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New Covered Agreement on Insurance and Reinsurance Prudential Measures

Covered Agreement Between the United States and the United Kingdom Is Designed to Provide Market Continuity and Regulatory Certainty for U.S. and U.K. Insurers Post-Brexit

SUMMARY

On December 19, 2018, the United States and the United Kingdom (“U.K.”) jointly announced the signing of the Bilateral Agreement between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance (the “Covered Agreement”).¹ U.S. and U.K. representatives concluded negotiation of the Covered Agreement on December 11, 2018, on which date the text of the Covered Agreement was submitted to Congress by the Secretary of the U.S. Department of the Treasury (“Treasury”) and the Office of the U.S. Trade Representative (“USTR”).² Treasury and the USTR also jointly issued a policy statement (the “Policy Statement”), dated December 18, 2018, clarifying how the United States views implementation of certain provisions of the Covered Agreement.³

Under Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”), the Secretary of the Treasury, acting through the Federal Insurance Office (“FIO”), and the USTR are authorized to jointly negotiate so-called “covered agreements.” Under Dodd-Frank, covered agreements are defined as written bilateral or multilateral agreements between the United States and one or more foreign governments, authorities or regulators regarding prudential measures with respect to insurance or reinsurance, with the condition that the prudential measures subject to a covered agreement achieve a level of protection for insurance or reinsurance consumers that is “substantially equivalent” to the level of protection achieved under U.S. state insurance laws.

On September 22, 2017, the United States and the European Union (“EU”) jointly announced the signing of the “Bilateral Agreement between the European Union and the United States of America on Prudential

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Measures Regarding Insurance and Reinsurance” (the “U.S.-EU Covered Agreement”).⁴ Treasury and the USTR also jointly issued a policy statement on September 22, 2017 clarifying how the United States views implementation of certain provisions of the U.S.-EU Covered Agreement.⁵ In anticipation of the U.K.’s pending exit from the EU, the new Covered Agreement is designed to mirror the U.S.-EU Covered Agreement to ensure the terms of the U.S.-EU Covered Agreement will apply between the United States and the U.K. following the U.K.’s exit from the EU.

The terms of the Covered Agreement are substantially identical to the terms of the U.S.-EU Covered Agreement. Likewise, the Policy Statement is substantially the same as the policy statement issued jointly by Treasury and the USTR with respect to the U.S.-EU Covered Agreement. Accordingly, consistent with the U.S.-EU Covered Agreement and as detailed in our [January 16, 2017](#) and [September 27, 2017](#) Memoranda to Clients on the U.S.-EU Covered Agreement, the new Covered Agreement addresses three areas of prudential insurance and reinsurance supervision:

- **Reinsurance:** Subject to certain conditions, the Covered Agreement eliminates local presence and collateral requirements as a condition for entering into reinsurance agreements or obtaining credit for reinsurance for regulatory purposes. These requirements are to be eliminated for U.S. reinsurers operating in the U.K. market and for U.K. reinsurers operating in the U.S. market.
- **Group supervision:** Subject to the fulfillment of certain conditions, U.S. insurance groups operating in the U.K. will be subject to worldwide group-level insurance prudential supervision (including group governance, solvency, capital and reporting requirements) only by the relevant U.S. insurance regulators. Likewise, U.K. insurance groups operating in the United States will be supervised at the worldwide group level only by the relevant U.K. insurance supervisors.
- **Exchange of information:** The Covered Agreement encourages insurance supervisors in the United States and the U.K. to exchange supervisory information.

According to the joint statement issued by the United States and the U.K. regarding the signing of the Covered Agreement, the Covered Agreement is “an important step in providing regulatory certainty and market continuity as the United Kingdom prepares to leave the European Union,” and “will ensure continuity for U.K. insurers and reinsurers accessing the U.S. market consistent with the terms of the U.S.-EU Covered Agreement.” The United States and the U.K. “plan to bring the [Covered] Agreement into force once the U.K. is no longer subject to the U.S.-EU Covered Agreement and domestic processes are complete.”

BACKGROUND ON BREXIT

Currently, the U.K. is in the process of withdrawing from the EU (“Brexit”), although it is unclear how the withdrawal will be effected. Once Brexit does take effect, the U.S.-EU Covered Agreement will no longer cover the U.K. by its terms. As a result, the United States and the U.K. have entered into the Covered Agreement to parallel the provisions of the U.S.-EU Covered Agreement, and thereby maintain the U.S.-EU Covered Agreement’s benefits as between the United States and the U.K.

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However, the timeline and mechanics for implementing the Covered Agreement, and the implications for U.S. and U.K. insurers operating in each other's territories, will depend on how Brexit is accomplished. The U.K. formally served notice of its intent to secede under Article 50 of the EU Lisbon Treaty, which provides for a two-year negotiation period. This notice expires on March 29, 2019, at which point, the U.K. will secede from the EU whether or not withdrawal terms have been agreed. At the time of writing, the U.K. government and the EU have agreed to the terms of a draft Withdrawal Agreement, which is subject to approval by the U.K. Parliament.⁶ The Withdrawal Agreement provides for a transitional period through December 31, 2020, during which time (1) all EU law will remain in force as a matter of English law, and (2) all EU institutions (including financial services supervisors) will retain their powers in relation to insurance/reinsurance companies and insurance/reinsurance groups conducting business in the U.K. (including U.S. insurance/reinsurance companies and insurance/reinsurance groups). If the U.K. Parliament does not approve the agreement, and the Article 50 notice is not revoked or the period for negotiation extended, then a "no-deal Brexit" will result without an agreement and without any transitional period. However, the U.K. Parliament has passed legislation to preserve as English law all EU law that is operative and effective as of March 29, 2019, which would preserve a certain amount of regulatory continuity for insurance groups conducting business in the U.K. even in the case of a no-deal Brexit. Nonetheless, EU supervisors will not have any authority over an insurance company or group conducting business in the U.K., including those from third countries like the United States. The U.K. government has, however, proposed amendments to EU law to make it effectively operate as English law in the event of a no-deal Brexit. Such legislation would ensure that U.K. financial services supervisors take over the role of EU financial services supervisors. The legislation is currently before the U.K. Parliament where it must first be approved.

Given this uncertainty, it remains to be determined how and when the Covered Agreement will take effect. In particular, the Covered Agreement provides that it will enter into force on the date the parties exchange written notifications certifying that they have completed their respective internal requirements and procedures, or on such other date as the parties agree. However, the U.K., in submitting its notification or agreeing to an effective date for the Covered Agreement, is required under the Covered Agreement to take account of its obligations arising in respect of any agreement between the EU and the U.K. pursuant to Article 50 of the EU Lisbon Treaty.

THE COVERED AGREEMENT

As with the U.S.-EU Covered Agreement, this Covered Agreement addresses three areas of prudential insurance and reinsurance supervision: reinsurance, group supervision and exchange of information, and provides specific implementation and application procedures.

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A. REINSURANCE

Elimination of Collateral Requirements

Subject to the conditions summarized below, each party to the Covered Agreement (i.e., the U.K. and the United States) agrees to ensure that its supervisory authorities do not:

- maintain or adopt any requirement that an assuming reinsurer which has its head office or is domiciled in the territory of the other party (a “home party reinsurer”) post collateral in connection with cessions to it from a ceding insurer which has its head office or is domiciled in the party’s own territory (a “host party cedent”), as a condition to either (1) allowing the home party reinsurer to enter into a reinsurance agreement with the host party cedent or (2) allowing the host party cedent to take credit for reinsurance or for risk mitigation effects of reinsurance agreements⁷ concluded with the home party reinsurer; or
- maintain or adopt any new requirement with substantially the same regulatory impact on the home party reinsurer as such collateral requirements.

The Covered Agreement provides that the above requirements only apply where the collateral requirements (or similar new requirements) result in less favorable treatment of home party reinsurers than assuming reinsurers domiciled or headquartered in the same territory as the host party cedent. The prohibitions also apply to any related collateral reporting requirements.

Once implemented, the above requirements will prohibit, for example, U.S. state insurance regulators from requiring U.K. reinsurers to post collateral as a condition for U.S. cedents to obtain credit for reinsurance in respect of reinsurance agreements with U.K. reinsurers.

These provisions do not, however, prohibit host party supervisory authorities from applying requirements for entering into reinsurance agreements or taking credit for reinsurance or risk mitigation effects of reinsurance if the same requirements apply to reinsurance agreements between cedents and reinsurers domiciled or headquartered in the host party’s territory.

Elimination of Local Presence Requirements

Subject to the conditions summarized further below, each party to the Covered Agreement agrees to ensure that its supervisory authorities do not:

- maintain or adopt any requirement for a home party reinsurer to have a local presence as a condition to either (1) allowing the home party reinsurer to enter into a reinsurance agreement with the host party cedent or (2) allowing the host party cedent to take credit for reinsurance or for risk mitigation effects of reinsurance agreements concluded with the home party reinsurer; or
- maintain or adopt any new requirement with substantially the same regulatory impact on the home party reinsurer as local presence.

Similar to the collateral provisions referred to above, these requirements apply only where the local presence requirements (or similar new requirements) result in less favorable treatment of home party reinsurers than assuming reinsurers that are domiciled or headquartered in the same territory as the host party cedent, and that are licensed, admitted or permitted to operate in such territory.

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Once implemented, the above requirements will prohibit, for example, U.K. insurance regulators from requiring U.S. reinsurers to maintain a local branch or establish a new subsidiary in the U.K. as a condition for U.S. reinsurers to enter into reinsurance agreements with U.K. cedents.

Conditions to Application of Article 3

The above prohibitions on applying reinsurance collateral or local presence requirements are subject to the assuming reinsurer meeting the following conditions:

- **Minimum capital and solvency standards:** Assuming reinsurers are required to have and maintain on an ongoing basis (1) own funds or capital and surplus, calculated according to the methodology of the reinsurer's home jurisdiction, of €226 million for U.K. reinsurers, or \$250 million for U.S. reinsurers; and (2) for U.K. reinsurers, a 100% Solvency Capital Ratio under Solvency II, or, for U.S. reinsurers, a Risk Based Capital (RBC) of 300% Authorized Control Level.
- **Reporting obligations:** If requested by the host supervisory authority, the assuming reinsurer must provide specified documentation to the authority, including: annual audited financial statements, and solvency and financial condition reports (as required under Solvency II) or actuarial opinions (as required in the United States), in each case for the two years prior to entry into the applicable reinsurance agreement and annually thereafter; semi-annual lists of all disputed and overdue reinsurance claims outstanding for 90 days or more for reinsurance assumed from cedents in the cedent's jurisdiction; and semi-annual lists relating to assumed reinsurance and ceded insurance, and reinsurance recoverables on paid and unpaid losses by the assuming reinsurer.
- **Prompt claims paying practice:** The assuming reinsurer must maintain a practice of prompt payment of reinsurance claims. The Covered Agreement specifies the criteria for determining a lack of prompt payment (e.g., more than 15% of reinsurance recoverables are overdue and in dispute).
- **No resolution proceedings:** The assuming reinsurer must confirm it is not subject to any solvent scheme of arrangement, or resolution or receivership proceedings, and must provide 100% collateral to the ceding insurer for outstanding reinsurance liabilities if it is.
- **Consent to jurisdiction and related requirements:** Other conditions for assuming reinsurers include consent to jurisdiction and service of process in the host jurisdiction, and commitment to the payment of final, enforceable judgments.

The Covered Agreement provides that if a home party reinsurer no longer satisfies one of the above conditions, the host supervisory authority may impose any of the otherwise prohibited reinsurance collateral or local presence requirements, subject to specified notice requirements and allowing the reinsurer time to submit a remediation plan and to remedy the defect.

The Covered Agreement terms will only apply to reinsurance agreements entered into, amended or renewed on or after the date on which an insurance law or regulation reducing the collateral in accordance with the Covered Agreement or the U.S.-EU Covered Agreement takes effect in the applicable host jurisdiction, and only with respect to losses incurred and reserves reported from and after the later of (1) the date of the insurance law or regulation and (2) the effective date of the new reinsurance agreement, amendment or renewal.

B. GROUP SUPERVISION

The Covered Agreement sets forth practices and precepts of group supervision to be followed by the parties to the Covered Agreement. The basic rule provides that, subject to various exceptions noted below, (1) an insurance or reinsurance group is subject only to worldwide prudential insurance group supervision (including worldwide group governance, solvency, capital and reporting requirements) by the supervisory authorities of the jurisdiction where the worldwide parent of the group is domiciled or headquartered (the “home supervisor”); and (2) the worldwide parent of the insurance group is not subject to group supervision by any supervisory authority from the territory in which the insurance group has operations, but which is not the territory where the worldwide parent is domiciled or headquartered (the “host supervisor”). Thus, a U.S. insurance group operating in the U.K. will be subject to worldwide group-level insurance prudential supervision only by its applicable primary U.S. insurance regulator(s).

In addition to the exceptions noted below, the Covered Agreement makes clear that host supervisors may exercise group supervision at the level of the parent undertaking or company domiciled in its territory, even though the ultimate parent at the worldwide level may be domiciled in the home supervisor’s territory. For example, if a U.S.-based insurance group has one or more subsidiaries licensed or domiciled in the U.K. (or a U.K. intermediate holding company with multiple U.K. insurance subsidiaries), the U.K. insurance supervisor may apply group supervision requirements to the top-tier entity domiciled or licensed in the U.K.

The Covered Agreement includes various exceptions under which some level of group supervision by host supervisors may be permissible:

- **ORSA requirements:** If the home supervisor requires a worldwide group Own Risk and Solvency Assessment (“ORSA”), the home supervisor must provide a summary of the worldwide group ORSA to the host supervisor. If no worldwide ORSA is required, the home supervisor must provide equivalent documentation. If the summary of the worldwide ORSA or equivalent documentation presents any serious threat to policyholder protection or financial stability in the territory of the host supervisor, the host supervisor may impose preventive, corrective or other measures to insurers in the host territory, subject to consultation with the home supervisor and with the applicable supervisory college.
- **Other reporting requirements:** Host supervisors retain the ability to request and obtain information or require reports (including at the level of the worldwide parent) if the information or reports directly relate to the risk of a serious impact on the ability of the subsidiaries of the insurance group to pay claims in the host territory, or where the information is deemed necessary to protect against serious harm to policyholders or a serious threat to financial stability. Failure to comply with information requests may result in preventive or corrective measures being imposed by the host supervisor within the host territory.
- **Group capital assessment:** The host supervisor may not impose a group capital assessment or requirement at the level of the worldwide parent, but only if the insurance group is subject to a group capital assessment imposed by the home supervisor. The group capital assessment of the home supervisor must include a worldwide group capital calculation capturing risk at the level of the entire group, and the home supervisor must have the authority to impose preventive, corrective or otherwise responsive measures on the basis of the assessment, including the authority to impose capital measures where appropriate.

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- **Conflict with banking and other laws:** The Covered Agreement makes clear that the above group supervision limitations and restrictions are not intended to limit or restrict the ability of U.K. or U.S. supervisory authorities to exercise supervisory or regulatory authority over groups or entities that own or control credit operations or depository institutions, or have banking operations, in the U.K. or United States, as applicable, or which have been determined could pose a threat to the financial stability of the U.K. or United States under applicable law (e.g., have been subject to so-called “SIFI” designation).

C. EXCHANGE OF INFORMATION, JOINT COMMITTEE AND TERMINATION

The Covered Agreement encourages, in a non-binding manner, insurance supervisors in the United States and the U.K. to exchange information. An annex to the Covered Agreement provides model provisions for a Memorandum of Understanding (the “MOU”) on information exchange that insurance supervisors are encouraged to adopt. The model MOU addresses cooperation between supervisors, the request for and use of provided information, and the treatment of confidential information.

The Covered Agreement also establishes a joint committee, composed of representatives of the United States and U.K., as a forum for consultation and to exchange information on the administration and implementation of the agreement. The parties are required to consult within the Joint Committee within 90 days after the date the Covered Agreement enters into force.

Following mandatory consultation, either party may terminate the Covered Agreement at any time by giving written notice to the other party. In particular, the parties may terminate the agreement where either party has failed to fulfill its obligations or has taken measures inconsistent with the agreement.

D. IMPLEMENTATION AND APPLICATION

As noted, the effectiveness of the Covered Agreement depends on the timing and details of Brexit, in particular, the U.K.’s obligations arising from any agreement with the EU pursuant to Article 50 of the EU Lisbon Treaty. Unlike the U.S.-EU Covered Agreement, the Covered Agreement does not provide for any provisional application. Moreover, the Covered Agreement provides that any references therein to EU legislation are to be read as references to the EU legislation as incorporated, implemented or otherwise transposed into U.K. domestic law as at the date the U.K. ceases to be bound by the relevant EU legislation.

The implementation and application timelines include:

- **Reinsurance collateral reform:** U.S. states will have until September 22, 2022 (i.e., five years from the date the U.S.-EU Covered Agreement was signed) to adopt reinsurance reforms removing collateral requirements for U.K. reinsurers that meet the prescribed conditions in the Covered Agreement. FIO will begin the process of making potential preemption determinations of state laws that are inconsistent with the Covered Agreement after 42 months following September 22, 2017 (i.e., the signing date of the U.S.-EU Covered Agreement), with any preemption determination required to be completed no later than 60 months following September 22, 2017.

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- **U.K. local presence requirements:** Within 24 months from September 22, 2017, the U.K. is to revise existing laws and regulations so that U.S. reinsurers can operate in the U.K. without establishing a branch or subsidiary.
- **Group supervision:** The Covered Agreement provides that from the date the agreement goes into force until November 7, 2022, supervisory authorities in the U.K. shall not impose a group capital requirement at the level of the worldwide parent with regard to a U.S. insurance group with operations in the U.K. As discussed below, the Policy Statement affirms that development of a group capital requirement in the United States is not required and clarifies that the existing authority of state insurance regulators to apply capital measures at the insurance entity level is consistent with the terms of the Covered Agreement.

E. THE POLICY STATEMENT

Similar to the policy statement issued for the U.S.-EU Covered Agreement, the new Policy Statement jointly issued by Treasury and the USTR is intended to “provide additional clarity for U.S. insurance regulators and industry participants with respect to implementation” of the Covered Agreement. According to the Policy Statement, the Covered Agreement “affirms the U.S. system of insurance regulation, including the role of state insurance regulators as the primary supervisors of the business of insurance.”

The Policy Statement addresses the same key areas for which clarification had been sought by the National Association of Insurance Commissioners (“NAIC”) and other U.S. regulators and industry participants prior to the signing of the U.S.-EU Covered Agreement:

- **Application of collateral requirements:** According to the Policy Statement, the collateral elimination requirements of the Covered Agreement do not apply to reinsurance agreements entered into before the Covered Agreement’s application, or to losses incurred or reserves posted before the agreement’s application. The Policy Statement also confirms that the Covered Agreement does not limit the ability of parties to a reinsurance agreement to renegotiate such agreement or contractually agree to collateral requirements in excess of those required by law.
- **Non-collateral requirements:** According to the Policy Statement, Article 3 of the Covered Agreement “clarifies that the Agreement does not prevent a state insurance regulator from imposing non-collateral requirements that do not have substantially the same regulatory impact as collateral requirements as conditions for ceding companies to enter into reinsurance agreements with U.K. reinsurers or to allow credit for such reinsurance, if the state insurance regulator applies the same requirements in the case of reinsurance agreements with U.S. reinsurers domiciled in that state.”
- **Group capital assessment:** The Policy Statement affirms that the Covered Agreement does not require development of a group capital standard or group capital requirement in the United States. Article 4(h) provides that a “host supervisor” (i.e., a supervisory authority from the territory in which an insurance group has operations but which is not the territory where the worldwide parent is domiciled or headquartered) may not impose a group capital assessment or requirement at the level of the worldwide parent, but only if the insurance group is subject to a group capital assessment imposed by its applicable supervisor in the jurisdiction where the worldwide parent of the group is domiciled or headquartered (the “home supervisor”). Article 4(h) further provides that the group capital assessment must include a worldwide group capital calculation capturing risk at the level of the entire group, and the home supervisor must have “the authority to impose preventive, corrective, or otherwise responsive measures on the basis of the assessment, including requiring, where appropriate, capital measures.”

The NAIC has been in the process of developing a group capital calculation intended to serve as an analytical tool for evaluating an insurer’s capital position at the group level, but which is not intended to be applied as a group-level capital requirement or standard. The Policy Statement provides that

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“[t]he United States expects that the NAIC’s group capital calculation will satisfy the ‘group capital assessment’ condition of Article 4(h), provided that the work is completed and implemented within the period provided for in the [Covered] Agreement.”⁸ With respect to the language in the Covered Agreement requiring that home supervisors have the authority to impose preventive measures (including capital measures) on the basis of the group capital assessment, the Policy Statement states that the authority of state insurance regulators to apply capital measures at the insurance entity level (as opposed to the worldwide parent level) as a means of imposing “preventive, corrective or otherwise responsive measures” is consistent with the terms of Article 4.

- **Group-level reporting:** According to the Policy Statement, the Covered Agreement permits state insurance regulators to obtain information about the U.K. parent of insurers active in the United States if the information is deemed “necessary, to protect against serious harm to U.S. policyholders or a serious threat to financial stability or a serious impact on the ability of an insurer to pay its claims in the United States.” Likewise, the Covered Agreement provides that prudential group supervision reporting requirements imposed by host supervisors cannot apply at the worldwide parent level unless they “directly relate to the risk of a serious impact” on the ability of the insurer to pay claims in the territory of the host supervisor.

According to the Policy Statement, the United States “does not see a basis to expect that state regulators, in adhering to Article 4 reporting provisions, will encounter conflicts with state law based on the NAIC’s Insurance Holding Company System Model Regulatory Act.” State insurance holding company laws are generally based on the NAIC’s model holding company act.

- **Joint Committee:** Although the Covered Agreement does not address who will represent the United States in the Joint Committee, the Policy Statement clarifies that, because state insurance regulators will be largely responsible for implementing the Covered Agreement, “the United States is committed to the direct involvement of state insurance regulators, including their staff, in the work of the Joint Committee. To this end, the United States will consult with state insurance regulators, and will establish a robust consultative process to ensure that discussions in the Joint Committee will be well-informed of the views and interests of state insurance regulators.”

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ENDNOTES

- ¹ U.S. Department of the Treasury, Press Release: *Joint Statement on Signing the Bilateral Agreement on Prudential Measures Regarding Insurance and Reinsurance* (December 19, 2018), available at <https://home.treasury.gov/index.php/news/press-releases/sm579>. For the text of the joint statement, see *Joint Statement on Signing the Bilateral Agreement on Prudential Measures Regarding Insurance and Reinsurance*, published December 20, 2018, available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/767063/2018-12-18_UK_Insurance_Agreement_Joint_Release_UK_Version_Final.pdf. See also U.S. Department of the Treasury, Press Release: *Treasury, USTR Sign Bilateral Agreement with the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance* (December 19, 2018), available at <https://home.treasury.gov/news/press-releases/sm580>. The final legal text of the Covered Agreement is available at <https://home.treasury.gov/system/files/136/20181218-US-UK-Covered-Agreement.pdf>.
- ² U.S. Department of the Treasury, Press Release: *Treasury, USTR Finalize Bilateral Agreement with the UK on Prudential Measures Regarding Insurance and Reinsurance* (December 11, 2018), available at <https://home.treasury.gov/news/press-releases/sm570>. The text of the Covered Agreement signed on December 18, 2018 is identical to the text submitted to Congress on December 11. Treasury and USTR sent, also on December 11, 2018, letters to certain Congressional committees informing them that covered agreement negotiations have been completed, as required under Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The text of the letters is available at https://home.treasury.gov/system/files/136/US-UK_Covered_Agreement-Final-Hill-12-11-18.pdf.
- ³ *Statement of the United States on the Covered Agreement with the United Kingdom*, December 18, 2018, available at https://home.treasury.gov/system/files/136/US_Policy_Statement_US-UK18%20December%202018.pdf.
- ⁴ Joint Statement on Upcoming Signature of the Bilateral Agreement between the European Union and the United States of America on Prudential Measures Regarding Insurance and Reinsurance, September 22, 2017, available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/september/joint-statement-upcoming>. See also U.S. Department of the Treasury, Press Release: *Treasury, USTR Sign Covered Agreement on Prudential Insurance and Reinsurance Measures with the European Union* (September 22, 2017), available at <https://www.treasury.gov/press-center/press-releases/Pages/sm0164.aspx>. The final legal text of the U.S.-EU Covered Agreement is available at https://www.treasury.gov/initiatives/fio/reports-and-notices/Documents/US_EU_Covered_Agreement_Signed_September_17.pdf.
- ⁵ *Statement of the United States on the Covered Agreement with the European Union*, September 22, 2017, available at https://www.treasury.gov/initiatives/fio/reports-and-notices/Documents/US_Covered_Agreement_Policy_Statement_Issued_September_2017.pdf.
- ⁶ See the Sullivan & Cromwell client memo, *Brexit – Vote by the UK To Leave the EU* (June 24, 2016), available at https://www.sullcrom.com/siteFiles/Publications/SC_Publication_BrexitVote_by_the_UK_to_Leave_the_EU.pdf.
- ⁷ Under the Covered Agreement, “credit for reinsurance or credit for risk mitigation effects of reinsurance agreements” means “the right of a ceding insurer under prudential regulatory framework to recognize amounts due from assuming reinsurers relating to paid and unpaid losses on ceded risks as assets or reductions from liabilities respectively.” Article 2, Clause (c).
- ⁸ The Policy Statement also makes clear that the Covered Agreement does not require a group capital assessment with respect to U.S. insurance groups without operations in the U.K.

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