April 8, 2024

VIA ELECTRONIC SUBMISSION

Commissioner Nathan Houdek
Chair, Financial Condition (E) Committee
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Framework for Regulation of Insurer Investments – A Holistic Review
February 14, 2024 Exposure

Dear Commissioner Houdek and Members of the Financial Condition (E) Committee:

The American Investment Council ("AIC")[1] appreciates the opportunity to comment on the revised draft *Framework for Regulation of Insurer Investments – A Holistic Review* ("Investment Framework") and the supporting materials – inclusive of the corresponding *Memo to Interested Parties* and *Investment Framework Work Plan* – that were exposed for public comment on February 14, 2024. As noted in our October 9, 2023 comment letter, AIC members believe the Investment Framework and E Committee's receptiveness to meeting with stakeholders on the Investment Framework represents a positive development in the NAIC's ongoing efforts to modernize the regulation and supervision of insurer investments. There is a clear need for a holistic, top-down approach to evaluating regulators' concerns with the existing regulatory framework and coordinating any resulting workstreams.

Given the precedential value and knock-on effects, it is critical that any potential changes to the US regulatory framework for insurer investments be carefully considered and implemented through an open and deliberative process. Such initiatives should include processes to identify state insurance regulators' specific concerns and assess whether those concerns are valid. In this regard, we were happy to hear the NAIC's recent announcement that it will delay implementation of its collateralized loan obligation ("CLO") modeling initiative until year-end 2025 to allow time for the American Academy of Actuaries ("Academy") to complete its foundational work on a new RBC framework for all asset-backed securities (including the Academy's assessment of whether individual CLO modeling is necessary or appropriate). We are similarly hopeful that E Committee's work to develop a due diligence framework for credit rating providers ("CRP") and address the NAIC's concerns with respect to "blind reliance" on CRPs will include methodical discussions related to the specific concerns that state insurance regulators have with respect to the current regime and an evaluation of all potential paths forward.

[1] The AIC is an advocacy, communications, and research organization established to advance access to capital, job creation, retirement security, innovation, and economic growth by promoting responsible long-term investment. The AIC's members include the world's leading private equity and private credit firms, many of which partner with insurers to achieve their long-term investment objectives and ensure the continued success of insurers and their policyholders. Among other things, by adopting appropriate, risk-adjusted investment strategies, our members are committed to helping secure the retirement of millions of pension holders and to policyholder protection. For further information about the AIC and its members, please visit our website at http://www.investmentcouncil.org.

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Notwithstanding these encouraging developments, we are concerned by – and opposed to – the introduction of the concept of "equal capital for equal *tail* risk" that was included in the latest iteration of the Investment Framework. While the specific intent of this change is not clear, the potential narrowing of the concept of capital parity is not appropriate. Instead, the language should be revised to reflect that the Investment Framework recognizes that tail risk is an important element of the broader, more appropriate, concept of "equal capital for equal risk," for example that the concept "includes, but is not limited to, tail risk."

In addition, we will be submitting a separate comment letter to the Risk-Based Capital Investment Risk and Evaluation (E) Working Group ("RBCIRE") regarding the Oliver Wyman study exposure on the performance of asset backed security residual tranche investments and the associated potential increase in capital charge on such assets from 30% to 45%. Having carefully reviewed the Oliver Wyman study, we feel strongly that the study does not support a 45% capital charge on such residual tranches and remain committed to supporting a data driven capital charge that appropriately reflects the risk of these assets. We are also concerned with public statements by state insurance regulators indicating that the imposition of a 45% capital charge on residual tranches is viewed as a template by regulators to justify punitive capital charges for other high-performing assets that are well understood by the capital markets but relatively newer to insurance company balance sheets. This concept is referenced in the Investment Framework Recommendation 9, but we are concerned with the precedential impact of these statements as they seem to suggest that any future interim charge imposed using the residual template would not be supported by data.

The AIC and its members remain committed to working with members of the E Committee, state insurance regulators, and NAIC staff on solutions that best serve the needs of regulators, policyholders, and insurers alike. This includes both "technical" issues that are properly within the purview of designated working groups and task forces, including the Oliver Wyman study currently exposed at the RBCIRE, and foundational issues and concerns that should be addressed at the E Committee level. We look forward to continuing to work with you on these important issues.

Sincerely,

/s/ Rebekah Goshorn Jurata
General Counsel
American Investment Council

cc: Mr. Dan Daveline
Director, Financial Regulatory Services
National Association of Insurance Commissioners (via email)