

Swiss Re



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Re: Request for Information – Stop-Loss Insurance (CMS-9967-NC)

Delivered Electronically

July 2, 2012

Dear Sir or Madam:

Swiss Re Corporation Limited and Subsidiaries ("Swiss Re") respectfully submit this comment letter in response to the Request for Information Regarding Stop Loss Insurance published in the Federal Register on May 1, 2012.

- 1. How common is the use of stop loss insurance in connection with self-insured arrangements? Does the usage vary (and, if so, how) based on the size of the underlying arrangement or based on other factors? How many individuals, if known, are covered under stop loss insurance (either nationally or on a state-specific basis)? What are the trends? Are past trends expected to be predictive of future trends? Is the Affordable Care Act expected to affect these trends (and, if so, how)?**

Generally speaking, very large groups (10,000 + employees) will not elect stop loss protection while small to mid-size groups (< 10,000 employees) will elect it. With the passage of the Affordable Care Act, the lifetime limit on benefits was removed and the annual limit will ultimately disappear. As a result, we have seen some large groups, which otherwise would not have elected to purchase stop loss coverage, pursue high level protection (claims in excess of \$1,000,000).

- 2. What are common attachment points for stop loss insurance policies, and what factors are used to determine these attachment points? What are common attachment points by employer size (e.g., for plans with fewer than 50, between 50 and 100, or between 100 and 250 employees, and how do these compare to attachment points used by larger plans)? What are the lowest attachment points that are available? What are the trends?**



The term "attachment point" generally refers to the Aggregate coverage. For purposes of this question, we will assume you are using the term interchangeably with Individual Retention Level. Attachment points vary by individual employer group. It would be difficult to identify a range or ranges that certain group sizes select. Some groups are simply more financially savvy than others and understand more intimately the liability level(s) they wish to elect. Several factors are used in the development of both the Individual Retention Level and Aggregate Attachment point. However, they do share some common factors that, at a minimum are required to rate the group; including group demographics / location(s), claims history, manual base rates, plan design (current and proposed), liability basis and managed care/cost containment programs.

- 3. Are employee-level ("specific") attachment points more common, or are group-level ("aggregate") attachment points more common? What are the trends? What are the common attachment points for employee-level and group-level policies?**

Selection of either Individual or Aggregate Stop Loss coverage is specific to each individual group and the liability they wish to elect. Generally speaking, larger groups will not elect Aggregate cover. Groups that move from the fully insured environment will often more times than not elect both Specific and Aggregate covers. We do not see any specific trends developing here. The advantage of self-funding is that each group can select particular coverage that meets their individual financial needs and the benefit needs of their employees.

- 4. How do insurers work with small employers to integrate stop loss insurance protection with self-insured group health plans? What kinds of options are generally made available? Are policies customized to meet the needs of different employers? How are the attachment points for a stop loss policy determined for an employer? Do self-insured group health plans purchase stop loss insurance anticipating that they will purchase it every year?**

Stop loss carriers do not directly work with employers regardless of size. The market model for this coverage is that the employer usually works directly with a broker or TPA to develop solutions for the plan. Options that are generally considered include Specific Retention Level, liability basis and various managed care networks. As noted in question #2, a variety of factors are used to establish attachment points. We cannot speculate on whether or not a group will purchase stop loss insurance with the intention to purchase it again. Generally speaking, if a group has been self-funded for some time then the possibility they will continue to be self-funded increases.

- 5. For a given attachment point, what percentage of total medical costs incurred by the employees is typically paid for by the employer and what percentage is typically paid for by the stop loss insurance policy? How much do the relative percentages vary for different attachment points? What are the loss ratios associated with stop loss insurance policies?** The underlying plan document determines the amount of financial responsibility (e.g. co-pays, coinsurance, etc.) that each employee may have. The loss ratios for top Loss coverage are based on each individual account's characteristics and claim experience.



The variance in loss ratio and attachment point will vary from group to group even when in the same group size (e.g. 250-500).

- 6. What are the administrative costs to employers related to stop loss insurance purchased for the employers' self-insured group health plans? How do these costs compare to the administrative costs related to purchasing a health insurance policy from an issuer?**

Administrative costs are more generally associated with the Third Party Administrator or carrier providing administrative services to the plan. These entities are responsible for servicing the plan and for claims adjudication.

- 7. Is stop loss insurance more prevalent in certain industries or sectors? Are there any minimum employee participation requirements for a small employer to be offered stop loss insurance?**

According to the 2011 Kaiser/HRET Survey of Employer Sponsored Health Benefits, the percentage of covered workers in partially or completely self-insured plans by industry is as follows:

- Agriculture/Mining/Construction: 56%
- Manufacturing: 78%
- Transportation/Communications/Utilities: 70%
- Wholesale: 66%
- Retail: 40%
- Finance: 71%
- Service: 61%
- State/Local Government: 79%
- Healthcare: 55%

Minimum employee participation will differ by carrier. For example, Swiss Re Corporate Solutions will not quote groups with less than 100 covered employees.

- 8. What types of entities issue stop loss insurance? How many small entities issue stop loss insurance policies?**

Generally speaking, stop loss insurance contracts will be issued by commercial insurance carriers authorized to provide such coverage within the respective states. These carriers may be solely dedicated to the health market or, in some instances, multi-product carriers (i.e. Property & Casualty, Life & Health, etc.). Since we do not have a definition of what a small entity is, we cannot provide an answer to the second half of the question above.

- 9. Do stop loss issuers increase fees for groups below a certain size or exclude those groups? If so, how?**

We cannot speculate on other carriers' business appetite as every carrier has a certain comfort level of the risks they are willing to take on. We also cannot speculate on how



other carriers may rate individual groups, as this is also tied to their business appetite. As noted above, for example, Swiss Re Corporate Solutions will not quote groups with less than 100 covered lives. However, other carriers may be more comfortable operating in that market space. Generally speaking, the rating process for the group of 100 employees is the same as a group with 10,000 employees. Each group is underwritten using its own claim history and experience, group demographics and other characteristics. Many carriers do enforce some sort of minimum covered lives requirement.

10. How do stop loss insurers evaluate the plans seeking coverage and how is this evaluation reflected in the coverage or premiums offered? Does the profile of the plan have an effect on the attachment points available?

The rating of each group is very specific to the characteristics of that group. The plan of benefits is a vital component in the rating and pricing of coverage and so it would have an effect on the attachment point.

11. How do States regulate stop loss insurance? In States that are regulating this insurance, what are the licensing processes and standards? Have States proposed laws, regulations, or best practices with regard to stop loss insurance? Do such proposals focus on attachment points, size of the group, percent of total claims paid by the stop loss insurer, or other criteria? What are the issues States face in regulating stop loss insurance?

States regulate stop loss insurance just as they do with most other types of commercial insurance coverage's within their respective states. Generally, carriers that sell stop loss insurance are required to be licensed in the states where they operate, and are subject to market conduct regulation. Most states also require the approval of forms and rates for stop loss coverage. Several states have enacted laws regarding minimum requirements for stop loss policies. These requirements generally include minimum attachment levels at both the individual and aggregate levels. However, there is no uniformity among these laws. Additionally, some states are utilizing tax code to impose additional costs to self-funded groups; however, these legislative requirements differ from state to state.

One issue that states face in regulating stop loss insurance is in the classification of the risk between that P&C and A&H. While stop loss insurance does cover losses due to health services, the underlying purpose of the coverage is to indemnify employers for their losses over defined attachment points. This coverage more closely correlates to excess loss coverage which is more common within the P&C lines of coverage. Since the two types of insurance (P&C and A&H) can and often have different operational and reporting standards, rules and regulations, stop loss providers are often forced to spend additional time and efforts in managing compliance standards and interpretations by the regulating State entities.

The other issue states face is that the underlying employer health plan is covered by the Employee Retirement Income Security Act (ERISA) of 1974. ERISA pre-empts state regulation over the employer health plans. Since stop loss coverage is excess coverage of these ERISA health plans, States who have the authority to legislate direct health coverage



are often using their leverage over stop loss insurance to impose standards in which they could not directly have over the ERISA plans themselves. Stop loss carriers are caught in the middle and often faced with additional administrative burdens and compliance hurdles to comply with both standards or to clarify which standards they have to comply with.

12. What effect does the availability of stop loss insurance with various attachment points and other particular provisions have on small employers' decisions to offer insurance to employees?

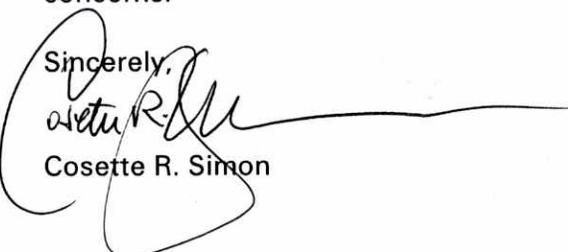
The decision to self-fund is a financial decision. The self-funded contract is one between the employer and stop loss carrier. The employer, therefore, "acts" like an insurance company by taking risk for its employee's claims. The stop loss policy is a reimbursement policy which requires that employers fully fund claims before they are reimbursed by the carrier. The availability of a stop loss policy to reimburse excess loss claims provides an option to those employers who want to self insure but are concerned about limiting their risk exposure.

13. What impact does the use of stop loss insurance by self-insured small employers have on the small group fully insured market?

As different as each employer is from the next, so is the decision to self-fund regardless of size. Since the employer is assuming liability and risk in a self-funded arrangement, the decision to self-fund will surely be based on the financial goals of that particular company. It is possible that extraneous benefit requirements for groups that are fully insured would, give those employers more reason to look at the self-funding option. Unlike fully insured plans, self-funding allows an employer to design a plan of benefits particular to its employee population and including benefits most desired by that population. That being said, many smaller employers do not have the necessary claims data to appropriately underwrite a stop loss policy for the group. This minimizes the impact of stop loss insurance on the small group fully insured market.

We appreciate the opportunity to comment on this very important matter to Swiss Re. Please feel free to contact me at 202.742.4633 if you wish to discuss this further or have any questions or concerns.

Sincerely,



Cosette R. Simon