CARLTON FIELDS

On The Horizon: Global Insurance Capital Standards

October 13, 2016

Since 2013, the International Association of Insurance Supervisors (IAIS), an association of insurance supervisors representing more than 200 jurisdictions in approximately 200 countries, has been working on a plan to develop a risk-based global insurance capital standard. The work is in response to a request from the Financial Stability Board (FSB), which coordinates national financial authorities and international standard-setting bodies as they work toward developing strong regulatory, supervisory, and other financial sector policies. The goal of the IAIS is to create "a comprehensive group-wide supervisory and regulatory framework for Internationally Active Insurance Groups (IAIGs). The following criteria would need to be met for an insurance group to be deemed an IAIG: the group includes at least one insurer that writes premiums in at least three jurisdictions, and at least 10 percent of the group's total gross written premiums comes from outside the domiciliary jurisdiction; and, based on a three-year average, the insurer has total assets of not less than $50 billion or gross written premiums of not less than $10 billion. The supervisory and regulatory framework would also be used to develop basic capital requirements for insurers deemed global systemically important insurers (G-SIIs) by the IAIS. There are currently nine G-SIIs. Once finalized, the insurance capital standard (ICS) will be considered the minimum standard necessary for IAIGs and G-SIIs, and will be implemented by supervisors represented in the IAIS. The ICS is intended as one component of the "Common Framework" for supervising IAIGs, as well as basic capital requirements and higher loss absorbency requirements for G-SIIs and would be used to assess these companies' financial condition. The IAIS has committed to developing a first version of the ICS for confidential reporting by mid-2017. The second version is due for IAIS adoption by the end of 2019. Implementation is scheduled to begin in 2020 after testing, reporting, and refinement with supervisors and IAIGs. U.S. insurance regulators have expressed several concerns through the NAIC regarding development and implementation of the ICS. These include a concern that the IAIS relies on an incorrect assumption that capital can be moved freely within an insurance group, while U.S. insurers are regulated on an entity-by-entity basis. European solvency regulation emphasizes a consolidated capital standard intended to help assure that a financial entity maintains sufficient capital to support its group-wide activities, both insurance and non-insurance. As such, capital movement out of an insurer should be subject to the approval of the insurer's domiciliary regulator.

Accordingly, the NAIC stated that whatever is implemented at the group level should supplement, not replace, the requirements of the insurer's domiciliary jurisdiction.

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