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September 9, 2014

Commissioner Ted Nickel

Chair, NAIC Mortgage Guaranty Insurance (E) Working Group

Commissioner, Wisconsin Office of the Commissioner of Insurance

By E-Mail

Re: Objection to Proposed Closed Meeting of PMI WG of Regulators and Selected Mortgage Guaranty Insurers

Dear Commissioner Nickel,

The Center for Economic Justice (CEJ) writes to confirm that the next meeting of the Mortgage Guaranty Insurance (PMI) Working Group (WG), in which Oliver Wyman (OW) will present the details of the PMI industry capital model proposal to WG members, will be open to all interested parties. This letter is necessary because of the request by the PMI industry sponsors of the OW capital model to restrict the meeting to selected industry representatives and WG members coupled with your comments during the Louisville PMI WG meeting in support of excluding other interested parties from this meeting.

It is useful to provide some background to frame the role of this next meeting. The PMI WG is working to revise the NAIC Mortgage Guaranty Insurance Model Act (#630) in the aftermath of the failures of PMI insurers during the financial crisis and Great Recession. The existing model clearly needs to be updated to reflect, among other things, a more sophisticated risk-based capital approach to solvency oversight of PMI insurers. Towards this end, the PMI industry retained OW to develop such a risk-based capital model for PMI and the industry has been reporting on the progress of the development of the model to the WG. The most recent presentation was at the NAIC Summer National Meeting in Louisville and that presentation was the most detailed to date and included many of the risk factors to be used in the model.

The PMI WG has not undertaken any work on its own to develop new capital standards or a risk-based capital model for the revised PMI model law, instead relying on industry to develop the model for regulatory review and approval. The regulator outsourcing to the regulated industry of the development of the core of the revised model law is troubling. The PMI industry retained OW (without consultation with or approval by regulators), is paying OW and directs the efforts of OW. Review and acceptance of the final OW risk-based capital model by WG members is quite different from regulator development of the risk-based capital model. Given this decision-making framework that places a tremendous amount of control and discretion in the hands of the regulated

industry, complete transparency by industry and OW about the development of the risk-based capital model is essential.

Which brings us to the issue of the next WG meeting to discuss the OW risk-based capital model. At the Louisville meeting of the WG, Ted Durant of MGIC (one of the PMI insurers sponsoring the OW effort) presented the status of the OW model. OW staff developing the model did not make the presentation. At the end of the presentation, Mr. Durant laid out the timeline and activities for completing the risk-based capital model (which would then be incorporated into the revised PMI model law). Attached is Mr. Durant's slide, which includes the following:

Description	Timing	Proposed Agenda	Meeting Type
Model refinement, backtesting, and validation	September 2014	<ul style="list-style-type: none"> •Methodology update <ul style="list-style-type: none"> –Any revisions to capital modeling components •Model performance - backtested projected solvency vs. actual •Projections of forward solvency under selected scenarios •Overall implications for MI capital levels based on results 	Closed session
Finalize recommendations	TBD	<ul style="list-style-type: none"> •Update on final model methodology •Update on final model performance and backtesting •Proposed design for capital regime <ul style="list-style-type: none"> –Frequency/approach to setting capital requirements –Role of full capital model –Triggers and regulatory interaction 	Closed session

Mr. Durant stated that the next (September) meeting should be closed because some insurer members of the industry group sponsoring the OW work are public companies and that discussions during the meeting could somehow impact the stock prices of these companies. The draft minutes of the WG meeting reported the following discussion:

Commissioner Nickel indicated that the companies discussed during these intended meetings and calls are publicly traded, which could result in confidentiality issues. Commissioner Nickel added that the Working Group has been as open as possible in order to promote transparency. Mr. Birnbaum commented that generic data could be used to allow these meetings to be open to other interested parties. Commissioner Nickel indicated that the interested parties are seeing the work completed on the capital model. He added that the Working Group will consider Mr. Birnbaum's request, but it cannot jeopardize the status of a publicly held company by breaching its confidentiality protections

There are several obvious and glaring serious problems with a closed meeting of selected insurers and regulators to work through the details of a capital model intended to be the core of a revised model law. First, there is no reason to utilize confidential individual company data in a meeting to review and fine-tune the factors used in the risk-based model or to test the model under various stress scenarios. Generic data or industry-composite data can – and should – be used.

Second, the idea that confidential data of selected insurers will be discussed in a meeting of those selected insurers appears to be an anti-trust violation. Moreover, if an insurer is concerned about members of the public viewing certain confidential information of the insurer, it is unclear why that insurer would not have similar concerns about competitor insurers viewing that confidential information.

Third, it is in meetings like the proposed September meeting in which critical decisions are made regarding which factors to use in a solvency oversight capital model and how those factors will be used, including whether or not to use particular risk factors, how much weight to give specific risk factors and if and how to combine certain risk factors.

Fourth, during a period in which the NAIC has been criticizing the IAIS for closing meetings to interested parties and has been trumpeting the openness and transparency of NAIC proceedings, it would be both inconsistent and inconceivable for the PMI WG to hold a closed meeting with selected PMI industry members to effectively formulate the framework for future solvency regulation of the same PMI insurers.

Thank you for your consideration. We appreciate your timely response.

Sincerely,



Birny Birnbaum

Executive Director

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