

**STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

**Before the Commissioner of the Office of Financial and Insurance Regulation**

**In the matter of foreign jurisdictions  
approved as eligible for netting pursuant  
to MCL 500.8115a**

**Order No. 11-037-M**

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**Issued and entered  
this 29<sup>th</sup> day of July 2011  
by R. Kevin Clinton  
Commissioner**

**ORDER APPROVING FOREIGN JURISDICTIONS AS ELIGIBLE FOR  
NETTING PURSUANT TO MCL 500.8115a**

Chapter 81 of the Michigan Insurance Code (Code), MCL 500.8101 *et seq.*, outlines the powers and responsibilities of the Commissioner with respect to the rehabilitation, supervision or liquidation of troubled or insolvent insurance companies. Section 8115a of the Code lists certain exceptions to a stay of proceedings or prohibition of action otherwise applicable in an insurer rehabilitation and provides, in pertinent part, as follows:

(1) Notwithstanding any other provision of this act, including any other provision of this act permitting the modification of contracts, or other law of the state, a person shall not be stayed or prohibited from exercising any of the following:

\* \* \*

(c) Subject to section 8130(2), any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a netting agreement or qualified financial contract where the counterparty or its guarantor is organized under the laws of the United States or a state or foreign jurisdiction approved by the securities valuation office of the national association of insurance commissioners and approved by the commissioner as eligible for netting.

The Securities Valuation Office of the National Association of Insurance Commissioners (NAIC) maintains a list of foreign (non-U.S.) jurisdictions eligible for netting in its Purposes and Procedures Manual, Part Six, Section 3(d) at Page 228 (a copy of which is attached to this Order).

It is the Commissioner's desire and intent to facilitate an efficient and orderly process for insurer rehabilitations under Chapter 81 of the Code.

Therefore, it is ORDERED that:

The list of foreign (non-U.S.) jurisdictions eligible for netting purposes that is maintained by the Securities Valuation Office of the NAIC is adopted and approved with respect to counterparties or guarantors domiciled therein for purposes of Section 8115a of the Code.



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R. Kevin Clinton  
Commissioner

**Purposes and Procedures  
Manual of the NAIC  
Securities Valuation Office  
Effective for Statements ending December 31, 2011**

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(volume/issue 10-02)

SVO-PP-10-02



**National Association of  
Insurance Commissioners**

(d) **List of Foreign (non-U.S.) Jurisdictions Eligible for Netting for Purposes of Determining Exposures to Counterparties for Schedule DB - Part E - Section 1**

(i) Procedures for Determining NAIC Designations and Netting Eligibility for Derivative Instrument Counterparties

(A) *Purpose*

- (1) **Netting Eligibility:** The purpose of identifying jurisdictions eligible for netting is to permit the calculation of credit risk exposures to counterparties in Schedule DB--Part E--Section 1. The netting of offsetting liabilities with a counterparty will only be permitted in this Schedule if there exists a master agreement that provides for such netting and if there is adequate legal certainty that closeout netting would be enforced upon default of the counterparty.
- (2) **Legal Certainty For Netting Eligibility:** There is adequate legal certainty to permit netting of exposures for counterparties domiciled within the United States. Netting of exposures in Schedule DB--Part E--Section 1 will be permitted for a foreign (non-U.S.) counterparty if its domiciliary jurisdiction appears on the list in this sub-paragraph (d). Jurisdictions will appear on the list if, in the opinion of the SVO, legal opinions and/or analyses provide adequate legal certainty that upon default of the counterparty, closeout netting would be enforced.

**Jurisdiction:**

Australia  
Canada  
England  
France  
Germany  
Ireland  
Japan  
Singapore  
Switzerland  
Cayman Island  
Belgium  
Scotland