 2025, the Statutory Accounting Principles (E) Working Group ("SAPWG") revised its annual statement reporting schedules for life insurers to extend restricted asset reporting guidelines to identify assets that are subject to a funds withheld or modified coinsurance ("modco") arrangement in connection with reinsurance. SAPWG also adopted revisions to *SSAP No. 1—Accounting Policies, Risks & Uncertainties and Other Disclosures* to expand restricted asset reporting to capture information on modco and funds-withheld assets that are related to or affiliated with a reinsurer for disclosure in both quarterly and annual financial statements. The revisions were intended to reduce counterparty risk by allowing regulators to better understand what assets on a ceding company's books are spoken for by a reinsurance deal.

Then, in December 2025, the NAIC adopted revisions to *SSAP No. 61—Life, Deposit-Type and Accident and Health Reinsurance*, with changes effective immediately for new and amended contracts and subject to reporting on or before December 31, 2026 for existing contracts. These revisions required combining reinsurance contracts that include both yearly renewable term and coinsurance portions to be evaluated for risk transfer on an overall basis (as well as for each component individually). The changes were developed in response to regulators encountering instances where bifurcated risk transfer analysis resulted in certain companies reporting overstated reserve credit.

- **Cross-Border Reinsurance Comparison Worksheet**. In 2022, the NAIC adopted a work plan to address a list of "Regulatory Considerations Applicable (But Not Exclusive) to Private Equity Owned Insurers." The considerations, which we reported on in detail here, pertained to the ability of state insurance regulators to effectively monitor solvency and assess risks faced by an insurer's holding company system. Consideration Thirteen notably flagged insurers' "use of offshore reinsurers (including captives) and complex affiliated sidecar vehicles to maximize capital efficiency, reduce reserves, increase investment risk, and introduce complexities into the group structure." In response, the Macroprudential (E) Working Group created a Cross-Border Reinsurance Comparison Worksheet to assist state insurance regulators in "assessing cross-border reinsurance treaties where there are different regulatory systems involved." The worksheet provides a mechanism for regulators, if they choose, to request information from insurers regarding the reserve and capital relief a given transaction creates and what assets support the ceded business. Although the worksheet was designed with life reinsurance transactions as the focus, it is not limited to life transactions. The worksheet is available on the Documents section of the Working Group's website here.

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We will continue to closely monitor ongoing developments.

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