Date: 11/16/20

GROUP CAPITAL CALCULATION (E) WORKING GROUP
Tuesday, November 17, 2020
3:30 – 5:30 p.m. ET / 2:30 – 4:30 p.m. CT / 1:30 – 3:30 p.m. MT / 12:30 p.m. – 2:30 p.m. PT
WebEx Call-in

ROLL CALL

David Altmaier, Chair	Florida	Justin Schrader	Nebraska
Kathy Belfi, Vice Chair	Connecticut	Dave Wolf	New Jersey
Susan Bernard	California	Bob Kasinow	New York
Philip Barlow	District of Columbia	Jackie Obusek	North Carolina
Kevin Fry	Illinois	Dale Bruggeman	Ohio
Roy Eft	Indiana	Andrew R. Stolfi	Oregon
Carrie Mears	Iowa	Kimberly Rankin/Melissa Greiner	Pennsylvania
Gary Anderson	Massachusetts	Trey Hancock/Rachel Jrade-Rice	Tennessee
Judy Weaver	Michigan	Mike Boerner/Doug Slape	Texas
Kathleen Orth	Minnesota	David Smith/Doug Stolte	Virginia
John Rehagen/Karen Milster	Missouri	Amy Malm	Wisconsin

NAIC Support Staff: Dan Daveline/Lou Felice

AGENDA

1. Consider Adoption of its Oct. 30, Oct. 20, Sept. 29, Sept. 18, and Sept 2 Minutes — Attachment A

2. Adopt Changes to Model Act and Model Regulation—Commissioner David Altmaier *(FL)*

   a. Summary of Comments — Attachment B
   b. Combined Comment Letters — Attachment C
   c. Revised Model 440-After Editorial Changes — Attachment D
   d. Revised Model 450-After Editorial Changes — Attachment E

3. Consider Adoption of the Group Capital Calculation Template and Instructions—Commissioner David Altmaier *(FL)*

   a. Summary of Comments — Attachment F
   b. Combined Comment Letters — Attachment G
   c. Revised Group Capital Calculation Instructions-After Editorial Changes — Attachment H
   d. Revised Group Capital Calculation Template — Attachment I

4. Adjournment

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Draft: 11/11/20

Group Capital Calculation (E) Working Group
Virtual Meeting
October 30, 2020

The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met Oct. 30, 2020. The following Working Group members participated: David Altmaier, Chair (FL); Kathy Belfi, Vice Chair (CT); Susan Bernard (CA); Philip Barlow (DC); Mike Yanacheak (IA); Susan Berry (IL); Roy Eft (IN); Christopher Joyce (MA); Judy Weaver (MI); John Rehagen (MO); Jackie Obusek (NC); Justin Schrader (NE); Dave Wolf (NJ); Bob Kasinow (NY); Dale Bruggeman (OH); Greg Lathrop (OR); Kimberly Rankin (PA); Trey Hancock (TN); Mike Boerner (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI).

1. Discussed Revisions to the GCC Instructions

Commissioner Altmaier expressed his appreciation for the comments received (Attachment A) on the latest exposed template and instructions. He stated that the comments were divided into five main areas (Attachment B), and NAIC staff developed a recommended course of action for each. He stated that the purpose of the meeting is to discuss suggested further revisions to the group capital calculation (GCC) instructions (Attachment C). He added that his goal is to expose the revised instructions on a "fatal flaw" basis until mid-November at the end of the discussion. He stated that such an exposure could put the Working Group in a position to adopt the instructions and template and send it to the Financial Condition (E) Committee when it meets at the Fall National Meeting. The following revisions and recommendations were presented:

a. Calibration Level of the GCC

Lou Felice (NAIC) stated that the comments received all called for setting the calibration of the GCC at 200% x Authorized Control Level (ACL) Risk-Based Capital (RBC) rather than the 300% currently included in the template. The reasons generally related to confusion and outside use of an unfamiliar capital benchmark. Mr. Felice offered a compromise that reduces the calibration level of the GCC to 200% x ACL, but it includes sensitivity analysis at 300% x ACL RBC and shows a 100% x ACL for informational purposes. He added that all calculations that are related to RBC will be reported at 200% x ACL, but jurisdictional or sectoral capital requirements will be reported at the same amount for the GCC and the sensitivity analysis, pending eventual selection of scalars. He stated that the ongoing drafting of analysis guidance will need to be updated to provide appropriate guidance on the levels reported.

Mr. Barlow expressed support for retaining a 300% x ACL since the GCC is a different view from entity-based capital requirements. Mr. Bruggeman stated that the calibration level causes a perception issue and calibrating the GCC at a level similar to existing RBC levels makes sense. He added that including 300% x ACL as a sensitivity analysis provides information that is helpful to state insurance regulators, and it maintains flexibility in international discussions, so he supports the compromise proposal. Ms. Belfi and Mr. Eft agreed. Mr. Schrader stated that his preference is for calibrating the GCC 300% x ACL since it should not be compared with entity-based RBC levels. However, he is comfortable with a compromise proposal. Ian Adamcyk (Prudential Financial) summarized points raised in a letter from a coalition of then insurers supporting a 200% x ACL calibration, and he supports the calculation. Joe Engelhard (MetLife) stated that the compromise supports the goals of the GCC and mitigates issues related to the perception and use by rating agencies. Mariana Gomez-Vock (American Council of Life Insurers—ACLI) stated that based on an initial review, the ACLI is supportive of the compromise proposal. Tom Finnell (America's Health insurance Plans—AHIP) noted concern about how the GCC ratio is expressed relative to ACL RBC versus 200% or 300% x ACL causing confusion. He asked that the analysis guidance being developed be clear about the importance of the 200% and 300% sensitivity analysis. David Neve (Global Atlantic Financial Group) expressed support for the compromise.

Commissioner Altmaier recognized that the stakeholders had not seen the compromise language until very recently and accepted their initial support for the compromise on that basis. He instructed NAIC staff to include the compromise in the instructions and template for the next exposure.

b. Application of Scalars for Non-U.S. Insurance Entities

Mr. Felice stated that NAIC staff recommend no further changes. He noted that the interested parties had previously supported using 100% of jurisdiction prescribed capital requirement (PCR) as a placeholder and including the excess relative ratio method as part of sensitivity analysis, pending further evaluation and input from the American Academy of Actuaries' (Academy's) ongoing work at the International Insurance Relations (G) Committee regarding potential other scaling methodologies. Mr.

Engelhard expressed support, and MetLife is providing feedback to the Academy. He stressed the importance of further data collection. A new issue of possible scalars for mortgage insurance was raised by Genworth. Mr. Engelhard stated that this issue requires further study. Dale Porfilio (Genworth) offered to work with NAIC staff on potential solutions.

Commissioner Altmaier noted that no changes are required.

c. Allowance for Capital Instruments as Additional Capital

Mr. Felice stated that the comments are generally in three areas: 1) increasing the proxy limits on qualifying senior and hybrid debt from the current 30% and 15%; 2) removing "tracked downstream" as a way to measure the allowance; and 3) suggested changes to the criteria for qualifying debt to recognize "make whole" provisions in the debt instruments.

For the first issue, Mr. Felice noted that the main rationale supporting a debt allowance is structural subordination of the debt proceeds. Adjusting the 30% and 15% without a strong tie to structural subordination could undermine the proxy approach. Mr. Felice also discussed how the calculation mitigates reductions in the allowance in times of financial stress. He recommended no change to the 30% and 15% allowances. Mr. Finnell stated that concerns about procyclicality were addressed by the International Association of Insurance Supervisors (IAIS) via applying the limits to required capital rather than available capital. Ms. Gomez-Vock agreed that applying the current limits to available capital could constrain a group's ability to maintain capital levels, and at that point in time, results from the last field test could change. Mr. Engelhard agreed and noted that much of his group's hybrid debt is closer to senior debt.

On the issue of "tracked downstream," Mr. Felice noted that prior and current comments received from interested parties supported removal of this method for measuring an allowance. He agreed and recommended deletion. Furthermore, he recommended replacing "tracked downstream" with an alternative method proposed by the American Property Casualty Insurance Association (APCIA). There were no objections.

Finally, with regard to calling provisions "make whole" provisions, Mr. Felice offered to reach out to the commenters over the next week or so to gain a better understanding of the issue. Mr. Finnell was receptive to presenting the issue offline.

Commissioner Altmaier stated that the NAIC staff proposal will be in the instructions and template for the next exposure.

Commissioner Altmaier stated that the GCC instructions and template will go forward with the NAIC staff recommendations.

d. Treatment of Financial Entities Without a Specified Regulatory Capital Requirement

Mr. Felice stated that some comments were related to how to assess risk level. He stated that the added principles for material risk were meant to be applied by the filer to assess risk level, and the lead state will evaluate the risk level selected. The instruction currently contains a drafting note that suggests assigning a "medium" risk if it is unclear after applying the principles. He also mentioned that the risk factors for this entity type will be adjusted to the 200% x ACL calibration level.

Another comment related to applying capital requirements applied by organizations such as the Financial Industry Regulatory Authority (FINRA) or the U.S. Securities and Exchange Commission (SEC). Mr. Felice stated that there is insufficient background on the nature of the capital requirements nor on entity types to be covered to make a change at this point. Lastly, he stated that NAIC staff agree with comments asking for the deletion of the only quantitative criteria in the material risk principle because consensus was never reached by the Working Group on any quantitative measure of material risk. There were no additional oral comments.

e. Future Data Collection

Mr. Felice noted that almost all the comments received on this issue support future data collections in 2021 and possible adjustments to the GCC in order to filter out any unintended consequences based on the results of that data. He stated that NAIC staff support data collection during the period between adoption of the template and states' action on the *Insurance Holding Company System Regulatory Act* (#440). He added that the mechanism for data collection in 2021 will require further discussion by the Working Group. In response to a question from Mr. Bruggeman, Ned Tyrrell (NAIC) stated that previous field test data could be run through the revised template, but a few data items are not available from the field test data. He added that the results could be presented in a similar way, as was done after the field test. Mr. Bruggeman stated that we should be careful as to how the individual revisions interact in the overall GCC ratio results. Martin Hanson (North American Chief Risk Officers [CRO] Council) agreed and supports an impact assessment.

f. Other Comments

Commissioner Altmaier stated that most other comments have been addressed via revised wording in the GCC instructions. Ms. Belfi described two issues raised by UnitedHealth Group (UHG). The first related to the reporting of intangible assets, which are collected in the template. Ms. Belfi supports bifurcating the information to highlight the distinction between health led groups and other groups. She offered to work with NAIC staff to adjust the way the data is being requested.

Commissioner Altmaier again expressed his appreciation for the comments received, and he stated that the revised version of the GCC instructions and template will be exposed for a public comment period ending Nov. 12. However, there will be some flexibility in accepting comments in order to allow a day or two for NAIC staff to complete the revisions and distribute the materials.

Having no other business, the Group Capital Calculation (E) Working Group adjourned.

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Draft: 11/4/20

Group Capital Calculation (E) Working Group
Virtual Meeting
October 20, 2020

The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met Oct. 20, 2020. The following Working Group members participated: David Altmaier, Chair (FL); Kathy Belfi, Vice Chair (CT); Kim Hudson and Susan Bernard (CA); Philip Barlow (DC); Carrie Mears (IA); Susan Berry and Vincent Tsang (IL); Roy Eft (IN); John Turchi and Christopher Joyce (MA); Steve Mayhew (MI); Barbara Carey (MN); John Rehagen (MO); Jackie Obusek (NC); Justin Schrader (NE); Bill Carmelo and Bob Kasinow (NY); Dale Bruggeman (OH); Trey Hancock (TN); Melissa Greiner and Kimberly Rankin (PA); Jamie Walker (TX); David Smith (VA); and Amy Malm (WI).

1. Discussed Further Proposed Changes to Model #440 and Model #450

Commissioner Altmaier stated that the purpose of this conference call is to discuss the comments received (Attachment ?-?) on the Working Group's previously exposed proposed changes to the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). He stated that his intent is for the Working Group to adopt revisions to each of these models during a Nov. 4 conference call of the Working Group and subsequently present these to the Financial Condition (E) Committee during a Nov. 19 conference call of the Committee. To achieve that, the Working Group would make final decisions today and expose a final fatal flaw version of each model that incorporates the decisions made during the conference call.

a. County Mutual Language

Commissioner Altmaier stated that the Working Group discussed county mutual language on its Sept. 18 conference call, and he noted that according to NAIC staff, a few states had already agreed to replacement language to address this issue more broadly through a single state exemption. The Working Group did not object to incorporating revised language proposed by the National Association of Mutual Insurance Companies (NAMIC) to address this issue.

b. Limited Filing for Groups with RBC Filing as UCP

Mariana Gomez-Vock (American Council of Life Insurers—ACLI) summarized the ACLI comments on this issue, noting how NAIC staff have repeatedly said the group capital calculation (GCC) should be agnostic to corporate structure, but the exemption in Section 21(B)(1) seems to turn mostly on corporate structure. She noted that if the GCC is supposed to be agnostic to corporate structure, it is undesirable from the ACLI's perspective to potentially exempt large, complex, internationally active groups from having to complete the entire GCC process simply because of the group's corporate structure. Smaller mutual insurance companies can still avail themselves of the exemption in paragraph 21A of Model #450. Ms. Gomez-Vock noted that while it is true that aspects of the GCC and legal entity risk-based capital (RBC) have come closer together—a result the ACLI advocated for and supports—there are still key differences between the two, the most significant being the GCC's calibration to 300% Authorized Control Level (ACL) instead of 200% ACL RBC. She stated that it is not clear to the ACLI why the difference in corporate structure justifies using 200% ACL for mutual groups and 300% for groups with a holding company. She noted that perhaps more importantly, the GCC process consists of much more than a simple ratio or inventory. The NAIC has created a thoughtful tool that provides a rich array of analytical data that is provided in the GCC template that may be lost if a group is permitted to file a limited group capital report. She stated that the ACLI believes that the information in the scheduling and adjustments is just as meaningful whether the group's ultimate controlling person (UCP) is an insurer or holding company. She stated that the ACLI agrees with the state insurance regulators and staff who have said the GCC provides more value than the result. Because they do not know yet what the limited filing comprises, it is very difficult to feel reassured that all of the valuable analytical information from the GCC schedules will be compressed into the limited filing, which NAIC staff had previously indicated would be limited to Schedule 1 and the analytics. Ms. Gomez-Vock stated that if the value of the GCC is the analytical data, not just a numerical ratio, it is hard to understand why this additional information that is contained in each of the GCC's schedules is so valuable for some groups and not for others. Therefore, the ACLI opposes the limited filing exemption for large and complex mutual companies that is provided in Section 21B(1).

Jonathan Rodgers (NAMIC) noted NAMIC's appreciation for changes to Model #440 reverting back to prior versions at commissioners' discretion over exemptions and the limited filing. However, he stressed that there should be a materiality concept in Section 21(B)(1) of Model #450. He stated that NAMIC recognizes the allowance for the limited filing in this

paragraph and therefore a materiality concept. He noted that to the extent that the Working Group was going to limit this paragraph, NAMIC would support maximum flexibility.

Mr. Bruggeman stated that from the beginning, but especially after the first round of field testing, he concluded that the RBC of a UCP is a reasonable proxy for the GCC, especially if a bank was not involved. He stated that this also considers the fact that the GCC is a tool and not a comparison of one group to the next. He stated that he could appreciate the perspective that seems to come out from the ACLI basis for removing this paragraph on the basis that the NAIC should not do anything that reduces the credibility of the GCC. He stated that on that basis, if the paragraph is modified to prevent the exception within the paragraph to apply to internationally active insurance groups (IAIGs) as defined within Model #440 and there is some additional communication with the other affected insurers, the paragraph could be modified and still achieve its original objective. He noted that to the extent that the paragraph is removed, it would seem as though the entire Section 21B could also be removed.

Mr. Smith made a motion, seconded by Mr. Carmello, to remove paragraph 21B(1) of Model #450. The motion passed with no votes from Illinois, Ohio, Texas, and Washington, DC.

c. Subgroup Reporting Details

Dan Daveline (NAIC) indicated that some comments suggested that several issues arise, which have not been addressed, if subgroup reporting is adopted. However, he noted that NAIC staff disagreed and suggested language that could be added to the extent that the Working Group concludes that subgroup reporting may be required in certain situations. The Working Group agreed with the NAIC staff suggestion, and the proposed language will be considered if the Working Group concludes that subgroup reporting may be required.

d. Reference in Communication

Mr. Daveline noted that one comment suggested modifying the language that referred to the GCC as an acceptable international capital standard (ICS) in proposed required communication from certain non-U.S. group-wide supervisors in certain situations. He noted that NAIC staff disagreed primarily on the basis that the proposed language does not refer to the GCC as it is referred to in Model #440 and Model #450. The Working Group agreed with NAIC staff.

e. Communication of Non-Reciprocal Jurisdictions

Bill Schwegler (Transamerica) summarized Transamerica's comments related to limiting the attestation to U.S. groups within Model #450. Mr. Daveline stated that he does not understand the proposed issues given that the paragraph referenced within Model #450 specifically pertains to a section to allow a non-U.S. group to be exempt from the GCC. The Working Group agreed with NAIC staff.

f. Enterprise Risk Definition

Mr. Daveline noted that one comment suggested developing a new definition for enterprise risk specific to the GCC. He stated that he disagreed with the suggestion, noting that the current definition was developed for the Form F and was intended to be broad, and the existing definition is quite accurate with respect to the GCC. The Working Group agreed with NAIC staff.

g. Exemptions

Mr. Daveline noted that one comment regarding the exemptions suggested that the exemptions in Model #440 be specifically referenced in Model #450 or included verbatim in Model #450. He suggested that NAIC staff disagreed with the comment on the basis that it is stylistic and inconsistent with the way most NAIC models are structured. The Working Group agreed with NAIC staff.

h. Subgroup Reporting Reciprocity

Commissioner Altmaier stated that a conference call between NAIC staff and the Federal Insurance Office (FIO) took place last week that has an impact on the subgroup reporting issue, and he asked NAIC staff to summarize those aspects of the discussion. Dan Schelp (NAIC) stated that on Oct. 14, immediately before the scheduled conference call of the Working Group, senior NAIC staff had a conference call with representatives of the FIO and the U.S. Trade Representative (USTR) discussing the proposed changes to Model #440 and Model #450 regarding the subgroup GCC. He stated that

NAIC staff had similar calls with the FIO and USTR during the drafting of the *Credit for Reinsurance Model Law* (#785) and *Credit for Reinsurance Model Regulation* (#786). He described how these calls are usually confidential, but the FIO and USTR did not seek to exercise any authority over the states on the call. He noted that NAIC staff took away several concerns about the subgroup GCC after the call.

Mr. Schelp provided a summary of each concern. First, Article 4(b) of the "Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (EU Covered Agreement) specifically permits a subgroup GCC to be exercised by the host supervisory authorities, which in this case would be the U.S. states. However, it further provides that such a subgroup GCC should be exercised "where appropriate." There is some concern that requiring a subgroup GCC in those instances, where another jurisdiction subject to the EU Covered Agreement places a subgroup capital requirement on U.S. insurance companies, would not in and of itself be considered to be "appropriate." The EU Covered Agreement itself does not provide any guidance on what an appropriate reason would be to require a subgroup GCC. Second, NAIC staff came away with concerns on the process under the EU Covered Agreement for resolving disputes between the U.S. and the EU. Specifically, Article 7 of the EU Covered Agreement establishes a joint committee to provide the parties with a forum for consultation on the administration of the EU Covered Agreement and its proper implementation. There is some thought that a lead state commissioner should first consult with federal and foreign authorities before unilaterally applying a subgroup GCC. However, neither the NAIC nor any of the states are members of the joint committee, nor do NAIC staff know in practice how effective the joint committee will be in resolving any disputes. NAIC staff think it might be worthwhile for the Working Group to consider incorporating a consultation process into its subgroup GCC; although, that process would not preclude a lead state commissioner from exercising a subgroup GCC, where appropriate.

Jack Armstrong (Liberty Mutual) indicated that Liberty Mutual supports the comments from the Coalition group of companies on subgroup reporting and reciprocity, and he believes that still holds true. He stated that there remains an opportunity to reconfirm the EU Covered Agreement and an agreement reached in Abu Dhabi to recognize the U.S. group supervision regulatory scheme at a level equal to any other in the world. He noted that Liberty Mutual believes the EU Covered Agreement allows state insurance regulators to continue with the proposed language because it does use the term "where appropriate." He stated that the proposed language provides for a process to help decide as to what would be appropriate. He described how the current proposed language is a broader exemption than would be necessary, and it carves back in a very price way what that circumstance would be. He stated that Liberty Mutual supports the proposed language to make the process as transparent as possible.

Kimberly M. Welsh (Reinsurance Group of America—RGA), speaking on behalf of the Coalition of groups, provided her responses to the three issues raised from the conversation with the FIO with respect to exercising supervision where appropriate for a couple of reasons. The requirement to file the GCC has been set up in Model #440 to apply to every group, subject to certain exemptions, where almost all exemptions are based on reciprocal treatment. Therefore, the authority is designed to provide the state with the ability to engage in group supervision, and to suggest that states authority is not appropriate would be incorrect. Ms. Welsh added that the language in the EU Covered Agreement clearly leaves things up to the state insurance regulator to determine, where it is appropriate, where the only limitation is with respect to worldwide group reporting. With respect to subgroup reporting, it is clearly left up to the state insurance regulators as to whether they want subgroup supervision. Therefore, it is within the states' rights whether to apply subgroup supervision. Ms. Welsh noted that like how the proposed model allows exemptions for those jurisdictions that respect the GCC, the RGA supports extending to subgroup reporting.

Ms. Welsh noted that with respect to exercising subgroup reporting over one group but not another, the proposed process ends with the individual lead state commissioner making the final decision but in consultation with other state insurance regulators through the NAIC. She noted that under the Coalition's proposed process, to the extent that a U.S. group is in a hazardous financial condition, there may be a reason that the non-U.S. regulator may want to obtain subgroup reporting group capital. She described how the process requires the non-U.S. jurisdiction to be consulted, along with the U.S. state, because the goal is to ensure that there is reciprocal treatment and mutual recognition of the GCC and not just both parties requiring group capital, as ideally there should only be one group capital. With respect to the joint committee, the Coalition has no objection to the NAIC consulting with the joint committee. Ms. Welsh noted that the Coalition considered including the Federal Insurance Office in the proposed process, but because the ultimate decision is left to the lead state commissioner, it did not seem appropriate. She noted that she believes it would be entirely appropriate to consult with the FIO if the regulator felt the joint committee could help with this process, but she stated that she would hate to see the NAIC not involved in the process, so that is a decision to be made by state insurance regulators.

Ms. Gomez-Vock stated that the ACLI continues to support the subgroup reporting reciprocity provision in Model #440, and at the same time, it believes that such a process must be supported by a transparent process. She emphasized that the ALCI's views on this matter have not changed since it submitted its comment letters.

Mr. Schwegler stated that with respect to the EU Covered Agreement, Transamerica previously identified some issues that have now been seconded by the FIO. He suggested that these complications create an incentive to remove the provision. With respect to Transamerica's comments, he highlighted the risk that state insurance regulators are taking by including this provision, and it is important to take a step back and ask what messages state insurance regulators are sending to other jurisdictions and what the response is going to be from other jurisdictions. He discussed the relationship risk, and he described the current proposal as a clearly retaliatory measure. He stated that where subgroup reporting exists, it is based upon policyholder protection, and he noted that Transamerica is not aware of any situation where there is systematic discrimination. He also discussed what he referred to as retaliatory risk where U.S. actions, when not gone unnoticed, could affect a decision that leads to the rejection of the aggregation method (AM) at the International Association of Insurance Supervisors (IAIS) or set up additional burdens for U.S. groups. He described his view that the U.S. has never agreed to be subject to an evaluation and has never agreed to be subject to the global standard of the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame). He suggested that the only reason that non-U.S. jurisdictions may choose to rely on the U.S. is this retaliatory threat. He emphasized that in his opinion, the risks vastly outweigh the benefits. He noted that a prior version of the proposed changes included "may" instead of "shall" in terms of action to be taken by the lead state commissioner, and he suggested utilizing some of the risks with the exception of the reputational risk

Joseph B. Sieverling (Reinsurance Association of America—RAA) stated that the RAA continues to oppose subgroup reporting in all jurisdictions, and the proposed subgroup reporting provisions should not be included in Model #440 and Model #450. However, if it is included the RAA believes it should be subject to lead state commissioner discretion; although, its U.S. members do support the proposal. Mr. Sieverling stated that the RAA is not convinced that subgroup capital requirements do anything to improve group supervision, and they only have a limited benefit when it comes to protecting policyholders. He described how the proposed subgroup reporting provision appears to be designed to provide leverage against another jurisdiction, which is not helpful and could have unintended effects. He stated that the RAA is concerned about this becoming part of an Accreditation Standard, as it sets a bad precedent given that those standards exist to protect policyholders. He stated that it is also unclear that it will have the effect of other supervisors giving up their authority to require such reporting. Finally, he stated that the proposal creates a complicated process for developing and maintaining such a list going forward. EU Covered Agreement and its allowances for subgroup reporting where appropriate, he asked state insurance regulators if appropriateness is based upon how a non-U.S. jurisdiction treats a U.S. company, and it does not appear to be tied to policyholder protection.

Matthew T. Wulf (Swiss Re) reiterated Swiss Re's previous comments that it opposes this proposed requirement and agrees with many of the same points as the RAA. He emphasized its disagreement with this being a mandatory requirement and should if retained be discretionary.

Paige S. Freeman (Munich Re) stated that Munich Re agrees with the points made by Transamerica, the RAA and Swiss Re, as states already have the tools they need to do what needs to be done. She stated that if the states decide to include such a provision, it should involve lead state commissioner discretion where appropriate; moreover, states should try to work out the issues diplomatically, as opposed to being required to retaliate.

Bruce Byrnes (Berkshire Hathaway) emphasized that this is not retaliatory, and it is simply putting jurisdictions on the same page since Europe already requires subgroup reporting. The proposal suggests that a process be set up where the NAIC could evaluate these things and a state could utilize it to the extent that they deem that appropriate. He noted that the FIO has been aware of this issue for some time, and he wondered if it had made any commitments to the NAIC, or at least raised it at the joint committee, or what action it intends to take if the states take no action.

Ian Adamczyk (Prudential) noted that Prudential submitted a comment on this issue at the onset of discussions, and it echoed some of the same points made by Transamerica on ceding authority. One of its comments was that it did not see the need to exempt any group from this requirement where the state insurance regulator deems it appropriate. Mr. Adamczyk described how other jurisdictions have retained such authority, and it goes both ways. He agreed with the comments made by Ms. Welsh and Mr. Byrnes.

Joe Engelhard (MetLife) noted it is important to distinguish between what is appropriate and the states authority, and without this language, no such ability would exist.

Ms. Welsh stated that Subsection (e) is no different than Subsection (c) or (d), which are also based upon reciprocity, but that with respect to the broad discretion proposed by some others, it will result in a lot of inconsistency where there is a potential for reputational concern, which could result in unfair treatment.

Ms. Belfi discussed the trust that had been built up over the years between the U.S. and other jurisdictions, and regulator do not want that trust to go away, but this is a tool of last resort. Coordinated efforts through colleges and transparent conversations would hopefully resolve any issues that there may be, but some authority needs to exist. Ms. Belfi discussed that in the beginning she supported commissioner discretion, but she now recognizes that the state inconsistency issue could be a problem, and she supports retaining the word "shall." She stated that CT, NE and NJ had developed proposed language that would address each of the three issues previously identified. Mr. Hudson indicated that California also has some language that would address some of the issues raised, and he read the proposed language. Ms. Belfi read the CT, NE and NJ proposed language. Ms. Mears stated that Iowa supports the discretion and the Californian language, but it opposes the retaliatory language because there may be examples of where it is appropriate. She stated that Iowa also has concerns about how the parties would be brought into the process because the two affected states may be different. Ms. Walker noted that if state insurance regulators have concerns about whether other parties are operating in compliance with the terms of the EU Covered Agreement, the joint committee process should be utilized, not baking it into a statutory provision. Mr. Barlow requested clarification on the phrase "competitiveness of the marketplace" in the proposed language. Ms. Belfi responded that she believes that if a non-U.S. jurisdiction required implementation of another capital standard at the local level and additional capital was required, there could be fairness and market issues. Mr. Schrader agreed with Ms. Belfi's response. Mr. Kasinow stated that he prefers the California approach. Ms. Belfi asked Ms. Walker how this would be resolved since the states are not part of the joint committee. Ms. Walker responded that the federal government has adopted this EU Covered Agreement; and while it may not be liked, as a state, if she does not believe she needs that subgroup reporting, Texas would not want to receive such reporting. She stated that she hopes once the GCC is implemented, state regulators can model the behavior they prefer with other jurisdictions as opposed to behavior that they oppose.

Mr. Hudson made a motion, seconded by Ms. Obusek, to replace the current paragraph in Section 4L(2)(e) of Model #440 with revised language that reads, "[n]otwithstanding the provisions of Sections 4L(2)(c) and 4L(2)(d), a lead state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace." The motion passed with no votes from Connecticut, Massachusetts, Missouri, Nebraska, New Jersey and Tennessee.

Commissioner Altmaier stated that the revised language from the decisions made on the call will be exposed until Oct. 30.

Having no further business, the Group Capital Calculation (E) Working Group adjourned.

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DRAFT PENDING ADOPTION

Attachment XX
Financial Condition (E) Committee
11/--/20

Draft: 10/5/20

Group Capital Calculation (E) Working Group
WebEx
September 29, 2020

The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met via WebEx call Sept. 29, 2020. The following Working Group members participated: David Altmaier, Chair (FL); Jim Jakielo and John Loughran (CT); Susan Bernard and Kim Hudson (CA); Philip Barlow (DC); Carrie Mears (IA); Vincent Tsang (IL); Roy Eft (IN); Christopher Joyce (MA); Judy Weaver (MI); Barbara Carey (MN); John Rehagen (MO); Jessica Price (NC); Ben Hostetler (NE); Dave Wolf (NJ); Dale Bruggeman (OH); Kimberly Rankin (PA); Trey Hancock (TN); Mike Boerner (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI).

1. Discussed Revisions to the GCC Instructions

Commissioner Altmaier stated that the purpose of the meeting is to present NAIC staff suggested revisions to the group capital calculation (GCC) instructions (Attachment 1) compiled in response to the comments received during the latest exposure and discussed during the Working Group calls on July 29 and Sept. 2. He added that the template would be updated in conformity with the instructions. He noted that his goal is to expose the revised instructions until Oct. 15 at the end of the discussion. He stated that a summary of the changes (Attachment 2) is included in the materials, which will also help identify where the changes were made in the instructions. The following revisions were presented:

a. Definition of Financial Entities Without a Specified Regulatory Capital Requirement

Lou Felice (NAIC) stated that he had been working with several interested parties on improving the definition of financial entities. He added that the results of that discussion to date are included in the revised definition. In response to a question from Mr. Tsang, Mr. Felice said he flagged some language that should be evaluated by state insurance regulators during the comment period. The language relates to the threshold used for the proportion of intragroup activity conducted by certain affiliates to determine whether an affiliate is a financial or a nonfinancial entity.

b. Principles for Evaluating Whether a Nonfinancial Entity Poses Material Risk

Mr. Felice stated that he had been working with the same interested parties on developing principles to be considered in determining whether a nonfinancial entity not owned by an insurer in the group posed material risk to the insurers in the group. Such entities owned by an insurer will remain in the capital charges (e.g., risk-based capital [RBC]) for the insurer. He added that a definition of cross-support mechanisms was added since they are referenced in both the definition of a financial entity and in the material risk principles. The results of the input provided are included in the revised instructions.

c. Treatment of Financial Entities Without Specified Regulatory Capital Requirement

Mr. Felice stated that he incorporated comments supporting similar treatment for all financial entities without regulatory capital requirements. He stated that no entities defined as financial could be excluded from the GCC, but he added that a suggestion from the (American Property Casualty Insurance Association—APCIA) to categorize entities as low, medium or high risk was now included in the instructions. The filer's categorization would use the material risk principles as a guide. Factors for each category are suggested in the instructions. He suggested that the Working Group consider using a medium risk charge until further data is collected.

d. Treatment of Nonfinancial Entities

Mr. Felice stated that the instructions now include a specific industry average after the covariance factor applied to GCC equity value and calibrated to 300% x authorized control level (ACL) RBC as the capital charge for these entities. The calculation of the factors was provided to a large mutual insurer for a reasonableness review, and an error was identified and corrected. He noted that the charge would apply to nonfinancial entities that pose material risk and are owned by non-insurers. Furthermore, such entities that do not pose material risk are subject to exclusion from the GCC. Mr. Felice stated that an alternative revenue-based risk charge remains as a potential option for comment but is less connected to RBC. He suggested that the factor for the revenue-based charge be set at the same level as for a "medium" risk financial entity. Bruce Byrnes (Berkshire Hathaway) questioned the use of an equity charge for entities not owned by insurer since those entities' value are not available to pay policyholder claims. He continued that he did not understand why different industries attract different risk charges. Mr. Felice indicated that the rationale was to be agnostic to group structure entities that pose risk.

e. Allowance for Capital Instruments as Additional Capital

Mr. Felice suggested removing the "tracked downstream" approach in line with most comments received. He added that an alternative approach suggested by the APCIA could be run in parallel via a sensitivity test. The APCIA contends its approach better represents structural subordination. Mr. Felice stated that the approach applies the same overall limitations for a capital allowance. Mr. Felice stated that NAIC staff recommend raising the overall limit on the allowance from 50% to 75% of total adjusted carrying value in the template. Commissioner Altmaier stated that the revisions are generally in line with the approach laid out in the previously issued memorandum on capital instruments. Mr. Felice agreed and stated that there were some refinements to the approach for calculating allowance.

David Neve (Global Atlantic Financial Group) asked if the question of eliminating the "tracked downstream" approach is still open. Commissioner Altmaier stated that it was a last opportunity for additional comments on this subject. Joseph Engelhard (MetLife) stated that his company would assess the potential alternative approach and noted that MetLife may have additional comments on the 30% and 15% proxy approach as applied to qualifying senior and hybrid debt, respectively. Tom Finnell (America's Health insurance Plans—AHIP) stated that AHIP may also have further comments on the 30% and 15% calculations. Commissioner Altmaier said that he looks forward to any further comments from MetLife and AHIP.

f. Application of Scalars for Non-U.S. Insurance Entities

Mr. Felice stated that the instructions have changed to incorporate 100% of jurisdictional capital requirements at a prescribed capital requirements (PCR) level for all jurisdictions with risk-sensitive capital requirements. He said that a sensitivity test was added to collect information on the excess relative ratio scalar approach favored by all those who commented. For jurisdictions without risk-sensitive capital requirements, an equity charge would be applied and asked for comments on the suggested 100% charge. Commissioner Altmaier noted that scalars remain an open issue, and deliberation would be informed by ongoing work at the International Insurance Relations (G) Committee.

Patrick Reeder (American Council of Life Insurers—ACLI) asked about how the 100% of jurisdictional PCR would affect comparability with the international workstream. Commissioner Altmaier stated that the current language keeps options open as comparability is defined. Ned Tyrrell (NAIC) agreed that the current approach is a good placeholder while evaluating other methods, in particular work being done by the American Academy of Actuaries (Academy).

g. Calibration Level

Commissioner Altmaier raised the issue of the calibration level of the GCC and invited further comments during the upcoming exposure period. Mr. Felice described the rationale for supporting a 300% x ACL RBC calibration level as most suitable for the purpose of the GCC as a group-wide analytical tool for the lead state regulator. Mr. Tyrrell described the issues of calibration and scalars as hard to separate. He added that the current 300% x ACL RBC is reasonably comparable to the PCR level used by international jurisdictions in their capital formulas.

Mr. Engelhard said calibration is an important issue for MetLife. He acknowledged the interrelationship with scalars and comparability with international standards. He said he appreciates the opportunity for continued discussion. Ian Adamczyk (Prudential Financial) agreed with Mr. Englehart's comments. Mariana Gomez-Vock (ACLI) questioned how GCC calibration relates to the Bilateral Agreements between the United States of America (U.S.) and the European Union and between the U.S. and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance (Covered Agreement).

h. Sensitivity Analysis and the Collection of "Other Information"

Mr. Felice indicated that NAIC staff suggest retaining the Sensitivity Analysis tab to provide valuable analytics to the lead state regulator. He conceded that some of the analysis points relate to alternative charges for entity types where a final decision has not been made by the Working Group, and those may be removed away once the decisions are made.

Mr. Felice stated that much of the information collected will support the regulatory analytics purpose of the GCC. He said he recommends that the Analytics Drafting Group determine the value of the existing or potential new items in this section.

Hearing no objections, Commissioner Altmaier instructed NAIC staff to expose the revised instructions for a public comment period ending on October 15. Recognizing that there are a few open items, he stated that the Working Group is nearing the point of finalizing decisions and asked that any issue that the Working Group has not adequately addressed be identified.

2. Discussed Other Matters

Commissioner Altmaier stated that the during its next meeting on Oct. 15, the Working Group will return to the discussion on revisions to the *Insurance Holding Company System Regulatory Act* (#440).

Having no other business, the Group Capital Calculation (E) Working Group adjourned.

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Draft: 9/23/20

Group Capital Calculation (E) Working Group
Conference Call
September 18, 2020

The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met via conference call Sept. 18, 2020. The following Working Group members participated: David Altmaier, Chair (FL); Kathy Belfi, Vice Chair, and Jim Jakielo (CT); Kim Hudson and Susan Bernard (CA); Philip Barlow (DC); Carrie Mears and Mike Yanacheak (IA); Susan Berry and Vincent Tsang (IL); Roy Eft (IN); John Turchi (MA); Steve Mayhew (MI); Barbara Carey (MN); John Rehagen (MO); Jackie Obusek (NC); Justin Schrader (NE); Dale Bruggeman (OH); Trey Hancock (TN); Jamie Walker and Mike Boerner (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI).

1. Discussed Further Proposed Changes to Model #440 and Model #450

Commissioner Altmaier stated that the purpose of this conference call is to discuss the comments received (Attachment ?-?) on the Working Group's previously exposed proposed changes to the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). He stated that likely near the end of the conference call, the Working Group will expose a revised version of both of the models that attempts to make changes to address the comments received that were perceived to be most helpful in clarifying the language in the previous versions. He described how after such an exposure, the Working Group will likely revert back to its next conference call being on the template and instructions in this pattern of wading back and forth between finalizing the models and the instructions and template.

a. Subgroup Reporting Reciprocity

Commissioner Altmaier described how this particular issue makes up the majority of the comments received, and he hopes that an oral summary of the issue by each of the commenters might provide Working Group members with additional context necessary to make a decision on whether they want to include this concept in the ultimate final models adopted. He asked that each of the commenters provide an oral summary of their most important points in their comment letters.

Bonnie Guth (Munich Re America Services—MRAS) summarized the key points in the MRAS's comment letter. She stated that while it supports a level playing field, it does not believe that a retaliatory measure in a model law to do so would be appropriate. She emphasized the manner in which the proposed language appeared to not be drafted for regulatory purposes but rather to get back at other jurisdictions, and she stated that it is up to the state insurance regulator in each state to determine if subgroup reporting is needed.

Michael Demuth (Allianz) summarized the key points in the comment letter from Allianz/Transamerica. He stated that their comments were largely based upon their interpretation of the proposed models, and he restated some of those interpretations. Ms. Belfi noted that the group capital calculation (GCC) has yet to be recognized and is still in process. He clarified that the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786) already require reciprocal jurisdictions to recognize and accept the U.S. approach to group supervision and group capital. Mr. Rehagen asked Mr. Demuth to clarify his points relative to the "Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (EU Covered Agreement). Bill Schwegler (Transamerica) stated that one jurisdiction will not impose worldwide supervisor, including group capital, and Model #786 defines that by recognizing and accepting. He noted that this was caused by an NAIC definition and not by something defined internationally. Dan Schelp (NAIC) noted that with respect to the current covered agreements, they both recognize the U.S. group supervision and discuss the provision of reinsurance collateral; therefore, any use has to clarify the use of the U.S. group supervision. He stated that their issue was related to the treatment of reciprocal jurisdictions. Mr. Schwegler stated that the clarification Transamerica seeks is whether the reciprocal jurisdictions could be subject to subgroup reporting. Commissioner Altmaier stated that he believes that this is part of the open question for the Working Group to decide.

Steve Broadie (American Property Casualty Insurance Association—APCIA) described the APCIA's two overarching core principles on this issue: 1) each group should be subject to only one group-wide supervisor and one group capital assessment; and 2) U.S. groups should not be subject to discrimination in foreign markets—we strongly support a level playing field. He stated that state insurance regulators must work together to achieve a framework that respects the principle that an insurance holding company group should only be subject to one supervisory approach and one capital standard. He stated that negotiation is its strong preference for the best process, suggesting that U.S. state insurance regulators must

commit to earnest, good-faith dialogue with their international counterparts to gain a commitment to these core principles. He stated that it is critical that U.S. and international supervisors work together to ensure that U.S. groups are not subject to subgroup capital requirements in foreign jurisdictions. Additionally, the process must include the international colleagues, working through the EU (European Union)-U.S. Insurance Dialogue and similar mechanisms to ensure a level playing field for U.S. groups. Finally, Mr. Broadie suggested that the NAIC develop a transparent process for determining whether a non-U.S. jurisdiction recognizes and accepts the GCC, and he stated that the APCIA is willing and eager to assist the NAIC and U.S. state insurance regulators in this process, but this is a critical dialogue that state insurance regulators themselves must undertake.

Joseph B. Sieverling (Reinsurance Association of America—RAA) summarized the RAA's points by noting that it opposes subgroup reporting and prefers to exclude these provisions from the scope of the draft models. He stated that it views these provisions as retaliatory in nature, and they don't have a place in NAIC models; however, they do have a number of U.S. groups that are subject to subgroup reporting in other jurisdictions, so its conclusion is that if it is left in, it should be subject to lead state commissioner discretion. He stated that one issue in its letter, but not referenced by other commenters, is that this is a complicated issue, and that is reflected in the fact that that the NAIC is considering the creation of a new working group to address it.

D. Keith Bell (Travelers), representing a coalition of other companies, said he strongly supports the mutual recognition of supervisory regimes across nations. He stated that as U.S. groups operating internationally, this must include the recognition of tools and acceptance of group capital regimes, including the GCC by foreign jurisdictions. He stated that they believe that the inclusion of subgroup reporting reciprocity in the models is appropriate, as it would be an effective method of furthering this objective. He stated that the use of reciprocity is not intended to be retaliatory. He stated that it also provides a mechanism for states to do something when other jurisdictions do not recognize the U.S. GCC. He noted that the edits that they have provided attempt to streamline the revisions to Model #440 and provide a clear definition of recognize and accept in Model #450, which is where they believe such information is best positioned. Mr. Rehagen asked Mr. Bell about the coalition of companies' view on the use of commissioner discretion on such subgroup reporting. Mr. Bell responded that he is concerned with open discretion, but they did support a framework that provided the commissioner with what should be done. Ian Adamczyk (Prudential) added that he is concerned that it could result in a lack of uniformity among the states, and it could work against the promotion of mutual recognition. Ms. Belfi stated that if mutual recognition of the GCC already existed, she is not sure that this subgroup reporting would be needed, but she asked the coalition of companies to provide their view. Mr. Bell responded that he believes that they all inspirationally want the GCC to be recognized, but it is not there yet; therefore, if the subgroup reporting is removed, there is nothing to drive it to happen. He reiterated that their goal is to have acceptance of the U.S. approach, but they are also cognizant that there may be jurisdictions that do not. The wording is helpful in that it provides a means for dealing with those jurisdictions. Bruce Byrnes (Berkshire Hathaway) stated that he believes that this is fundamentally about mutual recognition and putting the U.S. on equal footing with other jurisdictions. He stated that some jurisdictions outside of the U.S. regulate subgroups today and seek to regulate U.S. groups on a regular basis, and the discretion may work against the U.S. in achieving that goal of mutual recognition. Joe Engelhard (MetLife) stated that he is not aware of any covered agreement that addresses this subgroup reporting issue, and the fact that this issue is being raised to highlight an exception that everyone thought was acceptable in terms of one worldwide group wide supervisor per group. Ms. Belfi asked for clarification on their view of commissioner discretion and specifically where it is acceptable, but she said it needs to be narrowed. Mr. Bell responded affirmatively and noted that they would be more supportive of a framework for how the commissioner could respond.

Mariana Gomez-Vock (American Council of Life Insurers—ACLI) summarized the ACLI comments on this issue, noting the ACLI supports including the subgroup reporting reciprocity specified in the model law but at the same time it must be supported by a detailed transparent process must be accompanied with that provision. She stated the letter did request dedication to the development of such a process and appreciated the NAIC staff comment that they would reach out to the ACLI and others to help develop such a process.

Matthew T. Wulf (Swiss Re) stated that Swiss Re had submitted comments in the past, but he is hopeful to address what the current reciprocal jurisdiction process does and does not require companies to do related to the recognition of group supervision and group capital. He stated that while there is currently no official GCC, and by definition it is therefore not officially accepted, in the NAIC Qualified Jurisdiction process, they are required in writing to make a representation that they recognize worldwide group supervision and group capital, so the mechanism already exists.

Commissioner Altmaier stated that his preference is to expose the revised models with wording that includes the subgroup reporting issue, with the understanding that it could always take it back out. He stated that this does not mean this represents a decision, and unless there are objections from Working Group members, he would like to expose them. Patrick C. Reeder (ACLI) asked what could be done to assist the Working Group with deciding on the issue. Commissioner Altmaier stated that he is not sure if more information is needed, and retaining it is likely to assist the state insurance regulators to further deliberate. Ms. Belfi requested that interested parties provide information on the GCC and how some believe it is already

accepted even though it is still being developed. Mr. Jakielo asked that Allianz and Transamerica address a potential problem with the current language, which requires communication to the International Association of Insurance Supervisors (IAIS), and he suggested alternative language.

Ms. Mears asked to highlight the material changes from the last version. Dan Daveline (NAIC) stated that most of the comments received are related to subgroup reporting, and he stated that many interested parties commented on the need to streamline the language and avoid duplication between Model #440 and Model #450. He stated that in addition to this, some additional detail was added to the regulation to spell out a more detailed process in the regulation. He highlighted two additional changes, one representing a change to Model #440 related to the filing of the calculation for a firm that completes its calculation, and another representing a misinterpretation by NAIC staff regarding the misinterpretation that mutual insurers are exempt as opposed to potentially subject to the limited filing. Commissioner Altmaier stated that the exposure will be released until Oct. 5.

b. Details of Reciprocity

Mr. Reeder stated the ACLI's concern dealt with even if the U.S. operations must file, that this does not invalidate the exemption at the worldwide level. Chuck Souza (Reinsurance Group of America—RGA) stated what Mr. Reeder stated was the ACLI's intent, and the paragraph applies to subgroup reporting only; and it does not prevent the exemption from the GCC.

c. County Mutual Exemption

Commissioner Altmaier indicated that one of the open comments was from the National Association of Mutual Insurance Companies (NAMIC). A representative was not present to enhance the understanding of the comment for which NAIC staff noted that the regulation could allow the commissioner to exempt a group below $1 billion in premium. Mr. Eft stated that NAMIC supports the proposed change, as it has a number of county mutual insurance companies under the $1 billion size but above the $1 million in premium, and it would prefer not to have to exempt each of them individually. Mr. Rehagen asked a question relative to a holding company structure where there is a regulated entity under such a county mutual. Mr. Eft described that in Indiana, they are all single entity structures. Commissioner Altmaier asked if NAIC staff could run the data on insurers that are not required to file risk-based capital (RBC) to where further discussions could occur after understanding such data.

d. Covered Agreement Materiality

Commissioner Altmaier stated that this issue was raised by NAMIC, and it was suggested to be rejected by NAIC staff on the basis that it would create a conflict with the EU Covered Agreement. Ms. Berry asked questions relative to potential modifications. Mr. Daveline noted that the limitations on conducting business in another jurisdiction is primarily related to where the GCC provides value.

e. Federal Reserve Calculation

Ms. Gomez-Vock stated that the ACLI supports the sharing of such information, but she stated that it is concerned about the potential for a group to have to complete a duel filing to no fault of their own in terms of the sharing of information between its regulators.

Having no further business, the Group Capital Calculation (E) Working Group adjourned.

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DRAFT PENDING ADOPTION

Attachment XX
Financial Condition (E) Committee
11/--/20

Draft: 9/16/20

Group Capital Calculation (E) Working Group
Conference Call
September 2, 2020

The Group Capital Calculation (E) Working Group of the Financial Condition (E) Committee met via conference call Sept. 2, 2020. The following Working Group members participated: David Altmaier, Chair (FL); Kathy Belfi, Vice Chair, (CT); Susan Bernard (CA); Philip Barlow (DC); Carrie Mears and Mike Yanacheak (IA); Susan Berry (IL); Roy Eft (IN); John Turchi (MA); Judy Weaver (MI); Fred Andersen and Barbara Carey (MN); John Rehagen (MO); Jackie Obusek (NC); Justin Schrader (NE); Dave Wolf and Diana Sherman (NJ); Victor Agbu (NY); Dale Bruggeman (OH); Kimberly Rankin (PA); Trey Hancock (TN); Jamie Walker and Mike Boerner (TX); Doug Stolte and David Smith (VA); and Amy Malm (WI).

1. Adopted its Summer National Meeting Minutes

Commissioner Altmaier said the Working Group met at the NAIC Virtual Summer National Meeting and discussed comments on the exposure of the latest version of the Group Capital Calculation (GCC) instructions and template.

Ms. Belfi made a motion, seconded by Ms. Malm, to adopt the Working Group's July 29 minutes (Attachment 1). The motion passed unanimously.

2. Considered Comments Received on the Exposed Revised Template and Instructions

Commissioner Altmaier stated that the purpose of the meeting is to complete the review of the comments received (Attachment 2) on the previously exposed template and instructions, noting that the discussion would pick up where the Working Group left off at the end of the July 29 meeting during the NAIC Virtual Summer National Meeting. He stated that there were 5 remaining core issues out of the original 12 identified by NAIC staff in the comment summary (Attachment 3).

a. Treatment of Non-Financial Entities

Lou Felice (NAIC) stated that the treatment of non-financial entities is intertwined with other issues discussed at the NAIC Virtual Summer National Meeting, including the definition of financial entities; material risk; excluded entities; and to a lesser extent, calibration. He noted that the treatment proposed in the current template applies only to non-financial entities that are not owned by insurers since non-financial entities owned by insurers will not be de-stacked from the Parent insurer. He indicated that NAIC staff were supportive of using a specific industry average after the covariance factor as the capital charge for these entities, but they expressed doubt about whether a group specific charge would materially change the GCC ratio.

Mariana Gomez-Vock (American Council of Life Insurers—ACLI) asked about how the current risk charge was determined. Mr. Felice explained the methodology. Tom Finnell (America's Health Insurance Plans—AHIP) stated that there should be no charge explicitly used until more data is collected. Steve Broadie (American Property Casualty Insurance Association—APCIA) supported the use of a revenue-based charge until further data was collected and then consider a low/medium/high risk methodology. Ms. Gomez stated that the ACLI does not support a revenue-based charge. James Braue (United HealthGroup—UHG) stated that appropriate credit should be given for diversification between entities in the group. Mr. Felice stated that a post covariance factor was used, thus representing credit for diversification. He also noted that a revenue-based charge is included as an alternative in the current sensitivity analysis, but it was considered less connected to risk-based capital (RBC).

b. Allowance for Debt as Additional Capital

Mr. Felice noted that there were comments on the limitations in the current calculation, which should be considered in light of use of regulatory values rather than U.S. Generally Accepted Accounting Principles (GAAP) values in the adjusted carrying value. Other comments were related to whether tracked down-streamed debt should be removed from the calculation.

Ian Adamczyk (Prudential Financial Inc.) stated that the calibration level was set at a more binding point than existing capital requirements, so he supports adjustment to the current overall limit. David Neve (Global Atlantic Financial) supports eliminating the tracked downstream category in favor of using paid-in capital and surplus. Mr. Braue agreed. Mr. Broadie said he is fine with the limits as adjusted. His main concern is the optics associated with the GCC differing from the international Insurance Capital Standard (ICS). He also offered more detail on an alternative approach and to work with NAIC staff.

Mr. Finnell agreed that the proposed adjustment to the overall limit is a positive step, and he looks forward to working with NAIC staff to improve the instructions to address some lack of clarity. AHIP is still getting feedback from some of its member companies. Mr. Finnell is supportive of exploring the APCIA proposed alternative method.

c. Application of Scalars to Foreign Insurers

Mr. Felice stated that the two current scalar methodologies, the pure relative ratio (PRR) and the excess relative ratio (ERR) are placeholders, and either could work. The PRR was initially selected as easier to explain. However, the commenters prefer the ERR. Mr. Felice noted that the Working Group is still looking for other approaches and focusing too strongly on one of the current methods could result in a lack of flexibility to move to another approach. He referred to a comment received indicating that a 100% scalar should be used until a final methodology is selected by the Working Group. Commissioner Altmaier described a project that the American Academy of Actuaries (Academy) has begun to look at scalar alternatives with an expected completion date in March 2021. It was presented to the International Insurance Relations (G) Committee at the NAIC Virtual Summer National Meeting. Mr. Felice suggested that all involved in the GCC follow that workstream. Mr. Barlow asked whether the Academy work included the GCC. Ned Tyrrell (NAIC) stated that the Academy will provide a paper that could be broadly applied across the ICS and GCC. He continued that the Academy will not address specific policy issues and will off an array of choices with the pros and cons of each.

Ms. Gomez-Vock said she supports the ERR and described the higher level of sensitivity for that approach. Mr. Neve agreed and disagreed with the argument that the PRR is simpler than the ERR. He expressed concerns about how frequently the scalars would be updated and the potential resulting volatility. Mr. Adamczyk said he also supports the ERR, but he is supportive of using 100% to increase flexibility and send a message that the Working Group is still evaluating options and will only incorporate one of those options once finalized.

Ms. Mears asked if scalars would be applied to all foreign jurisdictions or just a core group. Commissioner Altmaier said he sees the issue as to be determined. Mr. Felice agreed and stated that scalars would be applied to those jurisdictions with robust existing capital requirements and where the data was publicly available or made available by the local regulator. Others could be subject to a 100% scalar or an equity-based charge. Ms. Berry asked if the March completion date for the Academy report would affect the Working Group's timing for adopting an initial GCC template. Commissioner Altmaier does not foresee an impact since the GCC template can be adopted with a placeholder methodology for scalars. Mr. Braue stated that the existing scalar approaches produce mathematical inaccuracies. This was clear for the PRR but also appeared to apply to the ERR as well. NAIC staff will review the matter with Mr. Braue.

d. Sensitivity Analysis

Mr. Felice indicated that NAIC staff disagreement with comments suggesting removal of the Sensitivity Analysis tab. He conceded that many of the analysis points relate to alternative charges for entity types where a final decision has not been made by the Working Group, and those will fall away once the decisions are made.

Ms. Gomez-Vock stated that reporting permitted and prescribed practices was not consistent with the current regulatory treatment. She said she recognizes that some will be deleted once a future decision of treatment of certain entities is decided, and she suggested that the purpose for the analysis points should be clarified. Mr. Adamczyk agreed and said he supports clarity on the use of the analysis points. Ms. Gomez-Vock requested that the reference to "Base GCC" be removed in all cases. Mr. Felice agreed that there is only one GCC ratio, and the analysis points are outside the ratio.

e. Collection of "Other Information"

Mr. Felice stated that much of the information collected will support the regulatory analytics purpose of the GCC. In particular, he noted a comment that was critical of collecting information on intangible assets. He noted that these data points do not affect the GCC ratio, and he recommends that the Analytics Drafting Group determine the value of the items in this section of the GCC template.

Mr. Braue stated that he does not understand the difference between physical and non-physical intangible assets that was referenced in the NAIC staff response to the comment by UHG. He recognized the statement that the information on intangible assets would not be used in the GCC ratio, but he asserted that in his opinion, there is no other reason to collect the information except to make that adjustment.

Commissioner Altmaier noted that there were other technical and clarification comments that were received and were being addressed by NAIC staff. He thanked everyone for their comments and assured the meeting participants that the Working Group will take all of them under consideration. NAIC staff will be addressing them in the GCC template and instructions. Commissioner Altmaier expressed his appreciation to the interested parties that have been working with NAIC staff on

refinements arising from comments during the NAIC Virtual Summer National Meeting, but he stated that an update on those discussions have to be deferred to a future Working Group call.

3. Discussed Other Matters

Commissioner Altmaier stated that there could be several future calls in September to continue the discussion on the GCC template and instructions, as well as the revisions to the *Insurance Holding Company System Regulatory Act* (#440).

Having no other business, the Group Capital Calculation (E) Working Group adjourned.

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Summary of Comments

The following breaks the comments received into two sections. The first section pertains to previous decisions made by the Working, and therefore no staff recommendation is included. The second section pertains to new issues raised; therefore a staff recommendation has been included. Other comments received but not listed below where perceived to be more editorial in nature and staff did not view the proposed language change to be an improvement from the exposed language.

Section 1

Core Issue	Summary of Comment	Party Making Comments	Page Number in Attachment
Issue 1- Model Law Section 4(L)(2)(e)	**While I agree this is a step in the right direction to align with the provisions in the covered agreement and maintain state insurance regulatory oversight of US operations when needed, this modified language does not go far enough to give the flexibility needed to state insurance regulators. I would suggest modifying "shall" to "may" and eliminating "or for ensuring the competitiveness of the insurance marketplace" from the language.**	**Texas**	**1-3**
	Swiss Re supports the current language, believes it is a good compromise and does not support reinserting the "recognize and accept" language in 4(L)(2)(e) for all the reasons previously stated related to confusion and international relations.	**Swiss Re**	**9**
	Allianz and Transamerica support the approach, as originally proposed by California, for subgroup reporting in Model 440, Section 4L(2)(e), as indicated in the exposure.	**Allianz/ Transamerica**	**10**
	Munich Re U.S. believes that the exposed language reflects a thoughtful compromise that synthesizes the various stakeholder positions, and we support adoption of Section 4L(2)(e), as exposed.	**Munich Re U.S.**	**12**
	Given the new compelling information and analysis of the Covered Agreement provided by our US Groups in support of sub-group reciprocity, we felt this was a conversation we would like the GCC WG to re-evaluate. **"Notwithstanding the provisions of Sections 4L(2)(c) and 4L(2)(d), a lead-state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system where, after consultation with other supervisors or officials, (i) it is deemed appropriate by the commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace; and/or, (ii) if the non-U.S. insurance holding company's group-wide supervisor does not recognize and accept the group capital calculation required by the insurance commissioner for any U.S. based insurance group's operations in that non-U.S. jurisdiction. The commissioner shall promulgate regulations necessary for the administration of this subsection, to address jurisdictions deemed to "recognize and accept" the group capital calculation."**	**CT, NJ, NE**	**18-19**

Summary of Comments

	While we strongly support the language Connecticut, New Jersey, and Nebraska have proposed, we believe the following text could serve as a potential compromise if Working Group members continue to have concerns vis-a-vis the Covered Agreement (underline shows how language differs): **"Notwithstanding the provisions of Sections 4L(2)(c) and 4L(2)(d), a lead-state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system, where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the commissioner for prudential oversight and solvency monitoring purposes, and/or for ensuring the competitiveness of the insurance marketplace, <u>including consideration of whether the non-U.S. insurance holding company's group-wide supervisor recognizes and accepts the group capital calculation required by an insurance commissioner for any U.S. based insurance group's operations in that non-U.S. jurisdiction. The commissioner shall promulgate regulations necessary for the administration of this subsection, to address jurisdictions deemed to "recognize and accept" the group capital calculation."</u>**	**Coalition of Specific U.S. Groups-Option 2**	**13/16 & 20-21**

Core Issue	Summary of Comment	Party Making Comments	Page Number in Attachment
Issue 2-Previous Decision to Delete Limited Filing Option for Group Whose UCP is an RBC filer	**Our members include many companies who, if Section 21B(1) is reinstated, would benefit from its provisions. These include property/casualty mutual companies, non-profit health plans, and many other health plans whose top-tier parent company/UCP is an RBC-filing insurance legal entity.**	**AHIP/BCBSA /NAMIC**	**5**
	Suggest provision be added back but prevent a group whose UCP is an internationally active insurance group (as defined in the model) from using to address prior comments.	**Texas**	**2-3**

Summary of Comments

Section 2

Core Issue	Summary of Comment	Party Making Comments	Page Number in Attachment
Issue 3- Incorporation by Reference	**Throughout the model law edits there are references to the NAIC Group Capital Calculation Instructions, the NAIC Financial Analysis Handbook, and the NAIC group supervision approach. Keep in mind as those provisions are made that states may be required to adopt those documents or the imbedded requirements by rule in order to effectuate the provisions of law. In Texas, we are required to adopt by rule all changes that are made to those documents in order to apply the requirements. This comment is more of a caution that implementing changes in these documents will take significant time because of the rulemaking process that may be necessary.**	**Texas**	**3**

Staff Recommended Action:
While this is a new comment and therefore a staff recommendation may be helpful, note that Texas is indicating this is more of a note of caution that could result in additional time needed by states. As a result, staff has no comment.

Core Issue	Summary of Comment	Party Making Comments	Page Number in Attachment
Issue 4- Deletion of Language for Subgroup Reporting List	Regardless of which text is adopted for Section 4L(2)(e) of the Model Act, including the language in the existing draft, we recommend clarifying in the Model Regulation that the NAIC "recognize and accept" Committee Process should also include a review of subgroup supervision to assist states with their review under Section 4L(2)(e). **A list of jurisdictions that "recognize and accept" the group capital calculation pursuant to [insert cross-reference to Sections 4L(2)(d)], is published through the NAIC Committee Process to assist the lead-state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under [insert cross-reference to Section 4L(2)(d)]. To assist with a determination under 4L(2)(e), the list will also identify whether a jurisdiction that is exempted under either [insert cross-reference to Sections 4L(2)(c) and 4L(2)(d)] requires a group capital filing for any U.S. based insurance group's operations in that non-U.S. jurisdiction.**	**Coalition of Specific U.S. Groups- Option 2** **CT, NJ & NE**	**17** **19**

Summary of Comments

Staff Recommended Action:

The proposed language was previously included in the model regulation prior to the decision made on the Oct. 20th call but was deleted by NAIC since the proposal from California deleted the following phrase from the Act: "The commissioner shall promulgate regulations necessary for the administration of this subsection, to address jurisdictions deemed to "recognize and accept" the group capital calculation."

If the NAIC adopts the CT, NJ and NE proposal, this should be added. Otherwise, NAIC staff does not believe the addition of the proposed language is necessary as state regulators through the NAIC are not precluded from developing such a list through the omission of such language in the model.

Issue	Summary of Comment	Party Making Comments	Page Number in Attachment
Issue 5- Request Deletion of Language That Enables the Commissioner to Issue Regulations	Section 4L(2)(f) should be deleted, as exemptions to the GCC should be limited to the provisions outlined in Sections 4L2(a) through 4L(2)(e). The ability to permit an exemption beyond this finite set of cases should be restricted to insurance holding company systems that meet the criteria of Section 21A of the Model Regulation. ~~Notwithstanding the exemptions from filing the group capital calculation stated in Section 4L(2)(a) through Section 4L(2)(d), the lead-state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria as specified by the commissioner in regulation.~~	**Coalition of Specific U.S. Groups- Option 2**	**17**

Staff Recommended Action:

The language that is proposed to be deleted is necessary to enable the Commissioner to issue the exemptions of Section 21A (and limited filing currently in 21B), therefore it should Not be deleted.

Issue	Summary of Comment	Party Making Comments	Page Number in Attachment
Issue 6- Request Deletion of Limited Filing	Finally, we also seek confirmation that the Section 21B of the Model Regulation will be deleted entirely as discussed during the Working Group call on October 20. "Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead-state commissioner has the discretion to accept in lieu of the group capital calculation a limited group capital filing if…"	**Coalition of Specific U.S. Groups- Option 2**	**17**

Summary of Comments

Staff Recommended Action:

This language was not deleted because the inference is that a limited filing was only helpful to a lead-state commissioner in the case of a holding company structure where the ultimate controlling party was an RBC filer. Staff believes the limited filing provides value beyond such entities since it includes financial information on each of the entities in the group that the lead-state commissioner likely currently does not obtain including specifically the trending of such financial information and should be an option for the Commissioner if the criteria is met. To the extent the Working Group agrees the option was not intended to be deleted but wants to streamline the language, NAIC staff is not opposed to the following modified 21A, thus allowing 21B to be deleted. This is similar to language in a prior version of the act.

A. Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead-state commissioner has the discretion to either exempt the ultimate controlling person from filing the annual group capital calculation or accept in lieu of the group capital calculation a limited group capital filing as defined within the Group Capital Calculation instructions, if the lead-state commissioner makes a determination based upon that filing that the insurance holding company system meets all of the following criteria:

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From: Jamie Walker <Jamie.Walker@tdi.texas.gov>
Sent: Friday, October 30, 2020 9:28 AM
To: Daveline, Dan <DDaveline@naic.org>
Subject: Comments on Models 440 and 450

Texas appreciates the opportunity to provide comments on the latest versions of NAIC Model Law 440 and Model Regulation 450 exposed after the Group Capital Calculation (E) Working Group's meeting on October 20, 2020.

Model Law Section 4(L)(2)(a)

The exposed language currently reads:

> a. An insurance holding company system that that has only one insurer within its holding company structure that only only writes business [and is only licensed] in its domestic state and assumes no business from any other insurer;

Comment:

The second "only" should be removed. This appears to be a drafting error.

The exemption should apply to insurers that only assume business in their domestic jurisdiction. Therefore, I would suggest replacing "assumes no business from any other insurer" with "does not assume business in any manner written in another jurisdiction."

Model Law Section 4(L)(2)(e)

The exposed language currently reads:

> e. Notwithstanding the provisions of Sections 4L(2)(c) and 4L(2)(d), a lead-state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead-state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

Comment:

While I agree this is a step in the right direction to align with the provisions in the covered agreement and maintain state insurance regulatory oversight of US operations when needed, this modified language does not go far enough to give the flexibility needed to state insurance regulators. I would suggest modifying "shall" to "may" and

eliminating "or for ensuring the competitiveness of the insurance marketplace" from the language.

Article 4(b) of the covered agreements, in part, provide, "Host supervisory authorities may exercise group supervision, where appropriate, with regard to Home Party insurance or reinsurance group at the level of the parent undertaking in its territory." In Article 2 (e) of the covered agreements, "group supervision" is defined as " the application of regulatory and prudential oversight by a supervisory authority to an insurance or reinsurance group for purposes including protecting policyholders and other consumers, and promoting financial stability and global engagement." Our focus in this model amendment should be solely on the provisions needed to fulfill our obligations to assess an insurance holding company's ability to meet its policyholder obligations and the potential effect on overall financial stability. The reports that are required to be filed should be limited to those needed for regulators to make these assessments. There is no provision in the covered agreement for Host supervisory authorities to consider competitiveness in the insurance marketplace when determining the appropriateness for group supervision at the sub-group level. Therefore, the clause "or for ensuring the competitiveness of the insurance marketplace" does not align with the provisions of the covered agreements. This clause in the exposed model changes appears to provide for state insurance regulators to consider the treatment of US-based insurance holding company groups by non-US supervisory authorities which may or may not be complying with the terms of the covered agreements. These concerns should be raised through the joint committee resolution process laid out in the agreements.

Model Regulation Former Section 21B(1)

The following language was removed from the currently exposed language:

The ultimate controlling person is a U.S. regulated insurer that already completes an annual Risk-Based Capital filing [insert cross-reference to appropriate section of Risk-Based Capital (RBC) Model Act], and the holding company system conducts no insurance operations in a Reciprocal Jurisdiction that is not a qualified jurisdiction as determined by the commissioner pursuant to [Subsection 2E(3) of Credit for Reinsurance Model Law], and the lead-state commissioner has determined that any non-insurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations;

Comment:

While concerns were raised that large insurance holding company groups could be exempted from the filings under the provision as previously written, the decision to completely remove the exemption from the model means that groups that are well understood by lead state commissioners because there is a carrier that holds all of the

other companies in the group adds little value for the regulators. For carriers that are not operating outside of the US and are, therefore, not internationally active insurance groups (IAIGs), receiving the full group capital calculation filing will only add regulatory costs to those groups with little to no value being added to the regulatory oversight of the group. The outcome of the testing of the group capital calculation so far has indicated that there is no material difference in the result from the RBC ratio and the GCC ratio.

However, I understand that for those groups that are IAIGs, there is considerable value in having filed a complete GCC with the lead state commissioner. Therefore, I think the most appropriate resolution to this change would be to include option 2 that was laid out in NAIC staff's comments on issue 2 in attachment A of the October 20, 2020 meeting materials. That option reads:

The ultimate controlling person is a U.S. regulated insurer that already completes an annual Risk-Based Capital filing [insert cross-reference to appropriate section of Risk-Based Capital (RBC) Model Act], and the holding company system does not meet the criteria of an internationally active insurance group as defined in [insert cross-reference to appropriate section of Insurance Holding Company Model Act], and the lead-state commissioner has determined that any non-insurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations;

Incorporation by Reference

Throughout the model law edits there are references to the NAIC Group Capital Calculation Instructions, the NAIC Financial Analysis Handbook, and the NAIC group supervision approach. Keep in mind as those provisions are made that states may be required to adopt those documents or the imbedded requirements by rule in order to effectuate the provisions of law. In Texas, we are required to adopt by rule all changes that are made to those documents in order to apply the requirements. This comment is more of a caution that implementing changes in these documents will take significant time because of the rulemaking process that may be necessary.

Conclusion

Texas has been vocal that the applicability of the GCC should be to those groups that operate internationally and are at risk of subject to more than one group capital framework. Additionally, the process laid out in the covered agreements should be used to resolve issues between the jurisdictions that are subject to the agreements. Our model laws should focus on the assessment of each group's ability to meet its policyholder obligations, not how non U.S. jurisdictions are regulating their markets.

Jamie Walker
Deputy Commissioner
Financial Regulation Division
(512) 676-6368

October 30, 2020

Commissioner David Altmaier
Chair, NAIC Group Capital Calculation (E) Working Group
Florida Office of Insurance Regulation

By email to ddaveline@naic.org

Re: NAIC Group Capital Calculation (E) Working Group's October 20, 2020 Exposure of the Model Holding Company Act (#440) and Model Holding Company Regulation (#450)

Dear Commissioner Altmaier:

America's Health Insurance Plans (AHIP), the Blue Cross Blue Shield Association (BCBSA) and the National Association of Mutual Insurance Companies (NAMIC) are pleased to offer the following joint comments on the above-captioned exposures.

First, thank you for this opportunity to comment. We appreciate your hard work and that of all the members of the NAIC's Group Capital Calculation Working Group (GCCWG) as well as of NAIC staff in developing the Group Capital Calculation (GCC). We also appreciate very much the opportunities for engagement throughout the process.

That said, we are concerned by the action of the GCCWG on its call of October 20, 2020 to expose for purposes of fatal flaw review a revised version of the Model Holding Company Regulation (#450) with the omission of Section 21B(1). That section would have provided regulators the discretion to accept from a group, in lieu of the group capital calculation, a limited group capital filing if: (i) the ultimate controlling person ("UCP") is an RBC filer; (ii) the group

has filed a full GCC at least once, (iii) the group does not have insurance operations in the EU or UK; and (iv) the non-insurance operations do not pose a material threat to policyholders.

Our members include many companies who, if Section 21B(1) is reinstated, would benefit from its provisions. These include property/casualty mutual companies, non-profit health plans, and many other health plans whose top-tier parent company/UCP is an RBC-filing insurance legal entity. If they have more than $1billion of gross (i.e., direct and assumed) premium, they would not be able to avail themselves of the filing exemption of Section 21A in the Model Regulations. Thus, if Section 21B(1) is deleted, as currently proposed, they would be subjected to an additional filing requirement (for the GCC) that provides little, if any, incremental benefit compared to their existing filings at the top-tier legal entity level.

We understand that the following concerns were raised which led to the GCCWG's action to delete Section 21B(1) from the most recent exposure of the Model Regulation. We believe those concerns are unfounded and appreciate this opportunity to express our views.

The exemption covered by Section 21B(1) is overly broad and creates too many exemptions from filing the GCC: It is true that there are many mutual insurance companies and other similar non-stock companies such as hospital service organizations to whom Section 21B(1) would apply. Proponents of deleting that section point to the disparity in filing requirements that would then seem to exist between stock and non-stock forms of organization.

However, there is nothing in Section 21B(1) that says the exemption from filing a full GCC could not also apply to a group with a stock insurance company as the UCP. While it is true that a stock insurance company is less likely to be the ultimate controlling person (UCP) of a group (i.e., than a mutual or similar entity in the case of a mutual-controlled group), nothing in the Section 21B(1) language would prevent a group with a stock insurance company as the UCP from taking advantage of the exemption if the section's criteria is met.

Proponents of deleting Section 21B(1) might have a valid concern if the GCC filing exemption it would provide to groups with RBC-filing UPCs would result in the Lead State having a materially different view of the amount of available capital and calculated capital at the group level (as compared to what the Lead State's view might be if the group prepared a GCC). However, and as noted by the American Council of Life Insurers (ACLI) in its comment letter to the GCCWG which was included in the October 20, 2020 meeting materials, "… the GCC calculation for many groups with an RBC filer as the ultimate controlling person is likely to be highly consistent with the RBC calculation for that UCP insurer." We agree, and given changes made to the proposed GCC Instructions and template since field testing occurred, as discussed below, that should now be even more apparent.

The ACLI also asserted that Section 21B(1) presents the "risk of an unlevel playing field, because potentially complex groups could qualify for the exemption, whereas simpler groups with less risk would not, solely because of their corporate structure." AHIP, BCBSA, and NAMIC disagree with that assertion. First, Section 21B(1) is not predicated on having a mutual or stock-based structure, simply that the UCP be an RBC filing entity. The section simply

recognizes that the legal entity RBC filing of the UCP, by virtue of the design of RBC, is in effect a group-wide calculation inasmuch as all entities in the group are underneath the UCP and are covered by risk charges in the UCP's RBC. That is true whether the UCP is a stock or a mutual RBC-filing insurer. Thus, by reinstating Section 21B(1), the GCCWG would not be letting mutual (or other mutual-like) UCPs "off the hook" from filing a group capital result – the UCP's RBC filing, by design, already provides it. If an unlevel playing field exists, it is not the result of Section 21B(1); rather, an unlevel playing field inherently tilts against mutuals and similar organizations that are constrained from establishing holding companies; from being able to raise capital through sales of stock in the capital markets; and from limiting the scope of operations to what can be accomplished only within or under the RBC-filing UCP – none of which is the result of, or changed by, Section 21B(1).

Second, If the GCC calculation for groups with an RBC filer as the ultimate controlling person is "highly consistent" with the RBC calculation for that UCP insurer, there can be no unlevel playing field. The exemption that Section 21B(1) affords would simply save some time and effort for the RBC-filing UCP and its Lead State as there is no cost-benefit in taking unnecessary extra steps to file a report that has the same or a "highly consistent" capital ratio as another report (the UCP's RBC report) which would have been filed.

The Section 21B(1) exemption would deprive regulators of valuable analytical data: Proponents of deleting Section 21B(1) assert that doing so would ensure that Lead State regulators of all large groups have access to the full array of detailed information contained within the GCC's schedules. We disagree. An RBC-filing UCP's legal entity's filings report the applicable data requested in a GCC filing, and more, and it is already reported on a group-wide basis and is already subject to electronic data gathering and analysis (there is some GCC data that would not apply to such a group, i.e., regarding senior debt, scaling, etc.). That is in contrast to existing legal entity filings of insurers in groups that would not be subject to 21B(1) and for which legal entity data is not synonymous with "group-wide;" thus the GCC filing is necessary to complete a group-wide picture.

As compared to field testing, the current GCC Instructions ease the level of detail required for de-stacking, provide more opportunities for grouping of entities, and provide risk-charges for non-insurance non-financial entities that are based on the same post-tax post-covariance risk charge of the sectoral RBC formula, i.e., the same risk charge will apply whether the entity is held downstream of an RBC filing insurer, or outside the insurance group but in the broader group. That is not to say that the current iteration of the GCC is not a source for valuable analytical data – it is – rather, that the nature and extent of data that is available in the Annual Statement and other legal entity filings of a group with an RBC-Filing UCP that would be subject to Section 21B(1) is more extensive, more detailed (just as one example, every affiliated investment is displayed individually – without groupings), is are already group-wide in scope, and in schedules that are already subject to electronic data gathering and analysis..

Where the GCC template provides additional "valuable analytical data" is with respect to entities within the broader group that are outside the insurance group. Groups with a RBC filing entity as UCP that would thus be subject Section 21B(1), as initially drafted, do not have entities outside

the insurance group; the insurance group and the broader group, as those terms are defined by the GCC instructions, are synonymous in such situations.

Finally, we observe that many of the non-stock company/groups that would fall under the Section 21B(1) exemption are single-state writers for which the Lead State is the only state regulator and who would be knowledgeable about all aspects of the insurer/group's operations, structure, and financial profile.

* * * * * * * *

We thank the GCCWG members for this opportunity to express our views. We ask, and hope, that the working group will reconsider the action taken on October 20, 2020, and reinstate Section 21B(1) in the Model Regulation for consideration of its approval at its November 4 meeting. We will be glad to address any questions you or working group members have on the November 4 call, or otherwise at your convenience.

Sincerely,

America's Health Insurance Plans (AHIP)

Bob Ridgeway
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501-333-2621

Blue Cross Blue Shield Association (BCBSA)

Carl Labus
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National Association of Mutual Insurance Companies

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From: Matthew Horvath-Wulf <Matthew_HorvathWulf@swissre.com>
Sent: Friday, October 30, 2020 1:45 PM
To: Daveline, Dan <DDaveline@naic.org>
Cc: Altmaier, David <David.Altmaier@floir.com>
Subject: FW: Exposure Draft Notice: Group Capital Calculation (E) Working Group due 10/30/20

Dan,

Swiss Re supports the current language, believes it is a good compromise and does not support reinserting the "recognize and accept" language in 4(L)(2)(e) for all the reasons previously stated related to confusion and international relations.

Best,
Matt

October 30, 2020

Commissioner David Altmaier
Florida Office of Insurance Regulation
Chair, NAIC Group Capital Calculation (E) Working Group

via email to ddaveline@naic.org

Re.: Proposed revisions to the NAIC Model Insurance Holding Company System Regulatory Act (Model 440) and the Insurance Holding Company System Model Regulation (Model 450)

Dear Commissioner Altmaier,

Allianz Life Insurance Company of North America ("Allianz") and the Transamerica Companies ("Transamerica") welcome the opportunity to comment on the Group Capital Calculation Working Group's "fatal flaws" exposure of proposed changes to the NAIC's Model Insurance Holding Company System Regulatory Act (Model 440) and the Insurance Holding Company System Model Regulation (Model 450). We have two comments, including a request for a wording clarification.

1. **We support the proposed approach for a GCC for "U.S. operations" in Model 440, Section 4L(2)(e)**

Allianz and Transamerica support the approach, as originally proposed by California, for subgroup reporting in Model 440, Section 4L(2)(e), as indicated in the exposure:

> *Notwithstanding the provisions of Sections 4L(2)(c) and 4L(2)(d), a lead-state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead-state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.*

We support providing lead state regulators with clear legal authority to gather, at their discretion, collective capital information relative to the entities under their purview. The Working Group's decision to define "U.S. operations" as comprising insurance legal entities and their subsidiaries facilitates this outcome by aligning "U.S. operations" with the direct scope of lead state authority.

We also support the concerns conveyed by the Federal Insurance Office that a retaliatory motivation would not necessarily be considered an "appropriate" basis for requiring "U.S. operations" reporting under the U.S.-EU and U.S.-UK Covered Agreements. While the exposed language would permit discretionary application of the GCC to be motivated by a variety of factors, we do not perceive an inherent conflict between the revised language and the Covered Agreement. We therefore support 4L(2)(e) as drafted.

2. We request a clarifying change to the description of Reciprocal Jurisdictions in Model 440, Section 4L(2)(c)

As noted in a prior comment letter, we welcome the added clause, marked below, describing Reciprocal Jurisdictions in Model 440, Section 4L(2)(c), as it attempts to correct for a shortcoming in Model 786.

> *An insurance holding company system whose non-U.S. group-wide supervisor is located within a Reciprocal Jurisdiction as described in [insert cross-reference to appropriate section of Credit for Reinsurance Law] that recognizes the U.S. state regulatory approach to group supervision and group capital;*

In reviewing the "fatal flaws" draft, we have a lingering concern that this language, which references Model 785—which, in turn, is supported by the problematic portion of Model 786—could still be interpreted as indicating that only non-Covered Agreement Reciprocal Jurisdictions recognize the U.S. state regulatory approach to group supervision and group capital. This interpretation would subject EU-based and UK-based insurance groups to worldwide GCC and place Model 440 in conflict with the U.S.-EU and U.S.-UK Covered Agreements.

This potential misinterpretation might be most easily addressed by splitting 4L(2)(c) into two sentences, as follows:

> *An insurance holding company system whose non-U.S. group-wide supervisor is located within a Reciprocal Jurisdiction as described in [insert cross-reference to appropriate section of Credit for Reinsurance Law]. ~~that~~ Reciprocal Jurisdictions recognize the U.S. state regulatory approach to group supervision and group capital;*

We request this or a substantially similar clarification in the final draft.

We appreciate the Working Group's consideration of these comments.

Contact information

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cc: Grace Arnold, Temporary Commissioner, Minnesota Department of Commerce
Doug Ommen, Commissioner, Iowa Insurance Division

Munich RE

October 30, 2020

VIA EMAIL
ddaveline@naic.org

Commissioner David Altmaier
NAIC Group Capital Calculation Working Group
National Association of Insurance Commissioners
1100 Walnut Street
Suite 1500
Kansas City, MO 64106-2197

Mr. Dan Daveline
Financial Regulatory Services
National Association of Insurance Commissioners
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Kansas City, MO 64106-2197

Re: Draft Amendments to the NAIC Insurance Holding Company System Regulatory Act (Model 440) and the NAIC Insurance Holding Company System Model Regulation (Model 450)

Dear Commissioner Altmaier:

Munich Re US appreciates the opportunity to comment on the recently exposed amendments to NAIC Insurance Holding Company System Regulatory Act (Model Act 440) and NAIC Insurance Holding Company System Model Regulation (Model Regulation 450) to implement the Group Capital Calculation provisions.

We reviewed the changes to Section 4L(2)(e) of draft Model Act 440 that were exposed for comment on October 20, 2020. Munich Re US believes that the exposed language reflects a thoughtful compromise that synthesizes the various stakeholder positions, and we support adoption of Section 4L(2)(e), as exposed.

Thank you for your attention to these issues. If you have any questions, we are happy to discuss this further.

Sincerely,

Bonnie L. Guth
Munich Re America Services, Inc.

Paige S. Freeman
Munich American Reassurance Company

Commissioner David Altmaier, Chair
NAIC Group Capital Calculation Working Group
National Association of Insurance Commissioners
[via-email: ddaveline@naic.org]

October 30, 2020

Re: Comments on Group Capital Calculation Working Group's October 20, 2020 Amendments to the Model Insurance Holding Company System Regulatory Act ("Model Act") and Regulation ("Model Regulation"))

Dear Commissioner Altmaier:

With respect to the October 20, 2020 version of the Model Act, we support the decision to retain text in Section 4L(2)(e) to expressly reserve a state commissioner's authority to apply the GCC to the U.S. operations of a non-U.S. based insurance holding company system ("subgroup") to ensure policyholders of these insurers are afforded the same level of protection as policyholders of U.S. insurance groups.

The latest version of the Model Act would permit consideration of whether the home supervisor of the foreign based group imposes subgroup capital reporting requirements or measures on U.S. subgroups. However, we believe it is important to expressly incorporate this concept into the Model Act. We therefore strongly encourage the Working Group to reconsider and adopt the language proposed by Connecticut, New Jersey, and Nebraska for Section 4L(2)(e) – included below for reference:

> Notwithstanding the provisions of Sections 4L(2)(c) and 4L(2)(d), a lead-state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system, where, after consultation with other supervisors or officials, (i) it is deemed appropriate by the commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace; and/or, (ii) the non-U.S. insurance holding company's group-wide supervisor does not recognize and accept the group capital calculation required by the insurance commissioner for any U.S. based insurance group's operations in that non-U.S. jurisdiction. The commissioner shall promulgate regulations necessary for the administration of this subsection, to address jurisdictions deemed to "recognize and accept" the group capital calculation.

This Provision Promotes Mutual Respect for and Recognition of the U.S. System

It is critical for the U.S. to promote mutual respect for and recognition of the U.S. state system of group supervision, not only with respect to the application of the GCC to non-U.S. groups at a worldwide level, but also when determining if the GCC should be applied to the U.S. operations of a non-U.S. based insurance holding company system. The recommended language for Section 4L(2)(e) strongly supports the goal of mutual recognition by clarifying to other jurisdictions that states will not relinquish their inherent prudential oversight authority to regulate subgroups operating within their own borders in situations in which there is a lack of trust and recognition

between jurisdictions, particularly as this could result in an unlevel playing field for U.S. insurance groups, which is a legitimate regulatory concern. Foreign jurisdictions should confer the same respect and recognition to U.S. group supervision and practices that state insurance regulators provide them.

The explicit reference to "recognize and accept" is important to the goal of mutual recognition as it will encourage diplomacy as well as uniformity among the states. As provided in the Model Regulation, state regulators will be able to utilize a list of jurisdictions published through a new NAIC Committee Process to assist the lead-state commissioner in determining under Section 4L(2)(d) whether a jurisdiction recognizes and accepts the GCC as the world-wide group capital assessment for U.S. insurance groups who operate in a non-U.S. jurisdiction.

This process should also be leveraged to assist a commissioner's determination as to whether a jurisdiction imposes capital reporting requirements on U.S. subgroups in that jurisdiction. Each individual state should not have to conduct a separate review without this NAIC assistance. Instead, for jurisdictions that are included on the list and recommended to be exempted under Section 4L(2)(c) or Section 4L(2)(d), the review should also separately address whether the jurisdiction imposes a group capital reporting requirement on any U.S. based insurance group's operations in that non-U.S. jurisdiction. This process would encourage discussion among the regulators and interested parties, and would help promote uniformity among the states, while giving the commissioner the authority to make the final decision.

This Provision Does Not Conflict with the Covered Agreement

The proposed language we support is not in conflict with the Covered Agreement. The Covered Agreement sets out restrictions on *worldwide* group supervision. The September 22, 2017 Statement of the United States on the Covered Agreement clarifies that, "[t]he [Covered]Agreement provides that U.S. insurers and reinsurers can operate in the EU without the *U.S. parent* being subject to the group level governance, solvency and capital, and reporting requirements of Solvency II, and reinforces that the EU system of prudential insurance supervision is not the system in the United States." It further clarifies that "[t]he reporting provisions of the Agreement will protect U.S. insurance groups that have affiliates in the EU from expansive EU reporting requirements relating to *worldwide* operations at the group level, while enhancing regulatory cooperation." (Emphasis added.) The statement is silent as to subgroup supervision.

With respect to group capital reporting specifically, the Covered Agreement sets out clear parameters: "Acknowledging the need for a group capital requirement or assessment for insurers and reinsurers forming part of a group that operates in the territory of both parties and that a group capital requirement or assessment at the level of the *worldwide* parent undertaking can be based on the approach of the Home Party." (Emphasis added.) Article 4(h) of the Covered Agreement expressly addresses group capital, and states, "the Host supervisory authority does not impose a group capital assessment or requirement *at the level of the worldwide parent undertaking* of the insurance or reinsurance group". (Emphasis added.) Importantly, Article 4(h) does not limit the ability of prudential regulators to impose a group capital requirement or assessment below the level of the worldwide parent.

With respect to group supervision more broadly, Article 4(b) of the Covered Agreement states that "Host Party" prudential regulators continue to retain the right to "exercise group supervision,

where appropriate, with regard to a Home Party insurance or reinsurance group at the level of the parent undertaking in its [the Host Party's] territory." The Covered Agreement does not define what is appropriate, and we believe the determination of how to define "where appropriate" for the purposes of such subgroup supervision is at the sole discretion of the prudential insurance regulator. Indeed, former Federal Insurance Office (FIO) Director Michael McRaith, who was a chief negotiator of the Covered Agreement, testified before Congress that the EU is free to apply Solvency II group supervision to the EU operations of U.S. based groups:

> "The Covered Agreement limits the application of the EU's Solvency II global *group* supervision practices to the *operations and activities of U.S. insurers that occur in or originate from the EU*."[1] (Emphasis added.)

Similarly, the European Commission describes the scope of the Covered Agreement concerning group supervision as follows and does not suggest there is any limitation on the regulation of subgroups:

> "US groups active in the EU will not be subject to Solvency II requirements at the level of the *ultimate parent undertaking for their non-European activities*."[2] (Emphasis added.)

The FIO and EU have thus explicitly acknowledged that the EU and U.S. regulators are limited only with respect to global, or worldwide, group supervision (including capital), and that prudential regulators make the decisions about group supervision of operations and activities within or that originate within their own jurisdiction. As such, U.S. state regulators determine when it is appropriate to engage in subgroup supervision and have the right to impose such subgroup supervision, without interference from the federal government or the EU.

We note that even if concerns remain that the Covered Agreement somehow limits state commissioners' authority to determine what is "appropriate" supervision of activities taking place within the U.S., the ability to impose group supervision over the U.S. operations of groups from jurisdictions where there is not mutual recognition of group capital regimes promotes the goals of marketplace competition, a level playing field for U.S. groups, and protecting U.S. groups from the burden and expense of multiple capital standards or requirements, all of which serve to protect policyholders' interests. Protection of policyholders would surely be considered appropriate prudential regulatory prerogatives under the Covered Agreement. We believe it is well within the state insurance regulators' prudential authority, and thus it is "appropriate" under the Covered Agreement, for state insurance regulators to reserve the right to engage in prudential group supervision for these purposes over activities that are taking place within their own borders, particularly when there is a lack of understanding or recognition of each other's regulatory regimes.

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[1] Written Testimony of Michael T. McRaith, U.S. Senate Committee on Banking, Housing and Urban Affairs, "Examining the U.S.-EU Covered Agreement", May 2, 2017. P. 8. (Link to testimony is here: https://www.banking.senate.gov/imo/media/doc/McRaith%20Testimony%205-2-17.pdf.)

[2] European Commission memo press release "EU-US Agreement on insurance and reinsurance," dated September 22, 2017. Link: https://ec.europa.eu/commission/presscorner/detail/en/MEMO_17_3426

Moreover, the Covered Agreement memorializes the validity of reciprocal recognition and thus, even if one argued that subgroup supervision is limited by the Covered Agreement, and that the FIO could dictate to the states what is "appropriate" prudential supervision, subgroup supervision based on a lack of reciprocal treatment is appropriate under the Covered Agreement. Former FIO Director Michael McRaith testified that:

> "The cross-conditional nature of the Covered Agreement allows for the United States to provide the benefits of the Covered Agreement only insofar as the EU also provides the benefits. Both sides are disciplined into compliance with the Covered Agreement."[3]

Thus, by enacting Section 4L(2)(e) of the Model Act, states would simply be codifying what the Covered Agreement permits them to do if the EU did not extend reciprocal recognition to the GCC.

While we support any diplomatic effort to resolve the issue of subgroup reciprocity, including using the Covered Agreement Joint Committee process, the Covered Agreement does not prohibit the imposition of subgroup capital reporting. Consequently, it is not clear that the issue would be raised or that this process would result in a solution. Moreover, preemption is not applicable to the group capital provision in Section 4L(2)(e). Preemption on capital or solvency measures is limited only to state insurance measures that "result in less favorable treatment of an EU insurer or reinsurer than a U.S. insurer or reinsurer."[4] Section 4L(2)(e) would not result in less favorable treatment; rather this provision ensures the U.S. would be able to respond to less favorable treatment by the EU, and would support a level playing field and policyholder protections.

Alternative Text

While we strongly support the language Connecticut, New Jersey, and Nebraska have proposed, we believe the following text could serve as a potential compromise if Working Group members continue to have concerns vis-a-vis the Covered Agreement:

> "Notwithstanding the provisions of Sections 4L(2)(c) and 4L(2)(d), a lead-state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system, where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the commissioner for prudential oversight and solvency monitoring purposes, and/or for ensuring the competitiveness of the insurance marketplace, including consideration of whether the non-U.S. insurance holding company's group-wide supervisor recognizes and accepts the group capital calculation required by an insurance commissioner for any U.S. based insurance group's operations in that non-U.S. jurisdiction. The commissioner shall promulgate regulations necessary for the administration of this subsection, to address jurisdictions deemed to "recognize and accept" the group capital calculation."

[3] May 2, 2017 McRaith testimony, p. 9.

[4] 31 U.S.C. § 313(j).

Amendment to the Model Regulation

Regardless of which text is adopted for Section 4L(2)(e) of the Model Act, including the language in the existing draft, we recommend clarifying in the Model Regulation that the NAIC "recognize and accept" Committee Process should also include a review of subgroup supervision to assist states with their review under Section 4L(2)(e). We recommend the following language be added to Section 21E(1) of the Model Regulation:

E. A list of non-U.S. jurisdictions that "recognize and accept" the group capital calculation will be published through the NAIC Committee Process:

1. A list of jurisdictions that "recognize and accept" the group capital calculation pursuant to [insert cross-reference to Sections 4L(2)(d)], is published through the NAIC Committee Process to assist the lead-state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under [insert cross-reference to Section 4L(2)(d)]. To assist with a determination under 4L(2)(e), the list will also identify whether a jurisdiction that is exempted under either [insert cross-reference to Sections 4L(2)(c) and 4L(2)(d)] requires a group capital filing for any U.S. based insurance group's operations in that non-U.S. jurisdiction.

Comments on other elements of the Model Act and Model Regulation

Section 4L(2)(f) should be deleted, as exemptions to the GCC should be limited to the provisions outlined in Sections 4L2(a) through 4L(2)(e). The ability to permit an exemption beyond this finite set of cases should be restricted to insurance holding company systems that meet the criteria of Section 21A of the Model Regulation.

Finally, we also seek confirmation that the Section 21B of the Model Regulation will be deleted entirely as discussed during the Working Group call on October 20.

Sincerely,

Berkshire Hathaway Group of insurance companies
Liberty Mutual Insurance Group
MetLife, Inc.
Odyssey Reinsurance Company
Prudential Financial, Inc.
Reinsurance Group of America, Incorporated
The Travelers Companies, Inc.
Transatlantic Reinsurance Company

November 6, 2020

To: Group Capital Calculation Working Group Members

Re: Sub-Group Reciprocity

As you all know, New Jersey, Nebraska and Connecticut (the tri-state proposal) have jointly been working on a solution regarding Sub-Group reporting and reciprocity. Given the new compelling information and analysis of the Covered Agreement provided by our US Groups in support of sub-group reciprocity, we felt this was a conversation we would like the GCC WG to re-evaluate. Because our November 4th call has been postponed, we wanted to give you all ample time to review our proposal along with our thoughts for you to consider.

The proposal currently being exposed was changed considerably from the original language due to the recent FIO conversation with NAIC Staff and potential concerns raised around "appropriate" and "states authority". We understand FIO has not and will likely not provide a written opinion in order for the NAIC and states to assess the legal merits of their concerns. Therefore, regulators have had no choice but to develop their opinions without this appropriate analysis. Our US Groups provided a compelling written opinion supported by examples which can be referenced on pages 2-4 of the Coalition letter dated October 30, 2020. It clearly states that sub-group reporting is not under the Covered Agreement authority.

The arguments against the tri-state proposal predominately come from non-US Groups. Several of us believe there has been nothing compelling put forth that should prevent US Regulators from supporting our domestic industry and ensuring consistent solvency protection for policyholders. The words "cooperation", "insulting other jurisdictions" and "hurting the adoption of the GCC" have been liberally used both in letters and conversation. Several Commissioners deeply involved in the international negotiations with the EU actually have the opposite opinion. Not standing strong for our domestic industry may put us at a disadvantage. We want to reiterate that US Regulators believe that resolving conflicts among jurisdictions should always start with cooperation and transparent Supervisory College communication. The proposed lever within the Model is to be used where everything else has failed.

Regulators have asked some great questions regarding the sense of urgency our US industry has regarding reciprocity. Why is the sub-group reporting issue so important to you? What current requirements are being asked? We did ask these questions and those companies willing to talk about the issues cited Germany, France and Japan as jurisdictions that frequently ask for additional local reporting and requirements. We did push back and stated that states also have "local requirements" that may differ so how is this different. Their explanation was there are two issues that materially differ when dealing with sub-group reporting. First the resource burden to run two group capital calculations has to be considered. In addition, the likelihood that additional capital may have to be infused is a material threat that could lead to a competitive disadvantage to US companies. We also feel subgroup reporting provides a level playing field in policyholder considerations, including solvency analysis and protection.

When analyzing the three proposals (current exposure, tri-state, and Coalition) we note that all three proposals allow for GCC sub-group reporting, in addition to including consultation language for those

regulators still concerned with FIO. The material difference is centered around Commissioner discretion. While most of the time flexibility through Commissioner discretion is very crucial to state specific issues, this is not one of those times, in our view. This is a US industry issue and if there is no consistency in application, it puts our US Groups at a disadvantage and jeopardizes the whole purpose for a uniform US approach.

Given the additional information provided to the working group, we request discussion and reconsideration of our proposal on our call scheduled for November 17th. Due to timing of the E Committee meeting, and the fact that this option has been discussed in other open meetings, we would like to take this matter up for adoption on the 17th.

> "Notwithstanding the provisions of Sections 4L(2)(c) and 4L(2)(d), a lead-state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system where, after consultation with other supervisors or officials, (i) it is deemed appropriate by the commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace; and/or, (ii) if the non-U.S. insurance holding company's group-wide supervisor does not recognize and accept the group capital calculation required by the insurance commissioner for any U.S. based insurance group's operations in that non-U.S. jurisdiction. The commissioner shall promulgate regulations necessary for the administration of this subsection, to address jurisdictions deemed to "recognize and accept" the group capital calculation."

We also would like to propose an amendment to the model regulation, to add the following language. Note that this language was taken from page 5 of the Coalition letter.

> E. 1. A list of jurisdictions that "recognize and accept" the group capital calculation pursuant to [insert cross-reference to Sections 4L(2)(d)], is published through the NAIC Committee Process to assist the lead-state commissioner in determining which insurers shall file an annual group calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under [insert cross-reference to Section 4L(2)(d). To assist with a determination under 4L(2)(e), the list will also identify whether a jurisdiction that is exempted under either [insert cross-reference to Sections 4L (2)(d) requires a group capital filing for any U.S. based insurance group's operations in that non- U.S. jurisdiction.

Thanks in advance for reading our letter and considering this proposal.

Kathy Belfi- Director Financial Regulation, Connecticut Insurance Department

Justin Schrader, Chief Financial Examiner, Nebraska Department of Insurance

Dave Wolf, Deputy Executive Director, New Jersey Department of Banking and Insurance

Supplemental Appendix to October 30, 2020 Comment Letter from Berkshire Hathaway Group of insurance companies, Liberty Mutual Insurance Group, MetLife, Inc., Odyssey Reinsurance Company, Prudential Financial, Inc., Reinsurance Group of America, Incorporated, The Travelers Companies, Inc., Transatlantic Reinsurance Company

As discussed in the October 30, 2020 U.S. companies coalition letter, the tri-state proposal for 4L(2)(e) does not conflict with the Covered Agreement. Should any doubts remain concerning the scope of the Covered Agreement's application, below is additional support regarding states' subgroup supervisory authority and the meaning of "where appropriate". Former FIO Director Michael T. McRaith's written Senate testimony in support of the Covered Agreement included a "paragraph-by-paragraph description of the legal benefits of the Covered Agreement for the United States."[1]

With respect to **Article 1 – Objectives**, of the Covered Agreement, McRaith clarified that "these goals [i.e., objectives] describe the outcome of the Agreement," including the goal to "(c) Prohibit the application of ***group*** supervision by an EU regulatory authority ***except to the extent that the U.S. insurer has operations or activities occurring in or originating from the EU,*** including with respect to solvency and capital, governance and reporting." (Emphasis added.) (P. 2 of Annex A.)

With respect to **Article 4—Group Supervision**, McRaith explained the meaning of Article 4(a) of the Covered Agreement:

> "[Article 4](a) Recognizing the value of supervisory colleges, the Agreement clarifies that only U.S. insurance supervisors will supervise the U.S. insurers ***at the worldwide group level***. In other words, ***EU supervisors can apply EU law and regulation to U.S. insurers only for operations and activities that occur in or originate from the EU. The limitation applies to all aspects of group supervision***, including solvency and ***capital***, governance, and reporting.
>
> In other words, U.S. insurers are supervised at the ***worldwide*** group level as determined by U.S. state insurance regulators."[2] (Emphasis added.) (P. 4 of Annex A.)

The provision in Article 4(b) stating "Host supervisory authorities may exercise group supervision, ***where appropriate***, with regard to a Home Party insurance or reinsurance group at the level of the parent undertaking in its territory," has been cited as a potential limitation on state regulator's authority to engage in subgroup supervision and enforce subgroup reciprocity based on the purpose or motive of the regulators. McRaith spoke directly to the meaning of Article 4(b), making clear no such limitation exists:

> "[Article 4](b) Subject to Article 3 [Reinsurance], U.S. insurers and reinsurers operating in the EU are subject to EU law and regulation ***only for purposes of operations and activities occurring in or originating from*** the EU."[3] (Emphasis added.) (P. 4 of Annex A.)

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[1] Written Testimony of Michael T. McRaith, U.S. Senate Committee on Banking, Housing and Urban Affairs, "Examining the U.S.-EU Covered Agreement", May 17, 2017, Annex A – Replies to Questions for the Record.
Link: https://www.banking.senate.gov/imo/media/doc/McRaith%20Testimony%205-2-17.pdf.

[2] For reference, Article 4(a) of the Covered Agreement provides: "(a) Without prejudice to subparagraphs (c) to (h) and participation in supervisory colleges, a Home Party insurance or reinsurance group is subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by its Home supervisory authorities, and is not subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by any Host supervisory authority."

[3] For reference, Article 4(b) of the Covered Agreement provides: Notwithstanding subparagraph (a), Host supervisory authorities may exercise supervision with regard to a Home Party insurance or reinsurance group as set out in subparagraphs (c) to (h). Host supervisory authorities may exercise group supervision, **where appropriate,** with regard to a Home Party insurance or reinsurance

McRaith also provided further clarification regarding the application of Solvency II group capital under Article 4(h) of the Covered Agreement: "For that five (+) year period [after the date of signature of the Covered Agreement], and upon completion, U.S. insurers operating in the EU are not thereafter subject to reporting or maintaining the Solvency II ***worldwide*** group capital requirement. (Emphasis added.) (P. 5 of Annex A.)

These statements explaining the benefits to the U.S. of the Covered Agreement make clear that the EU and U.S. regulators are prohibited from engaging in *worldwide* group supervision (including group capital). Exercising subgroup jurisdiction "where appropriate" simply means "for purposes of operations and activities occurring in or originating from the EU [i.e., the host jurisdiction]". This concerns only the reach of the regulator's authority outside of its own territory. Whether, how, and why to engage in subgroup supervision for "operations and activities occurring in or originating from a host jurisdiction" is left entirely to the determination of the host prudential supervisors, e.g., state regulators.

group at the level of the parent undertaking in its territory. Host supervisory authorities do not otherwise exercise worldwide group supervision with regard to a Home Party insurance or reinsurance group, without prejudice to group supervision of the insurance or reinsurance group at the level of the parent undertaking in the territory of the Host Party." (Emphasis added.)

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Group Capital Calculation (E) Working Group: Draft 11/04/2020

INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

Table of Contents

Section 1. Definitions note

As used in this Act, the following terms shall have these meanings unless the context shall otherwise require:

A. "Affiliate." An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

B. "Commissioner." The term "commissioner" shall mean the insurance commissioner, the commissioner's deputies, or the Insurance Department, as appropriate.

Drafting Note: Insert the title of the chief insurance regulatory official wherever the word "commissioner" appears.

C. "Control." The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Section 4K that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

D. "Group-wide supervisor." The regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the commissioner under Section 7.1 to have sufficient significant contacts with the internationally active insurance group.

E. "Group Capital Calculation instructions" means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

F. "Insurance Holding Company System." An "insurance holding company system" consists of two (2) or more affiliated persons, one or more of which is an insurer.

GF. "Insurer." The term "insurer" shall have the same meaning as set forth in Section [insert applicable section] of this Chapter, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

Drafting Note: References in this model act to "Chapter" are references to the entire state insurance code.

Drafting Note: States should consider applicability of this model act to fraternal societies and captives.

HG. "Internationally active insurance group." An insurance holding company system that (1) includes an insurer registered under Section 4; and (2) meets the following criteria: (a) premiums written in at least three countries, (b) the percentage of gross premiums written outside the United States is at least ten percent (10%) of the insurance holding company system's total gross written premiums, and (c) based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars ($50,000,000,000) or the total gross written premiums of the insurance holding company system are at least ten billion dollars ($10,000,000,000).

IH. "Enterprise Risk." "Enterprise risk" shall mean any activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's Risk-Based Capital to fall into company action level as set forth in [insert cross reference to appropriate section of Risk-Based Capital (RBC) Model Act] or would cause the insurer to be in hazardous financial condition [insert cross reference to appropriate section of Model Regulation to define standards and commissioner's authority over companies deemed to be in hazardous financial condition].

J. "NAIC" means the National Association of Insurance Commissioners.

LI. "Person." A "person" is an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any joint venture partnership exclusively engaged in owning, managing, leasing or developing real or tangible personal property.

MJ. "Securityholder." A "securityholder" of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing.

NK. "Subsidiary." A "subsidiary" of a specified person is an affiliate controlled by such person directly or indirectly through one or more intermediaries.

OL. "Voting Security." The term "voting security" shall include any security convertible into or evidencing a right to acquire a voting security.

Section 2. Subsidiaries of Insurers

A. Authorization. A domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries. The subsidiaries may conduct any kind of business or businesses and their authority to do so shall not be limited by reason of the fact that they are subsidiaries of a domestic insurer.

Drafting Note: This bill neither expressly authorizes noninsurance subsidiaries nor restricts subsidiaries to insurance related activities. It is believed that this is a policy decision which should be made by each individual state. Attached as an appendix are alternative provisions which would authorize the formation or acquisition of subsidiaries to engage in diversified business activity.

B. Additional Investment Authority. In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under all other sections of this Chapter, a domestic insurer may also:

(1) Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed the lesser of ten percent (10%) of the insurer's assets or fifty percent (50%) of the insurer's surplus as regards policyholders, provided that after such investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs. In calculating the amount of such investments, investments in domestic or foreign insurance subsidiaries and health maintenance organizations shall be excluded, and there shall be included:

(a) Total net monies or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities, and

(b) All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities; and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation;

Drafting Note: When considering whether to amend its Holding Company Act to exempt health maintenance organizations and other similar entities from certain investment limitations, a state should consider whether the solvency and general operations of the entities are regulated by the insurance department. In addition to, or in place of, the term "health maintenance organizations" in Paragraph (1) above, a state may include any other entity which provides or arranges for the financing or provision of health care services or coverage over which the commissioner possesses financial solvency and regulatory oversight authority.

(2) Invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer provided that each subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in Paragraph (1) or in Sections [insert applicable section] through [insert applicable section] of this Chapter applicable to the insurer. For the purpose of this paragraph, "the total investment of the insurer" shall include:

(a) Any direct investment by the insurer in an asset, and

(b) The insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary;

(3) With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries; provided that after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

C. Exemption from Investment Restrictions. Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to Subsection B shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in this Chapter applicable to such investments of insurers [except the following:].

Drafting Note: The last phrase is optional in those states having certain special qualitative limitations, such as prohibitions on investments in stock of mining companies, which the state may wish to retain as a matter of public policy.

D. Qualification of Investment; When Determined. Whether any investment made pursuant to Subsection B meets the applicable requirements of that subsection is to be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.

E. Cessation of Control. If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three (3) years from the time of the cessation of control or within such

further time as the commissioner may prescribe, unless at any time after the investment shall have been made, the investment shall have met the requirements for investment under any other section of this Chapter, and the insurer has so notified the commissioner.

Section 3. Acquisition of Control of or Merger with Domestic Insurer

A. Filing Requirements.

(1) No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of the insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time the offer, request or invitation is made or the agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, such person has filed with the commissioner and has sent to the insurer, a statement containing the information required by this section and the offer, request, invitation, agreement or acquisition has been approved by the commissioner in the manner prescribed in this Act.

(2) For purposes of this section, any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, shall file with the commissioner, with a copy to the insurer, confidential notice of its proposed divestiture at least 30 days prior to the cessation of control. The commissioner shall determine those instances in which the party(ies) seeking to divest or to acquire a controlling interest in an insurer, will be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the commissioner, in his or her discretion determines that confidential treatment will interfere with enforcement of this section. If the statement referred to in Paragraph (1) is otherwise filed, this paragraph shall not apply.

(3) With respect to a transaction subject to this section, the acquiring person must also file a pre-acquisition notification with the commissioner, which shall contain the information set forth in Section 3.1C(1). A failure to file the notification may be subject to penalties specified in Section 3.1E(3).

(4) For purposes of this section a domestic insurer shall include any person controlling a domestic insurer unless the person, as determined by the commissioner, is either directly or through its affiliates primarily engaged in business other than the business of insurance. For the purposes of this section, "person" shall not include any securities broker holding, in the usual and customary broker's function, less than twenty percent (20%) of the voting securities of an insurance company or of any person which controls an insurance company.

B. Content of Statement. The statement to be filed with the commissioner shall be made under oath or affirmation and shall contain the following:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in Subsection A is to be effected (hereinafter called the "acquiring party"), and

(a) If the person is an individual, his or her principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years;

(b) If the person is not an individual, a report of the nature of its business operations during the past five (5) years or for the lesser period as the person and any predecessors shall have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to such positions. The list shall include for each individual the information required by Subparagraph (a) of this paragraph;

(2) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction where funds were or are to be obtained for any such purpose (including any pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates), and the identity of persons furnishing consideration; provided, however, that where a source of consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests;

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five (5) fiscal years of each acquiring party (or for such lesser period as the acquiring party and any predecessors shall have been in existence), and similar unaudited information as of a date not earlier than ninety (90) days prior to the filing of the statement;

(4) Any plans or proposals which each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management;

(5) The number of shares of any security referred to in Subsection A which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in Subsection A, and a statement as to the method by which the fairness of the proposal was arrived at;

(6) The amount of each class of any security referred to in Subsection A which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(7) A full description of any contracts, arrangements or understandings with respect to any security referred to in Subsection A in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom the contracts, arrangements or understandings have been entered into;

(8) A description of the purchase of any security referred to in Subsection A during the twelve (12) calendar months preceding the filing of the statement by any acquiring party, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid;

(9) A description of any recommendations to purchase any security referred to in Subsection A made during the twelve (12) calendar months preceding the filing of the statement by any acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party;

(10) Copies of all tender offers for, requests, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in Subsection A, and (if distributed) of additional soliciting material relating to them;

(11) The term of any agreement, contract or understanding made with or proposed to be made with any broker-dealer as to solicitation of securities referred to in Subsection A for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto;

Drafting Note: An insurer required to file information pursuant to sub-sections 3B(12) and 3B(13) may satisfy the requirement by providing the commissioner with the most recently filed parent corporation reports that have been filed with the SEC, if appropriate.

(12) An agreement by the person required to file the statement referred to in Subsection A that it will provide the annual report, specified in Section 4L(1), for so long as control exists;

(13) An acknowledgement by the person required to file the statement referred to in Subsection A that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer; and

(14) Such additional information as the commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

If the person required to file the statement referred to in Subsection A is a partnership, limited partnership, syndicate or other group, the commissioner may require that the information called for by Paragraphs (1) through (14) shall be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If any partner, member or person is a corporation or the person required to file the statement referred to in Subsection A is a corporation, the commissioner may require that the information called for by Paragraphs (1) through (14) shall be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent (10%) of the outstanding voting securities of the corporation.

If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the commissioner and sent to the insurer within two (2) business days after the person learns of the change.

C. Alternative Filing Materials.

If any offer, request, invitation, agreement or acquisition referred to in Subsection A is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in Subsection A may utilize the documents in furnishing the information called for by that statement.

D. Approval by Commissioner: Hearings.

(1) The commissioner shall approve any merger or other acquisition of control referred to in Subsection A unless, after a public hearing, the commissioner finds that:

(a) After the change of control, the domestic insurer referred to in Subsection A would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly. In applying the competitive standard in this subparagraph:

(i) The informational requirements of Section 3.1C(1) and the standards of Section 3.1D(2) shall apply;

(ii) The merger or other acquisition shall not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by Section 3.1D(3) exist; and

(iii) The commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(c) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(d) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(e) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(f) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

(2) The public hearing referred to in Paragraph (1) shall be held within thirty (30) days after the statement required by Subsection A is filed, and at least twenty (20) days notice shall be given by the commissioner to the person filing the statement. Not less than seven (7) days notice of the public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. The commissioner shall make a determination within the sixty (60) day period preceding the effective date of the proposed transaction. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the [insert title] Court of this state. All discovery proceedings shall be concluded not later than three (3) days prior to the commencement of the public hearing.

(3) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing referred to in Paragraph (2) may be held on a consolidated basis upon request of the person filing the statement referred to in Subsection A. Such person shall file the statement referred to in Subsection A with the National Association of Insurance Commissioners (NAIC) within five (5) days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing, and shall provide notice to the applicant of the opt-out within ten (10) days of the receipt of the statement referred to in Subsection A. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. A commissioner may attend such hearing, in person or by telecommunication.

(4) In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and regulations of this state shall be made not later than sixty (60) days after the date of notification of the change in control submitted pursuant to Section 3A(1) of this Act.

(5) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control.

E. Exemptions. The provisions of this section shall not apply to:

(1) [Any transaction which is subject to the provisions of Sections [insert applicable section] and [insert applicable section] of the laws of this state, dealing with the merger or consolidation of two or more insurers].

Drafting Note: Optional for use in those states where existing law adequately governs standards and procedures for the merger or consolidation of two or more insurers.

(2) Any offer, request, invitation, agreement or acquisition which the commissioner by order shall exempt as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or as otherwise not comprehended within the purposes of this section.

F. Violations. The following shall be violations of this section:

(1) The failure to file any statement, amendment or other material required to be filed pursuant to Subsection A or B; or

(2) The effectuation or any attempt to effectuate an acquisition of control of, divestiture of, or merger with, a domestic insurer unless the commissioner has given approval.

G. Jurisdiction, Consent to Service of Process. The courts of this state are hereby vested with jurisdiction over every person not resident, domiciled or authorized to do business in this state who files a statement with the commissioner under this section, and overall actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by the person of the commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding arising out of violations of this section. Copies of all lawful process shall be served on the commissioner and transmitted by registered or certified mail by the commissioner to the person at his last known address.

Section 3.1 Acquisitions Involving Insurers Not Otherwise Covered

A. Definitions. The following definitions shall apply for the purposes of this section only:

(1) "Acquisition" means any agreement, arrangement or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes but is not limited to the acquisition of voting securities, the acquisition of assets, bulk reinsurance and mergers.

(2) An "involved insurer" includes an insurer which either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

B. Scope

(1) Except as exempted in Paragraph (2) of this subsection, this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state.

(2) This section shall not apply to the following:

(a) A purchase of securities solely for investment purposes so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under Section 1C, it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner of this state;

(b) The acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if pre-acquisition notification is filed with the commissioner in accordance with Section 3.1C(1) thirty (30) days prior to the proposed effective date of the acquisition. However, such pre-acquisition notification is not required for exclusion from this section if the acquisition would otherwise be excluded from this section by any other subparagraph of Section 3.1B(2);

(c) The acquisition of already affiliated persons;

(d) An acquisition if, as an immediate result of the acquisition,

(i) In no market would the combined market share of the involved insurers exceed five percent (5%) of the total market,

(ii) There would be no increase in any market share, or

(iii) In no market would

(I) The combined market share of the involved insurers exceeds twelve percent (12%) of the total market, and

(II) The market share increase by more than two percent (2%) of the total market.

For the purpose of this Paragraph (2)(d), a market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state;

(e) An acquisition for which a pre-acquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business;

(f) An acquisition of an insurer whose domiciliary commissioner affirmatively finds that the insurer is in failing condition; there is a lack of feasible alternative to improving such condition; the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and the findings are communicated by the domiciliary commissioner to the commissioner of this state.

C. Pre-acquisition Notification; Waiting Period. An acquisition covered by Section 3.1B may be subject to an order pursuant to Section 3.1E unless the acquiring person files a pre-acquisition notification and the waiting period has expired. The acquired person may file a pre-acquisition notification. The commissioner shall give confidential treatment to information submitted under this subsection in the same manner as provided in Section 8 of this Act.

(1) The pre-acquisition notification shall be in such form and contain such information as prescribed by the National Association of Insurance Commissioners (NAIC) relating to those markets which, under Section 3.1B(2)(d), cause the acquisition not to be exempted from the provisions of this section. The commissioner may require such additional material and information as deemed necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of Section 3.1D. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of such person indicating his or her ability to render an informed opinion.

(2) The waiting period required shall begin on the date of receipt of the commissioner of a pre-acquisition notification and shall end on the earlier of the thirtieth day after the date of receipt, or termination of the waiting period by the commissioner. Prior to the end of the waiting period, the commissioner on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition, in which event the waiting period shall end on the earlier of the thirtieth day after receipt of the additional information by the commissioner or termination of the waiting period by the commissioner.

D. Competitive Standard

(1) The commissioner may enter an order under Section 3.1E(1) with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this state or tend to create a monopoly or if the insurer fails to file adequate information in compliance with Section 3.1C.

(2) In determining whether a proposed acquisition would violate the competitive standard of Paragraph (1) of this subsection, the commissioner shall consider the following:

(a) Any acquisition covered under Section 3.1B involving two (2) or more insurers competing in the same market is *prima facie* evidence of violation of the competitive standards.

(i) If the market is highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more

(ii) Or, if the market is not highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more

A highly concentrated market is one in which the share of the four (4) largest insurers is seventy-five percent (75%) or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two (2) insurers are involved, exceeding the total of the two columns in the table is *prima facie* evidence of violation of the competitive standard in Paragraph (1) of this subsection. For the purpose of this item, the insurer with the largest share of the market shall be deemed to be Insurer A.

(b) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two (2) largest to the eight (8) largest, has increased by seven percent (7%) or more of the market over a period of time extending from any base year five (5) to ten (10) years prior to the acquisition up to the time of the acquisition. Any acquisition or merger covered under Section 3.1B involving two (2) or more insurers competing in the same market is *prima facie* evidence of violation of the competitive standard in Paragraph (1) of this subsection if:

(i) There is a significant trend toward increased concentration in the market;

(ii) One of the insurers involved is one of the insurers in a grouping of large insurers showing the requisite increase in the market share; and

(iii) Another involved insurer's market is two percent (2%) or more.

(c) For the purposes of Section 3.1D(2):

(i) The term "insurer" includes any company or group of companies under common management, ownership or control;

(ii) The term "market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the NAIC and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state;

(iii) The burden of showing *prima facie* evidence of violation of the competitive standard rests upon the commissioner.

(d) Even though an acquisition is not *prima facie* violative of the competitive standard under Paragraphs (2)(a) and (2)(b) of this subsection, the commissioner may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition is *prima facie* violative of the competitive standard under Paragraphs (2)(a) and (2)(b) of this subsection, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under this subparagraph include, but are not limited to, the following: market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market.

(3) An order may not be entered under Section 3.1E(1) if:

(a) The acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from such economies exceed the public benefits which would arise from not lessening competition; or

(b) The acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits which would arise from not lessening competition.

E. Orders and Penalties

(1) (a) If an acquisition violates the standards of this section, the commissioner may enter an order:

(i) Requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(ii) Denying the application of an acquired or acquiring insurer for a license to do business in this state.

(b) Such an order shall not be entered unless:

(i) There is a hearing;

(ii) Notice of the hearing is issued prior to the end of the waiting period and not less than fifteen (15) days prior to the hearing; and

(iii) The hearing is concluded and the order is issued no later than sixty (60) days after the date of the filing of the pre-acquisition notification with the commissioner.

Every order shall be accompanied by a written decision of the commissioner setting forth findings of fact and conclusions of law.

(c) An order pursuant to this paragraph shall not apply if the acquisition is not consummated.

(2) Any person who violates a cease and desist order of the commissioner under Paragraph (1) and while the order is in effect may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to one or more of the following:

(a) A monetary penalty of not more than $10,000 for every day of violation; or

(b) Suspension or revocation of the person's license.

(3) Any insurer or other person who fails to make any filing required by this section, and who also fails to demonstrate a good faith effort to comply with any filing requirement, shall be subject to a fine of not more than $50,000.

F. Inapplicable Provisions. Sections 10B, 10C, and 12 do not apply to acquisitions covered under Section 3.1B.

Section 4. Registration of Insurers

A. Registration. Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in:

(1) Section 4;

(2) Section 5A(1), 5B, 5D; and

(3) Either Section 5A(2) or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen (15) days after the end of the month in which it learns of each change or addition.

Any insurer which is subject to registration under this section shall register within fifteen (15) days after it becomes subject to registration, and annually thereafter by [insert date] of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require any insurer authorized to do business in the state which is a member of an insurance holding company system, and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in Section 4C or other information filed by the insurance company with the insurance regulatory authority of its domiciliary jurisdiction.

B. Information and Form Required. Every insurer subject to registration shall file the registration statement with the commissioner on a form and in a format prescribed by the NAIC, which shall contain the following current information:

(1) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(2) The identity and relationship of every member of the insurance holding company system;

(3) The following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the insurer and its affiliates:

(a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(b) Purchases, sales or exchange of assets;

(c) Transactions not in the ordinary course of business;

(d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(e) All management agreements, service contracts and all cost-sharing arrangements;

(f) Reinsurance agreements;

(g) Dividends and other distributions to shareholders; and

(h) Consolidated tax allocation agreements;

(4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(5) If requested by the commissioner, the insurer shall include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include but are not limited to annual audited financial statements filed with the U.S. Securities and Exchange Commission (SEC) pursuant to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended. An insurer required to file financial statements pursuant to this paragraph may satisfy the request by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the SEC;

(6) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner;

Drafting Note: Neither option below is intended to modify applicable state insurance and/or corporate law requirements.

(7) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and

Alternative Section 4B(7):

(7) Statements that the insurer's board of directors is responsible for and oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and

(8) Any other information required by the commissioner by rule or regulation.

C. Summary of Changes to Registration Statement. All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

D. Materiality. No information need be disclosed on the registration statement filed pursuant to Subsection B if the information is not material for the purposes of this section. Unless the commissioner by rule, regulation or order provides otherwise; sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent (.5%) or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section. The definition of materiality provided in this subsection shall not apply for purposes of the Group Capital Calculation.

E. Reporting of Dividends to Shareholders. Subject to Section 5B, each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof.

F. Information of Insurers. Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, where the information is reasonably necessary to enable the insurer to comply with the provisions of this Act.

G. Termination of Registration. The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

H. Consolidated Filing. The commissioner may require or allow two (2) or more affiliated insurers subject to registration to file a consolidated registration statement.

I. Alternative Registration. The commissioner may allow an insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under Subsection A and to file all information and material required to be filed under this section.

J. Exemptions. The provisions of this section shall not apply to any insurer, information or transaction if and to the extent that the commissioner by rule, regulation or order shall exempt the same from the provisions of this section.

K. Disclaimer. Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or a disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. A disclaimer of affiliation shall be deemed to have been granted unless the commissioner, within thirty (30) days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party shall be relieved of its duty to register under this section if approval of the disclaimer has been granted by the commissioner, or if the disclaimer is deemed to have been approved.

L. Enterprise Risk Filings.

(1) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners;

(2) Group Capital Calculation. Except as provided below, the ultimate controlling person of every insurer subject to registration shall concurrently file with the registration an annual group capital calculation as directed by the lead state commissioner. The report shall be completed in accordance with the NAIC Group Capital Calculation Instructions, which may permit the lead state commissioner to allow a controlling person that is not the ultimate controlling person to file the group capital calculation. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the commissioner in accordance with the

procedures within the Financial Analysis Handbook adopted by the NAIC. Insurance holding company systems described below are exempt from filing the group capital calculation:

a. An insurance holding company system that that has only one insurer within its holding company structure that only ~~only~~writes business [and is only licensed] in its domestic state and assumes no business from any other insurer;

b. An insurance holding company system that is required to perform a group capital calculation specified by the United States Federal Reserve Board. The lead-state commissioner shall request the calculation from the Federal Reserve Board under the terms of information sharing agreements in effect. If the Federal Reserve Board cannot share the calculation with the lead-state commissioner, the insurance holding company system is not exempt from the group capital calculation filing;

c. An insurance holding company system whose non-U.S. group-wide supervisor is located within a Reciprocal Jurisdiction as described in [insert cross-reference to appropriate section of Credit for Reinsurance Law] that recognizes the U.S. state regulatory approach to group supervision and group capital;

Drafting Note: On September 22, 2017, the United States and the European Union (EU) entered into the "*Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance.*" A similar agreement with the United Kingdom (UK) was signed on December 18, 2018. Both agreements are considered to be a "covered agreement" entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that addresses the U.S. state regulatory approach to group supervision and group capital, and provides that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the commissioner or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group. Under the revised Credit for Reinsurance Models, not only are jurisdictions that are subject to the EU and UK Covered Agreements treated as Reciprocal Jurisdictions, but any other Qualified Jurisdiction can also qualify as Reciprocal Jurisdiction if they provide written confirmation that they recognize and accept the U.S. state regulatory approach to group supervision and group capital.

d. An insurance holding company system:

(i) That provides information to the lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program, either directly or indirectly through the group-wide supervisor, who has determined such information is satisfactory to allow the lead-state to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook, and

(ii) Whose non-U.S. group-wide supervisor that is not a Reciprocal Jurisdiction recognizes and accepts, as specified by the Commissioner in regulation, the group capital calculation as the world-wide group capital assessment for U.S. insurance groups who operate in that jurisdiction.

Drafting Note: The phase "Recognizes and accepts" does not require the non-U.S. group-wide supervisor to require the U.S. insurance groups to actually file the group capital calculation with the non-U.S. supervisor but rather does not apply its own version of a group capital filing to U.S. insurance groups.

~~a.~~c. Notwithstanding the provisions of Sections 4L(2)(c) and 4L(2)(d), a lead-state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead-state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace. ~~if the non-U.S. insurance holding company's group-wide supervisor does not recognize and accept the group capital calculation required by the insurance commissioner for any U.S. based insurance group's operations in that non-U.S. jurisdiction. The commissioner~~

~~shall promulgate regulations necessary for the administration of this subsection, to address jurisdictions deemed to "recognize and accept" the group capital calculation.~~

f. Notwithstanding the exemptions from filing the group capital calculation stated in Section 4L(2)(a) through Section 4L(2)(d), the lead-state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria as specified by the commissioner in regulation.

g. If the lead-state commissioner determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this section, the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead-state commissioner based on reasonable grounds shown.

~~L.~~M. Violations. The failure to file a registration statement or any summary of the registration statement or enterprise risk filing required by this section within the time specified for filing shall be a violation of this section.

Section 5. Standards and Management of an Insurer Within an Insurance Holding Company System

A. Transactions Within an Insurance Holding Company System

(1) Transactions within an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

(a) The terms shall be fair and reasonable;

(b) Agreements for cost sharing services and management shall include such provisions as required by rule and regulation issued by the commissioner;

(c) Charges or fees for services performed shall be reasonable;

(d) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

(e) The books, accounts and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and

(f) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs.

(2) The following transactions involving a domestic insurer and any person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to any materiality standards contained in subparagraphs (a) through (g), may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction at least thirty (30) days prior thereto, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within that period. The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer. Informal notice shall be reported, within thirty (30) days after a termination of a previously filed agreement, to the commissioner for determination of the type of filing required, if any.

(a) Sales, purchases, exchanges, loans, extensions of credit, or investments, provided the transactions are equal to or exceed:

(i) With respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders as of the 31st day of December next preceding;

(ii) With respect to life insurers, three percent (3%) of the insurer's admitted assets as of the 31st day of December next preceding;

(b) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit provided the transactions are equal to or exceed:

(i) With respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders as of the 31st day of December next preceding;

(ii) With respect to life insurers, three percent (3%) of the insurer's admitted assets as of the 31st day of December next preceding;

(c) Reinsurance agreements or modifications thereto, including:

(i) All reinsurance pooling agreements;

(ii) Agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five percent (5%) of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a non-affiliate, if an agreement or understanding exists between the insurer and non-affiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;

(d) All management agreements, service contracts, tax allocation agreements, guarantees and all cost-sharing arrangements;

(e) Guarantees when made by a domestic insurer; provided, however, that a guarantee which is quantifiable as to amount is not subject to the notice requirements of this paragraph unless it exceeds the lesser of one-half of one percent (.5%) of the insurer's admitted assets or ten percent (10%) of surplus as regards policyholders as of the 31st day of December next preceding. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this paragraph;

(f) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holdings in such investments, exceeds two and one-half percent (2.5%) of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to Section 2 of this Act (or authorized under any other section of this Chapter), or in non-subsidiary insurance affiliates that are subject to the provisions of this Act, are exempt from this requirement; and

Drafting Note: When reviewing the notification required to be submitted pursuant to Section 5A(2)(f), the commissioner should examine prior and existing investments of this type to establish that these investments separately or together with other transactions, are not being made to contravene the dividend limitations set forth in Section 5B. However, an investment in a controlling person or in an affiliate shall not be considered a dividend or distribution to shareholders when applying Section 5B of this Act.

(g) Any material transactions, specified by regulation, which the commissioner determines may adversely affect the interests of the insurer's policyholders.

Nothing in this paragraph shall be deemed to authorize or permit any transactions which, in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law.

(3) A domestic insurer may not enter into transactions which are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that separate transactions were entered into over any twelve-month period for that purpose, the commissioner may exercise his or her authority under Section 11.

(4) The commissioner, in reviewing transactions pursuant to Subsection A(2), shall consider whether the transactions comply with the standards set forth in Subsection A(1) and whether they may adversely affect the interests of policyholders.

(5) The commissioner shall be notified within thirty (30) days of any investment of the domestic insurer in any one corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent (10%) of the corporation's voting securities.

B. Dividends and other Distributions

No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty (30) days after the commissioner has received notice of the declaration thereof and has not within that period disapproved the payment, or until the commissioner has approved the payment within the thirty-day period.

For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the lesser of:

(1) Ten percent (10%) of the insurer's surplus as regards policyholders as of the 31st day of December next preceding; or

(2) The net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the twelve-month period ending the 31st day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two (2) calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.

Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval, and the declaration shall confer no rights upon shareholders until (1) the commissioner has approved the payment of the dividend or distribution or (2) the commissioner has not disapproved payment within the thirty-day period referred to above.

Drafting Note: The following Subsection C entitled "Management of Domestic Insurers Subject to Registration" is optional and is to be adopted according to the needs of the individual jurisdiction.

C. Management of Domestic Insurers Subject To Registration.

(1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise

be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this Act.

(2) Nothing in this section shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property or services with one or more other persons under arrangements meeting the standards of Section 5A(1).

(3) Not less than one-third of the directors of a domestic insurer, and not less than one-third of the members of each committee of the board of directors of any domestic insurer shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee thereof.

(4) The board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer and recommending to the board of directors the selection and compensation of the principal officers.

(5) The provisions of Paragraphs (3) and (4) shall not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees thereof that meet the requirements of Paragraphs (3) and (4) with respect to such controlling entity.

(6) An insurer may make application to the commissioner for a waiver from the requirements of this subsection, if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, is less than $300,000,000. An insurer may also make application to the commissioner for a waiver from the requirements of this subsection based upon unique circumstances. The commissioner may consider various factors including, but not limited to, the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

D. Adequacy of Surplus. For purposes of this Act, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) The extent to which the insurer's business is diversified among several lines of insurance;

(3) The number and size of risks insured in each line of business;

(4) The extent of the geographical dispersion of the insurer's insured risks;

(5) The nature and extent of the insurer's reinsurance program;

(6) The quality, diversification and liquidity of the insurer's investment portfolio;

(7) The recent past and projected future trend in the size of the insurer's investment portfolio;

(8) The surplus as regards policyholders maintained by other comparable insurers;

(9) The adequacy of the insurer's reserves; and

(10) The quality and liquidity of investments in affiliates. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the judgment of the commissioner the investment so warrants.

Section 6. Examination

A. Power of Commissioner. Subject to the limitation contained in this section and in addition to the powers which the commissioner has under Sections [insert applicable sections] relating to the examination of insurers, the commissioner shall have the power to examine any insurer registered under Section 4 and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

B. Access to Books and Records.

(1) The commissioner may order any insurer registered under Section 4 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this Chapter.

(2) To determine compliance with this Chapter, the commissioner may order any insurer registered under Section 4 to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to contractual relationships, statutory obligations, or other method. In the event the insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the commissioner that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a penalty of $[insert amount] for each day's delay, or may suspend or revoke the insurer's license.

C. Use of Consultants. The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under Subsection A above. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

D. Expenses. Each registered insurer producing for examination records, books and papers pursuant to Subsection A above shall be liable for and shall pay the expense of examination in accordance with Section [insert applicable section].

E. Compelling Production. In the event the insurer fails to comply with an order, the commissioner shall have the power to examine the affiliates to obtain the information. The commissioner shall also have the power to issue subpoenas, to administer oaths, and to examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Every person shall be obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. He or she shall be entitled to the same fees and mileage, if claimed, as a witness in [insert appropriate statutory reference to trial-level court in that state], which fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, shall be itemized and charged against, and be paid by, the company being examined.

Section 7. Supervisory Colleges

A. Power of Commissioner. With respect to any insurer registered under Section 4, and in accordance with Subsection C below, the commissioner shall also have the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in

order to determine compliance by the insurer with this Chapter. The powers of the commissioner with respect to supervisory colleges include, but are not limited to, the following:

(1) Initiating the establishment of a supervisory college;

(2) Clarifying the membership and participation of other supervisors in the supervisory college;

(3) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;

(4) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and

(5) Establishing a crisis management plan.

B. Expenses. Each registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with Subsection C below, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

C. Supervisory College. In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers in accordance with Section 6, the commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal and international regulatory agencies. The commissioner may enter into agreements in accordance with Section 8C providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. Nothing in this section shall delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within its jurisdiction.

Section 7.1. Group-wide Supervision of Internationally Active Insurance Groups

A. The commissioner is authorized to act as the group-wide supervisor for any internationally active insurance group in accordance with the provisions of this section.. However, the commissioner may otherwise acknowledge another regulatory official as the group-wide supervisor where the internationally active insurance group:

(1) Does not have substantial insurance operations in the United States;

(2) Has substantial insurance operations in the United States, but not in this state; or

(3) Has substantial insurance operations in the United States and this state, but the commissioner has determined pursuant to the factors set forth in Subsections B and F that the other regulatory official is the appropriate group-wide supervisor.

An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the commissioner make a determination or acknowledgment as to a group-wide supervisor pursuant to this section.

B. In cooperation with other state, federal and international regulatory agencies, the commissioner will identify a single group-wide supervisor for an internationally active insurance group. The commissioner may determine that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state. However, the commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The commissioner shall consider the following factors when making a determination or acknowledgment under this subsection:

(1) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets or liabilities;

(2) The place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group;

(3) The location of the executive offices or largest operational offices of the internationally active insurance group;

(4) Whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the commissioner determines to be:

(a) Substantially similar to the system of regulation provided under the laws of this state, or otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and

(5) Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

However, a commissioner identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor shall be made after consideration of the factors listed in Paragraphs (1) through (5) above, and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.

C. Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the group-wide supervisor. However, in the event of a material change in the internationally active insurance group that results in:

(1) The internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets or liabilities; or

(2) This state being the place of domicile of the top-tiered insurer(s) in the insurance holding company system of the internationally active insurance group, the commissioner shall make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to Subsection B.

D. Pursuant to Section 6, the commissioner is authorized to collect from any insurer registered pursuant to Section 4 all information necessary to determine whether the commissioner may act as the group-wide supervisor of an internationally active insurance group or if the commissioner may acknowledge another regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an internationally active insurance group is subject to group-wide supervision by the commissioner, the commissioner shall notify the insurer registered pursuant to Section 4 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group shall have not less than thirty (30) days to provide the commissioner with additional information pertinent to the pending determination. The commissioner shall publish in the [insert name of state administrative record] and on its Internet website the identity of internationally active insurance groups that the commissioner has determined are subject to group-wide supervision by the commissioner.

E. If the commissioner is the group-wide supervisor for an internationally active insurance group, the commissioner is authorized to engage in any of the following group-wide supervision activities:

(1) Assess the enterprise risks within the internationally active insurance group to ensure that:

(a) The material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance are identified by

management, and

(b) Reasonable and effective mitigation measures are in place;

(2) Request, from any member of an internationally active insurance group subject to the commissioner's supervision, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the internationally active insurance group regarding:

(a) Governance, risk assessment and management,

(b) Capital adequacy, and

(c) Material intercompany transactions;

(3) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of such internationally active insurance group that are engaged in the business of insurance;

(4) Communicate with other state, federal and international regulatory agencies for members within the internationally active insurance group and share relevant information subject to the confidentiality provisions of Section 8, through supervisory colleges as set forth in Section 7 or otherwise;

(5) Enter into agreements with or obtain documentation from any insurer registered under Section 4, any member of the internationally active insurance group, and any other state, federal and international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state; and

(6) Other group-wide supervision activities, consistent with the authorities and purposes enumerated above, as considered necessary by the commissioner.

F. If the commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the NAIC is the group-wide supervisor, the commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor, provided that:

(1) The commissioner's cooperation is in compliance with the laws of this state; and

(2) The regulatory official acknowledged as the group-wide supervisor also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable. Where such recognition and cooperation is not reasonably reciprocal, the commissioner is authorized to refuse recognition and cooperation.

G. The commissioner is authorized to enter into agreements with or obtain documentation from any insurer registered under Section 4, any affiliate of the insurer, and other state, federal and international regulatory agencies for members of the internationally active insurance group, that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

H. The commissioner may promulgate regulations necessary for the administration of this section.

I. A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including the engagement of attorneys,

actuaries and any other professionals and all reasonable travel expenses.

Section 8. Confidential Treatment

A. Documents, materials or other information in the possession or control of the Department of Insurance that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to Section 6 and all information reported or provided to the Department of Insurance pursuant to Section 3B(12) and (13), Section 4, Section 5 and Section 7.1 are recognized by this state as being proprietary and to contain trade secrets, and shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event the commissioner may publish all or any part in such manner as may be deemed appropriate.

(1) For purposes of the information reported and provided to the Department of Insurance pursuant to Section 4L(2), the commissioner shall maintain the confidentiality of the group capital calculation and group capital ratio produced within the calculation and any group capital information received from an insurance holding company supervised by the Federal Reserve Board or any U.S. group wide supervisor.

Drafting note: This group capital calculation and group capital ratio includes confidential information and filings received from insurance holding companies supervised by the Federal Reserve Board. The confidential treatment afforded to group capital calculation filings includes any Federal Reserve Board group capital filings and information.

B. Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner or with whom such documents, materials or other information are shared pursuant to this Act shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to Subsection A.

C. In order to assist in the performance of the commissioner's duties, the commissioner:

(1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Subsection A, including proprietary and trade secret documents and materials with other state, federal and international regulatory agencies, with the NAIC ~~and its affiliates and subsidiaries~~, and with any third-party consultants designated by the commissioner, with state, federal, and international law enforcement authorities, including members of any supervisory college described in Section 7, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information, and has verified in writing the legal authority to maintain confidentiality.

(2) Notwithstanding paragraph (1) above, the commissioner may only share confidential and privileged documents, material, or information reported pursuant to Section 4L(1) with commissioners of states having statutes or regulations substantially similar to Subsection A and who have agreed in writing not to disclose such information.

(3) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, including propriety and trade-secret information from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(4) Shall enter into written agreements with the NAIC and any third-party consultant designated by

the commissioner governing sharing and use of information provided pursuant to this Act consistent with this subsection that shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC ~~and its affiliates and subsidiaries~~ or a third-party consultant designated by the commissioner pursuant to this Act, including procedures and protocols for sharing by the NAIC with other state, federal or international regulators. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials or other information and has verified in writing the legal authority to maintain such confidentiality;

(ii) Specify that ownership of information shared with the NAIC or a third party consultant ~~and its affiliates and subsidiaries~~ pursuant to this Act remains with the commissioner and the NAIC's or a third-party consultant's, as designated by the commissioner, use of the information is subject to the direction of the commissioner;

(iii) Prohibit the NAIC or third-party consultant designated by the commissioner from storing the information shared pursuant to this Act in a permanent database after the underlying analysis is completed;

~~(iii)~~(iv) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or a third-party consultant designated by the commissioner pursuant to this Act is subject to a request or subpoena to the NAIC or a third-party consultant designated by the commissioner for disclosure or production; and

(v) Require the NAIC or a third-party consultant designated by the commissioner ~~and its affiliates and subsidiaries~~ to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant designated by the commissioner ~~and its affiliates and subsidiaries~~ may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant designated by the commissioner ~~and its affiliates and subsidiaries~~ pursuant to this Act.

~~(iv) In the case of an agreement involving a third party consultant designated by the commissioner, provide for the insurer's written consent.~~

D. The sharing of information by the commissioner pursuant to this Act shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution and enforcement of the provisions of this Act.

E. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection C.

F. Documents, materials or other information in the possession or control of the NAIC or a third-party consultant designated by the commissioner pursuant to this Act shall be confidential by law and privileged, shall not be subject to [insert open records, freedom of information, sunshine or other appropriate phrase], shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

G. The group capital calculation and resulting group capital ratio required under Section 4L(2) is a regulatory tool for assessing group risks and capital adequacy, and is not intended as a means to rank insurers or insurance holding company systems generally. Therefore, except as otherwise may be required under the provisions of this Act, the making, publishing, disseminating, circulating or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement or statement containing a representation or statement with regard to the group capital calculation or group capital ratio of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in

the insurance business would be misleading and is therefore prohibited; provided, however, that if any materially false statement with respect to the group capital calculation or resulting group capital ratio or an inappropriate comparison of any amount to an insurer's or insurance group's group capital calculation or resulting group capital ratio is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of such statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

Section 9. Rules and Regulations

The commissioner may, upon notice and opportunity for all interested persons to be heard, issue such rules, regulations and orders as shall be necessary to carry out the provisions of this Act.

Section 10. Injunctions, Prohibitions Against Voting Securities, Sequestration of Voting Securities

A. Injunctions. Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed or is about to commit a violation of this Act or of any rule, regulation or order issued by the commissioner hereunder, the commissioner may apply to the [insert title] Court for the county in which the principal officer of the insurer is located or if the insurer has no office in this state then to the [insert title] Court for [insert county] County for an order enjoining the insurer or director, officer, employee or agent thereof from violating or continuing to violate this Act or any rule, regulation or order, and for such other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditors and shareholders or the public may require.

B. Voting of Securities; When Prohibited. No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this Act or of any rule, regulation or order issued by the commissioner hereunder may be voted at any shareholder's meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though the securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of the securities, unless the action would materially affect control of the insurer or unless the courts of this state have so ordered. If an insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this Act or of any rule, regulation or order issued by the commissioner hereunder; the insurer or the commissioner may apply to the [insert title] Court for the county in which the insurer has its principle place of business to enjoin any offer, request, invitation, agreement or acquisition made in contravention of Section 3 or any rule, regulation or order issued by the commissioner thereunder to enjoin the voting of any security so acquired, to void any vote of the security already cast at any meeting of shareholders and for such other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditor and shareholders or the public may require.

C. Sequestration of Voting Securities. In any case where a person has acquired or is proposing to acquire any voting securities in violation of this Act or any rule, regulation or order issued by the commissioner hereunder, the [insert title] Court for [insert county] County or the [insert title] Court for the county in which the insurer has its principal place of business may, on such notice as the court deems appropriate, upon the application of the insurer or the commissioner, seize or sequester any voting securities of the insurer owned directly or indirectly by the person, and issue such order as may be appropriate to effectuate the provisions of this Act.

Notwithstanding any other provisions of law, for the purposes of this Act the situs of the ownership of the securities of domestic insurers shall be deemed to be in this state.

Section 11. Sanctions

A. Any insurer failing, without just cause, to file any registration statement as required in this Act shall be required, after notice and hearing, to pay a penalty of $[insert amount] for each day's delay, to be recovered by the commissioner of Insurance and the penalty so recovered shall be paid into the General Revenue Fund of this state. The maximum penalty under this section is $[insert amount]. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

B. Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to Section 4A, 5A(2), or 5B, or which violate this Act, shall pay, in their individual capacity, a civil forfeiture of not more than $[insert amount] per violation, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

C. Whenever it appears to the commissioner that any insurer subject to this Act or any director, officer, employee or agent thereof has engaged in any transaction or entered into a contract which is subject to Section 5 of this Act and which would not have been approved had the approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the commissioner may also order the insurer to void any contracts and restore the status quo if the action is in the best interest of the policyholders, creditors or the public.

D. Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this Act, the commissioner may cause criminal proceedings to be instituted by the [insert title] Court for the county in which the principal office of the insurer is located or if the insurer has no office in this state, then by the [insert county] Court for [insert title] County against the insurer or the responsible director, officer, employee or agent thereof. Any insurer which willfully violates this Act may be fined not more than $[insert amount]. Any individual who willfully violates this Act may be fined in his or her individual capacity not more than $[insert amount] or be imprisoned for not more than one to three (3) years or both.

E. Any officer, director or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the commissioner in the performance of his or her duties under this Act, upon conviction shall be imprisoned for not more than [insert amount] years or fined $[insert amount] or both. Any fines imposed shall be paid by the officer, director or employee in his or her individual capacity.

F. Whenever it appears to the commissioner that any person has committed a violation of Section 3 of this Act and which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with [insert appropriate statutory reference related to orders of supervision.

Section 12. Receivership

Whenever it appears to the commissioner that any person has committed a violation of this Act which so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders or the public, then the commissioner may proceed as provided in Section [insert applicable section] of this Chapter to take possessions of the property of the domestic insurer and to conduct its business.

Section 13. Recovery

A. If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under the order shall have a right to recover on behalf of the insurer, (i) from any parent corporation or holding company or person or affiliate who otherwise controlled the insurer, the amount of distributions (other than distributions of shares of the same class of stock) paid by the insurer on its capital stock, or (ii) any payment in the form of a bonus, termination settlement or extraordinary lump sum salary adjustment made by the insurer or its subsidiary to a director, officer or employee, where the distribution or payment pursuant to (i) or (ii) is made at any time during the one year preceding the petition for liquidation, conservation or rehabilitation, as the case may be, subject to the limitations of Subsections B, C, and D of this section.

B. No distribution shall be recoverable if the parent or affiliate shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

C. Any person who was a parent corporation or holding company or a person who otherwise controlled the insurer or affiliate at the time the distributions were paid shall be liable up to the amount of distributions or payments under Subsection A which the person received. Any person who otherwise controlled the insurer at the time the distributions were declared shall be liable up to the amount of distributions that would have been received if they had been paid immediately. If two (2) or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

D. The maximum amount recoverable under this section shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

E. To the extent that any person liable under Subsection C of this section is insolvent or otherwise fails to pay claims due from it, its parent corporation or holding company or person who otherwise controlled it at the time the distribution was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the parent corporation or holding company or person who otherwise controlled it.

Section 14. Revocation, Suspension, or Nonrenewal of Insurer's License

Whenever it appears to the commissioner that any person has committed a violation of this Act which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, suspend, revoke or refuse to renew the insurer's license or authority to do business in this state for such period as the commissioner finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

Section 15. Judicial Review, Mandamus

A. Any person aggrieved by any act, determination, rule, regulation or order or any other action of the commissioner pursuant to this Act may appeal to the [insert title] Court for [insert county] County. The court shall conduct its review without a jury and by trial *de novo*, except that if all parties, including the commissioner, so stipulate, the review shall be confined to the record. Portions of the record may be introduced by stipulation into evidence in a trial *de novo* as to those parties so stipulating.

B. The filing of an appeal pursuant to this section shall stay the application of any rule, regulation, order or other action of the commissioner to the appealing party unless the court, after giving the party notice and an opportunity to be heard, determines that a stay would be detrimental to the interest of policyholders, shareholders, creditors or the public.

C. Any person aggrieved by any failure of the commissioner to act or make a determination required by this Act may petition the [insert title] Court for [insert county] County for a writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make a determination.

Section 16. Conflict with Other Laws

All laws and parts of laws of this state inconsistent with this Act are hereby superseded with respect to matters covered by this Act.

Section 17. Separability of Provisions

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and for this purpose the provisions of this Act are separable.

Section 18. Effective Date

This Act shall take effect thirty (30) days from its passage.

APPENDIX
ALTERNATE PROVISIONS

Alternative Section 1. Findings

A. It is hereby found and declared that it may not be inconsistent with the public interest and the interest of policyholders and shareholders to permit insurers to:

(1) Engage in activities which would enable them to make better use of management skills and facilities;

(2) Diversify into new lines of business through acquisition or organization of subsidiaries;

(3) Have free access to capital markets which could provide funds for insurers to use in diversification programs;

(4) Implement sound tax planning conclusions; and

(5) Serve the changing needs of the public and adapt to changing conditions of the social, economic and political environment, so that insurers are able to compete effectively and to meet the growing public demand for institutions capable of providing a comprehensive range of financial services.

B. It is further found and declared that the public interest and the interests of policyholders and shareholders are or may be adversely affected when:

(1) Control of an insurer is sought by persons who would utilize such control adversely to the interests of policyholders or shareholders;

(2) Acquisition of control of an insurer would substantially lessen competition or create a monopoly in the insurance business in this state;

(3) An insurer which is part of an insurance holding company system is caused to enter into transactions or relationships with affiliated companies on terms which are not fair and reasonable; or

(4) An insurer pays dividends to shareholders which jeopardize the financial condition of such insurers.

C. It is hereby declared that the policies and purposes of this Act are to promote the public interest by:

(1) Facilitating the achievement of the objectives enumerated in Subsection A;

(2) Requiring disclosure of pertinent information relating to changes in control of an insurer;

(3) Requiring disclosure by an insurer of material transactions and relationships between the insurer and its affiliates, including certain dividends to shareholders paid by the insurer; and

(4) Providing standards governing material transactions between the insurer and its affiliates.

D. It is further declared that it is desirable to prevent unnecessary multiple and conflicting regulation of insurers. Therefore, this state shall exercise regulatory authority over domestic insurers and unless otherwise provided in this Act, not over nondomestic insurers, with respect to the matters contained herein.

Alternative Section 2. Subsidiaries of Insurers

A. Authorization. Any domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries engaged in the following kinds of business:

(1) Any kind of insurance business authorized by the jurisdiction in which it is incorporated;

(2) Acting as an insurance broker or as an insurance agent for its parent or for any of its parent's insurer subsidiaries;

(3) Investing, reinvesting or trading in securities for its own account, that of its parent, a subsidiary of its parent, or an affiliate or subsidiary;

(4) Management of an investment company subject to or registered pursuant to the Investment Company Act of 1940, as amended, including related sales and services;

(5) Acting as a broker-dealer subject to or registered pursuant to the Securities Exchange Act of 1934, as amended;

(6) Rendering investment advice to governments, government agencies, corporations or other organizations or groups;

(7) Rendering other services related to the operations of an insurance business, such as actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal and collection services;

(8) Ownership and management of assets which the parent corporation could itself own or manage;

Drafting Note: The aggregate investment by the insurer and its subsidiaries acquired or organized pursuant to this paragraph should not exceed the limitations applicable to such investments by the insurer.

(9) Acting as administrative agent for a governmental instrumentality that is performing an insurance function;

(10) Financing of insurance premiums, agents and other forms of consumer financing;

(11) Any other business activity determined by the commissioner to be reasonably ancillary to an insurance business; and

(12) Owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in this section.

Chronological Summary of Action (all references are to the Proceedings of the NAIC).

1969 Proc. II 736, 737, 738-751, 756 (adopted).
1972 Proc. I 14, 16, 443, 449 (corrected).
1980 Proc. II 22, 26, 29, 42-46 (amended, added Section 3.1).
1983 Proc. I 6, 37, 96, 99 (amended).
1985 Proc. I 19, 37,178, 183-200 (amended and reprinted).
1985 Proc. II 11, 24-25, 74, 75-92 (amended and reprinted).
1986 Proc. I 10, 25, 72 (amended).
1986 Proc. II 12, 19-20, 93-94, 94-109 (amended and reprinted).
1993 Proc. 4th Quarter 16, 31, 57, 61-62 (amended).
1995 Proc. 4th Quarter 11, 33, 307, 310, 312-328 (amended and reprinted).
1996 Proc. 1st Quarter 124, 270, 272-275 (amendments adopted later printed here).
1997 Proc. 4th Quarter 11 (amendments adopted).
1999 Proc. 4th Quarter 15, 364, 369, 379-380 (amended).
2001 Proc. 2nd Quarter 11, 14, 319, 339, 342-348 (amended).
2011 Proc. 1st Quarter I 3-11 (amended).
2014 Proc. 3rd Quarter, Vol. I 122, 136, 140, 183, 243-266 (amended).

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Group Capital Calculation Working Group: 11/04/2020 Draft

INSURANCE HOLDING COMPANY SYSTEM MODEL REGULATION WITH REPORTING FORMS AND INSTRUCTIONS

Table of Contents

Section 1. Authority

These regulations are promulgated pursuant to the authority granted by Sections [insert applicable sections] and [insert applicable section] of the Insurance Law.

Note: Optional for those states in which similar provisions are normally used.

Section 2. Purpose

The purpose of these regulations is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of the NAIC Insurance Holding Company System Regulatory Act [insert applicable sections] of the Insurance Code hereinafter referred to as "the Act." The information called for by these regulations is hereby declared to be necessary and appropriate in the public interest and for the protection of the policyholders in this State.

Editor's Note: Insert the title of the chief insurance regulatory official wherever the term "commissioner" appears.

Drafting Note: Optional for those states in which similar provisions are normally used.

Section 3. Severability Clause

If any provision of these regulations, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of these regulations which can be given effect without the invalid provision or application, and to that end the provisions of these regulations are severable.

Drafting Note: Optional for those states in which similar provisions are normally used.

Section 4. Forms - General Requirements

A. Forms A, B, C, D, E and F are intended to be guides in the preparation of the statements required by Sections 3, 3.1, 4, and 5 of the Act. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

B. [Insert number] complete copies of each statement including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery or mail addressed to: Insurance Commissioner of the State of [insert state and address], Attention: [insert name - title]. At least one of the copies shall be signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement.

C. If an applicant requests a hearing on a consolidated basis under Section 3D(3) of the Act, in addition to filing the Form A with the commissioner, the applicant shall file a copy of Form A with the National Association of Insurance Commissioners (NAIC) in electronic form.

D. Statements should be prepared electronically. Statements shall be easily readable and suitable for review and reproduction. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

Drafting Note: Section 4 may be omitted if it is included as instructions on Forms A, B, C, D, E and F.

Section 5. Forms - Incorporation by Reference, Summaries and Omissions

A. Information required by any item of Form A, Form B, Form D, Form E or Form F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, Form E or Form F provided the document is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Commissioner which were filed within three (3) years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where the incorporation would render the statement incomplete, unclear or confusing.

B. Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to the statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commissioner which was filed within three (3) years and may be qualified in its entirety by such reference. In any case where two (2) or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of the documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which the documents differ from the documents, a copy of which is filed.

Drafting Note: Section 5 may be omitted if it is included as instructions on Forms A, B, D, E and F.

Section 6. Forms-Information Unknown or Unavailable and Extension of Time to Furnish

If it is impractical to furnish any required information, document or report at the time it is required to be filed, there shall be filed with the Commissioner a separate document:

A. Identifying the information, document or report in question;

B. Stating why the filing thereof at the time required is impractical; and

C. Requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commissioner within [XX] days after receipt thereof enters an order denying the request.

Drafting Note: Section 6 may be omitted if it is included as instruction on Forms A, B, C, D, E and F.

Section 7. Forms - Additional Information and Exhibits

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, Form E and Form F, the Commissioner may request such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. The exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, D, E or F shall include on the top of the cover page the phrase: "Change No. [insert number] to" and shall indicate the date of the change and not the date of the original filing.

Drafting Note: Section 7 may be omitted if it included as instructions on Forms A, B, C, D, E and F.

Section 8. Definitions

A. "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

B. "Ultimate controlling person" means that person which is not controlled by any other person.

C. Unless the context otherwise requires, other terms found in these regulations and in Section 1 of the Act are used as defined in the Act. Other nomenclature or terminology is according to the Insurance Code, or industry usage if not defined by the Code.

Drafting Note: If regulation Section 2 is not adopted by the state, the following definition should be added to this section:
"The Act" means the Insurance Holding Company System Regulatory Act [insert applicable sections of the Insurance Code].

Section 9. Subsidiaries of Domestic Insurers

The authority to invest in subsidiaries under Section 2B of the Act is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the Insurance Code.

Section 10. Acquisition of Control - Statement Filing

A person required to file a statement pursuant to Section 3 of the Act shall furnish the required information on Form A, hereby made a part of this regulation. Such person shall also furnish the required information on Form E, hereby made a part of this regulation and described in Section 13 of this regulation.

Section 11. Amendments to Form A

The applicant shall promptly advise the Commissioner of any changes in the information furnished on Form A arising subsequent to the date upon which the information was furnished but prior to the Commissioner's disposition of the application.

Section 12. Acquisition of Section 3A(4) Insurers

A. If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of Section 3A(4) of the Act, the name of the domestic insurer on the cover page should be indicated as follows:

"ABC Insurance Company, a subsidiary of XYZ Holding Company."

B. Where a Section 3A(4) insurer is being acquired, references to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

Section 13. Pre-Acquisition Notification

If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to Section 3A(1) of the Act, that person shall file a pre-acquisition notification form, Form E, which was developed pursuant to Section 3.1C(1) of the Act.

Additionally, if a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to Section 3.1 of the Act, that person shall file a pre-acquisition notification form, Form E. No pre-acquisition notification form need be filed if the acquisition is beyond the scope of Section 3.1 as set forth in Section 3.1B(2).

In addition to the information required by Form E, the Commissioner may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

Section 14. Annual Registration of Insurers - Statement Filing

An insurer required to file an annual registration statement pursuant to Section 4 of the Act shall furnish the required information on Form B, hereby made a part of these regulations.

Section 15. Summary of Registration - Statement Filing

An insurer required to file an annual registration statement pursuant to Section 4 of the Act is also required to furnish information required on Form C, hereby made a part of these regulations.

Section 16. Amendments to Form B

A. An amendment to Form B shall be filed within fifteen (15) days after the end of any month in which there is a material change to the information provided in the annual registration statement.

B. Amendments shall be filed in the Form B format with only those items which are being amended reported. Each amendment shall include at the top of the cover page "Amendment No. [insert number] to Form B for [insert year]" and shall indicate the date of the change and not the date of the original filings.

Drafting Note: Section 16 may be omitted if Section 5A(2) of the Model Act has been adopted and amendments to the registration statement are therefore not required by the Act.

Section 17. Alternative and Consolidated Registrations

A. Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under Section 4 of the Act. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system even if the insurer is not authorized to do business in this State. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its State of domicile, provided:

(1) The statement or report contains substantially similar information required to be furnished on Form B; and

(2) The filing insurer is the principal insurance company in the insurance holding company system.

B. The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

C. With the prior approval of the Commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under Subsection A above.

D. Any insurer may take advantage of the provisions of Section 4H or 4I of the Act without obtaining the prior approval of the Commissioner. The Commissioner, however, reserves the right to require individual filings if he or she deems such filings necessary in the interest of clarity, ease of administration or the public good.

Section 18. Disclaimers and Termination of Registration

A. A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

(1) The number of authorized, issued and outstanding voting securities of the subject;

(2) With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly;

(3) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;

(4) A statement explaining why the person should not be considered to control the subject.

B. A request for termination of registration shall be deemed to have been granted unless the Commissioner, within thirty (30) days after receipt of the request, notifies the registrant otherwise.

Section 19. Transactions Subject to Prior Notice - Notice Filing

A. An insurer required to give notice of a proposed transaction pursuant to Section 5 of the Act shall furnish the required information on Form D, hereby made a part of these regulations.

B. Agreements for cost sharing services and management services shall at a minimum and as applicable:

(1) Identify the person providing services and the nature of such services;

(2) Set forth the methods to allocate costs;

(3) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;

(4) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

(5) State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;

(6) Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;

(7) Specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer;

(8) State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;

(9) Include standards for termination of the agreement with and without cause;

(10) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;

(11) Specify that, if the insurer is placed in receivership or seized by the commissioner under the State Receivership Act:

(a) all of the rights of the insurer under the agreement extend to the receiver or commissioner; and,

(b) all books and records will immediately be made available to the receiver or the commissioner, and shall be turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request;

(12) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to the State Receivership Act; and

(13) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the commissioner under the State Receivership Act, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

Section 20. Enterprise Risk Report

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Section 4L(1) of the Act shall furnish the required information on Form F, hereby made a part of these regulations.

Section 21. Group Capital Calculation

A. Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead-state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead-state commissioner makes a determination based upon that filing that the insurance holding company system meets all of the following criteria:

1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than $1,000,000,000;

2) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

3) Has no banking, depository or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;

4) The holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group that have occurred since the last filing of the annual group capital; and

5) The non-insurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

B. Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead-state commissioner has the discretion to accept in lieu of the group capital calculation a limited group capital filing if either:

1) The insurance holding company system has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than $1,000,000,000; and all of the following additional criteria are met:

(a) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories; and

(b) Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and

(c) The holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of the report to the lead-state commissioner and the non-insurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations.

C. For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant Section 21A or 21B of this regulation, the lead-state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

1) Any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in [insert cross-reference to appropriate section of Risk-Based Capital (RBC) Model Act] or a similar standard for a non-U.S. insurer; or

2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in [insert cross-reference to appropriate section of Model Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition]; or

3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead-state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

D. A non-U.S. jurisdiction is considered to "recognize and accept" the group capital calculation if it satisfies the following criteria:

1) With respect to the [insert cross-reference to Section 4L(2)(d) of the Model Act]

(a) the non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(b) where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in Section 21D(1)(a).

2) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.

E. A list of non-U.S. jurisdictions that "recognize and accept" the group capital calculation will be published through the NAIC Committee Process:

1) A list of jurisdictions that "recognize and accept" the group capital calculation pursuant to [insert cross-reference to Sections 4L(2)(d)], is published through the NAIC Committee Process to assist the lead-state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under [insert cross-reference to Sections 4L(2)(d)].

2) For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of Section D1(b) will serve as support for recommendation to be published as a jurisdiction that "recognizes and accepts" the group capital calculation through the NAIC Committee Process.

3) If the lead-state commissioner makes a determination pursuant to Section 4L(2)(d) that differs from the NAIC List, the lead-state commissioner shall provide thoroughly documented justification to the NAIC and other states.

4) Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to "recognize and accept" the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that "recognize and accepts" the group capital calculation.

Section 2~~1~~2. Extraordinary Dividends and Other Distributions

A. Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

(1) The amount of the proposed dividend;

(2) The date established for payment of the dividend;

(3) A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(4) A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

(a) The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(b) Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding;

(c) If the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;

(d) If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-month periods; and

(e) If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years;

(5) A balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(6) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of

surplus relative to the insurer's financial needs.

B. Subject to Section 5B of the Act, each registered insurer shall report to the Commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by Subsection A(4).

Section 2~~2~~3. Adequacy of Surplus

The factors set forth in Section 5D of the Act are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The Commissioner instead will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

FORM A

**STATEMENT REGARDING THE
ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER**

_____
Name of Domestic Insurer

BY

_____
Name of Acquiring Person (Applicant)

Filed with the Insurance Department of

_____
(State of domicile of insurer being acquired)

Dated:_____, 20_____

Name, Title, address and telephone number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

_____

_____

_____

_____

ITEM 1. METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past 5 years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

On the biographical affidavit, include a third party background check, and state the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual.

(a) Name and business address.

(b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on.

(c) Material occupations, positions, offices or employment during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith.

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last 10 years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.

ITEM 5. FUTURE PLANS OF INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate the insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which

there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom the contracts, arrangements or understandings have been entered into.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in the description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any shares so purchased are hypothecated.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

ITEM 11. AGREEMENTS WITH BROKER-DEALERS

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements, exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding 5 fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if the information is available. The statements may be prepared on either an individual basis, or, unless the Commissioner otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of the person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of the state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or regulation Sections 4

and 6.

ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within fifteen (15) days after the end of the month in which the acquisition of control occurs.

ITEM 14. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 3 of the Act _____ has caused this application to be duly signed on its behalf in the City of _____ and State of on the _____ day of _____, 20_____.

(SEAL)_____
Name of Applicant

BY_____
(Name) (Title)

Attest:

_____
(Signature of Officer)

_____
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

FORM B

INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the State of_____

By

_____
Name of Registrant

On Behalf of Following Insurance Companies

Name Address

_____

_____

_____

_____

Date:_____, 20_____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

_____

_____

_____

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each registrant became part of the insurance holding company system; and the method(s) by which control of each registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in the chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system furnish the following information:

(a) Name;

(b) Home office address;

(c) Principal executive office address;

(d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.;

(e) The principal business of the person;

(f) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned; and

(g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

ITEM 4. BIOGRAPHICAL INFORMATION

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes other than minor traffic violations. If the ultimate controlling person is an individual, furnish the individual's name and address, his or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes other than minor traffic violations.

ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the registrant and its affiliates:

(a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;

(b) Purchases, sales or exchanges of assets;

(c) Transactions not in the ordinary course of business;

(d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the registrant's business;

(e) All management agreements, service contracts and all cost-sharing arrangements;

(f) Reinsurance agreements;

(g) Dividends and other distributions to shareholders;

(h) Consolidated tax allocation agreements; and

(i) Any pledge of the registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of Section 4 of the Act.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of 1% or less of the registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

Drafting Note: Commissioner may by rule, regulation or order provide otherwise.

The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to the transaction, and relationship of the affiliated parties to the registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which the litigation or proceeding is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and

(b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis; or, unless the Commissioner otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the Commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the *Personal Financial Statements Guide* by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or regulation Sections 4 and 6.

ITEM 9. FORM C REQUIRED

A Form C, Summary of Changes to Registration Statement, must be prepared and filed with this Form B.

ITEM 10. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 4 of the Act, Registrant has caused this annual registration statement to be duly signed on its behalf of the City of _____ and State of _____ on the _____ day of _____, 20 _____.

(SEAL)_____
Name of Applicant

BY_____
(Name) (Title)

Attest:

_____
(Signature of Officer)

_____
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

FORM C

SUMMARY OF CHANGES TO REGISTRATION STATEMENT

Filed with the Insurance Department of the State of_____

By

_____
Name of Registrant

On Behalf of Following Insurance Companies

Name Address

_____

_____

_____

_____

Date:_____, 20_____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

_____

_____

_____

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of 10% or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory

threshold amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

Pursuant to the requirements of Section 4 of the Act, Registrant has caused this annual registration statement to be duly signed on its behalf of the City of _____ and State of _____ on the _____ day of _____, 20 _____.

(SEAL)_____
Name of Applicant

BY_____
(Name) (Title)

Attest:

_____
(Signature of Officer)

_____
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

FORM D

PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the State of_____

By

_____

Name of Registrant

On Behalf of Following Insurance Companies

Name Address

_____

_____

_____

_____

Date:_____, 20_____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

_____

_____

_____

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

(a) Name;

(b) Home office address;

(c) Principal executive office address;

(d) The organizational structure, i.e. corporation, partnership, individual, trust, etc.;

(e) A description of the nature of the parties' business operations;

(f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties;

(g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or

in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

(a) A statement as to whether notice is being given under Section 5A(2)(a), (b), (c), (d), or (e) of the Act;

(b) A statement of the nature of the transaction;

(c) A statement of how the transaction meets the 'fair and reasonable' standard of Section 5A(1)(a) of the Act; and

(d) The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OR INVESTMENTS

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than (a) in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders, or (b) in the case of life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders or, with respect to life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 5. REINSURANCE

If the transaction is a reinsurance agreement or modification thereto, as described by Section 5A(2)(c)(ii) of the Act, or a reinsurance pooling agreement or modification thereto as described by Section 5A(2)(c)(i) of the Act, furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 5% of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS AND COST-SHARING ARRANGEMENTS.

For management and service agreements, furnish:

(a) A brief description of the managerial responsibilities, or services to be performed;

(b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

(a) A brief description of the purpose of the agreement;

(b) A description of the period of time during which the agreement is to be in effect;

(c) A brief description of each party's expenses or costs covered by the agreement;

(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;

(e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;

(f) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and

(g) A statement regarding compliance with the *NAIC Accounting Practices and Procedure Manual* regarding expense allocation.

ITEM 7. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Section 5 of the Act, _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20 ____.

(SEAL)_____
Name of Applicant

BY_____
(Name) (Title)

Attest:

_____
(Signature of Officer)

_____
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

FORM E

PRE-ACQUISITION NOTIFICATION FORM REGARDING THE POTENTIAL COMPETITIVE IMPACT OF A PROPOSED MERGER OR ACQUISITION BY A NON-DOMICILIARY INSURER DOING BUSINESS IN THIS STATE OR BY A DOMESTIC INSURER

_____
Name of Applicant

_____
Name of Other Person
Involved in Merger or
Acquisition

Filed with the Insurance Department of

_____

Dated:_____, 20 _____

Name, title, address and telephone number of person completing this statement:

_____

_____

_____

_____

ITEM 1. NAME AND ADDRESS

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION

State the nature and purpose of the proposed merger or acquisition.

ITEM 4. NATURE OF BUSINESS

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

ITEM 5. MARKET AND MARKET SHARE

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of the state as stated in Section 3.1D of the Act. If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the state.

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

Drafting Note: State Insurance Departments may additionally choose to make these calculations using their own data or data provided by the National Association of Insurance Commissioners.

FORM F

ENTERPRISE RISK REPORT

Filed with the Insurance Department of the State of_____

By

_____
Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies

Name Address

_____

_____

_____

_____

Date:_____, 20_____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

_____

_____

_____

ITEM 1. ENTERPRISE RISK

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in [insert cross reference to definition of Enterprise Risk in Section 1F of the Act], provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

- Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;
- Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system;
- Any changes of shareholders of the insurance holding company system exceeding ten percent (10%) or more of voting securities;
- Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;
- Business plan of the insurance holding company system and summarized strategies for the next 12 months;
- Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in

the last year;

- Identification of insurance holding company system capital resources and material distribution patterns;

- Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);

- Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and

- Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

ITEM 2: OBLIGATION TO REPORT.

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1970 Proc. IIB 1055-1066 (printed).
1971 Proc. I 54, 58, 134, 149 (adopted).
1986 Proc. II 12, 19-20, 93-94, 109-123 (amended).
1993 Proc. 1st Quarter 3, 33, 362, 364-370 (amended).
2011 Proc. 1st Quarter I 3-11 (amended).
2013 3rd Quarter (editorial revision).

Comment Summary - GCC Template and Instructions
November 17

Issue 1	Commenter	Essence of Comment	Primary Rationale
300% Sensitivity Test	ACLI	As noted in the Working Group meeting, the adjustment to 300% seems more like a straightforward mathematical adjustment as opposed to a sensitivity test; as a result, we are unsure as to the necessity of adding that calculation to the template.	We would also like to understand more about how the 300% sensitivity test results are intended to be used, or if they will be addressed in the Financial Analysis Handbook ("FAH"). Finally, we believe efforts to consider the topic of capital stress testing, which was identified in the framing of the recommendation on calibration, warrants a broader discussion and coordination with the Financial Stability (EX) Task Force. For these reasons, we hope that the retention of the 300% sensitivity test will remain eligible for further examination and consideration in 2021, particularly with respect to how it may be used by regulators once the FAH is finalized
Staff recommendation: No change **Staff continues to support careful coordination between the GCC Template, and the FAHB analysis guidance as regards the use calibration and sensitivity analysis.** **With the exception of scalars and debt allowance the 300% calculation is a mathematical exercise just as it is in RBC. The FAHB guidance should address how to incorporate that sensitivity analysis (and other sensitivity analysis) into the lead-State review. Particularly in cases where any RBC filers in the group are triggering the trend test and / or if other analytics suggest a negative trend in the group data.** **Staff notes that industry representatives are assisting in revising and reviewing the analysis guidance.**			

Issue 2	Commenter	Essence of Comment	Primary Rationale
Allowance for Debt	AHIP	…the 30%/15% proxy allowance for senior/hybrid debt be increased, consistent with the GCCWG's prior action to increase the overall limit from 50% to 75% of Total Adjusted Carrying Value.	The logic that was stated for increasing the overall limit but not the proxy limit seems fraught with some inconsistency. Book value is lost by re-stacking insurers at statutory values, and that impacts both limits. While it is true that the proxy calculation includes a provision for debt that is not subject to that re-stacking impact, both limits can nonetheless be impacted adversely by stress which introduces potential procyclicality.
	ACPIA	Proposed language on "call' / "make whole" provisions in qualifying debt.	Borrows from ICS language

NAIC Staff Recommendation: No changes to the proxy percentages. The APCIA alternative has been incorporated into the GCC: No other changes to the Debt allowance calculation.

We reiterate that for the proxy limits of 30% / 15%, the value of the qualifying debt is added to TACV for purposes of applying the limit so is distinct in that respect from the increase to the overall limit.

The APCIA approach may increase the debt allowance compared to the proxy approach, subject to the overall 75% limit. Staff will rerun the field test data including the APCIA method.

Wit regard to call / make whole provision, some edits to the proposed language can be considered.

See further comments under Issue 4, below.

Issue 3	Commenter	Essence of Comment	Primary Rationale
Treatment of Financial Entities without Capital Requirements		…asset managers tend to be low risk and require very little capital from the insurer or group parent as they mostly contain separate account assets. The primary risk to insurers is loss of revenue in a market downturn, though the risk can vary. The stratification methodology needs to be clear and constructed in such a way that ensures comparability across firms.	In some cases, asset managers may be subject to SEC/FINRA capital requirements. We acknowledge, in response to our prior comment seeking clarification for the treatment of asset managers subject to SEC/FINRA capital requirements, that the NAIC intends the GCC to disregard those requirements (which would otherwise determine both local regime available capital (carrying value) and local regime calculated capital) and instead apply its stratification methodology based on average revenue. It will be important that the NAIC's stratification methodology appropriately differentiate according to risk as does the sectoral regulatory regime.

Staff Recommendation: No change

If there are risk-based (i.e. not a simple stated dollar capital) standards applied to entities that are overseen by FINRA or SEC they should be provided along with how they are applied (e.g. action levels), and their future use for a given financial entity can be considered. However, for GCC purposes, use of a stratified risk approach should allow for addressing level of risk selected and reviewed, since specific entity activities may vary from group to group.

Issue 4			
Next Steps / Data collection	**ACLI**	…the elimination of the 5% materiality threshold (para. 9) may impact how groups complete the template, and therefore could lead to different results than the NAIC received in the previous field test exercise. As such, reviewing the data collected in 2019 against the 2020 template is not an adequate substitute…	While we agree that the 5% threshold, as drafted, might be too high to prove useful, we do believe that a quantitative backstop was helpful for our analysis. NAIC staff noted that regulators never agreed on the 5% threshold and therefore recommended removal – we would suggest that this is an area where more field-testing data could assist in calibrating an appropriate quantitative measure for materiality.
		Now that a number of foundational decisions have been made, we believe it is important for the NAIC to perform a holistic review of the framework using up-to-date data provided by the companies that will be subject to the tool to ensure it meets its objective of providing insight into risks without creating the potential for unintended consequence	We believe it is possible to pursue a robust field testing and refinements where they are determined to be necessary, in a way that supports and promotes the forward progress, adoptions and implementation of the GCC in time to satisfy the requirements under the Covered Agreements with the EU and the UK.

Staff Recommendation: Support data collection in 2021

Staff is open to reinstating a quantitative benchmark but are skeptical as to whether field testing can provide an agreed upon benchmark that would override the remaining principles for material risk.

Staff will run the field test data through the agreed upon version of the template as a first step.

Staff supports data collection in 2021 to continue exploring appropriate scalars for foreign insurer capital and the impact of the current debt allowance structure and limits, as well as making other clarifications. It is noted that all applicable groups will have the opportunity to fill in the adopted template and provide feedback to the Working Group via the lead-State.

Issue 5	Commenter	Essence of Comment	Primary Rationale
Other Technical Comments	**ACLI**	**Suggested Wording for the Definition of a Financial Entity** **Staff Recommendation: Accept revision.**	
	AHIP	**Reporting of Intangible Assets:** **Staff Recommendation: Addressed via changes in the Other Information Tab**	

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ACLI
Financial Security for Life

Mariana Gomez
Vice President & Associate General Counsel
202-624-2313 t
marianagomez@acli.com

Nov. 13, 2020

Commissioner David Altmaier
Chair, NAIC Group Capital Calculation (E) Working Group
Florida Office of Insurance Regulation

Re: Fatal Flaws Exposure of GCC Instructions and Template (Oct. 30) and the 11/17 vote on the Model Holding Company Act (#440) and Regulation (#450)

Dear Commissioner Altmaier,

The ACLI is pleased to offer these comments in response to the fatal flaws exposure of the NAIC's Group Capital Calculation ("GCC") Instructions and Template and the upcoming GCC Working Group's vote on the revisions to the Model Holding Company Act and Regulation. ACLI congratulates you and the Working Group members and NAIC staff on reaching this milestone in the development of the GCC – it represents a tremendous amount of work by regulators and NAIC staff, and another positive step forward in the development of a group capital calculation.

ACLI looks forward to continuing to work with the NAIC and state insurance departments on the GCC throughout its next phase of development.

A brief technical appendix is attached with a few detailed comments on the Instructions. These items are not necessarily fatal flaws, as much as they are areas that demonstrate where further refinement may be needed after the adoption of the Instructions and Template in November 2020.

In response to the exposure, we wish to offer the following points for your consideration as well as a brief technical appendix that includes a few detailed comments on the Instructions that are intended to demonstrate where further refinement may be needed.

ACLI supports the adoption of the GCC Instructions and Template and we strongly encourage the NAIC to proceed with a robust field-testing program in 2021.

ACLI supports the advancement of the GCC Instructions and Template on November 17, 2020, but we also believe there are areas within the GCC, such as the recent addition of risk stratification charges for asset-managers (para. 64) that warrant additional field testing. Other items, such as the elimination of the materiality threshold (para. 9) may impact how groups complete the template,

and therefore could lead to different results than the NAIC received in the previous field test exercise. As such, reviewing the data collected in 2019 against the 2020 template is not an adequate substitute, as firms will complete the Template differently now based on subsequent revisions to the Instructions. In addition, now that a number of foundational decisions have been made, we believe it is important for the NAIC to perform a holistic review of the framework using up-to-date data provided by the companies that will be subject to the tool to ensure it meets its objective of providing insight into risks without creating the potential for unintended consequence We believe it is possible to pursue a robust field testing and refinements where they are determined to be necessary, in a way that supports and promotes the forward progress, adoptions and implementation of the GCC in time to satisfy the requirements under the Covered Agreements with the EU and the UK.

ACLI strongly supports and appreciates the Working Group's decision to adopt a 200 % calibration for the GCC

ACLI strongly supports and appreciates the Working Group's recent adoption of 200% Authorized Control Level RBC as the calibration level for the GCC.

We are pleased to have had the opportunity to express support during the 10/30 meeting for the NAIC staff's recommended path forward on the calibration level. Discussion with our members after the 10/30 call highlighted a few items that we hope can be further explored as the Working Group continues to advance the GCC in 2021. As noted in the Working Group meeting, the adjustment to 300% seems more like a straightforward mathematical adjustment as opposed to a sensitivity test; as a result we are unsure as to the necessity of adding that calculation to the template. We would also like to understand more about how the 300% sensitivity test results are intended to be used, or if they will be addressed in the Financial Analysis Handbook ("FAH"). Finally, we believe efforts to consider the topic of capital stress testing, which was identified in the framing of the recommendation on calibration, warrants a broader discussion and coordination with the Financial Stability (EX) Task Force. For these reasons, we hope that the retention of the 300% sensitivity test will remain eligible for further examination and consideration in 2021, particularly with respect to how it may be used by regulators once the FAH is finalized.

ACLI supports the Working Group's vote (14-4) to eliminate the limited filing exemption in 21(B)(1) and we believe the proposed definition of limited filing report demonstrates why it was appropriate to eliminate the exemption.

The GCC Working Group voted, 14 to 4, to eliminate section 21B(1), in response to concerns that the exemption would deprive regulators of valuable analytical data, and hurt the credibility of the GCC by potentially exempting large, complex groups that include material financial entities and non-U.S. insurance operations. ACLI supports the Working Group's decision to strike the exemption.

NAIC staff exposed a definition of "limited filing report" to clarify that a limited filing report consists of Schedule 1 and any supplementary data that is necessary to populate Input 4 – Analytics, of the GCC template. However, a group that submits a limited filing report would not generate enough data to create a GCC ratio, and these groups would also not be required to submit the sensitivity analysis tab that analyzes the impact of permitted and prescribed practices on groups. This type of limited reporting, is appropriate when applied to small groups (i.e., those small groups eligible for exemption under 21A or 21B(2)), but we believe this would make much less sense and could

damage the credibility of the GCC if it was applied to large and complex groups that would otherwise be eligible for exemption if section 21B(1) was reinstated.

Conclusion

Thank you for the opportunity to share our views on the 10/30 exposure of the NAIC GCC Instructions and Template. As a reminder, we have attached some technical comments in an appendix to this letter. We appreciate the opportunities that we have had over the years to engage in a meaningful dialogue with regulators on this topic, and we welcome the chance to answer any questions or comments that you may have about our letter.

Sincerely

Appendix – Technical Comments

I. Paragraph 64 – we urge the NAIC to field test and allow for comment on the stratification of entities based on risk level. A major category of entities that might fall into this category are asset managers, which can often be a sizable portion of an insurance group's non-insurance business. These asset managers tend to be low risk and require very little capital from the insurer or group parent as they mostly contain separate account assets. The primary risk to insurers is loss of revenue in a market downturn, though the risk can vary. The stratification methodology needs to be clear and constructed in such a way that ensures comparability across firms. Hence, once developed, the stratification methodology should be opened for comment and field tested in 2021. In some cases, asset managers may be subject to SEC/FINRA capital requirements. We acknowledge, in response to our prior comment seeking clarification for the treatment of asset managers subject to SEC/FINRA capital requirements, that the NAIC intends the GCC to disregard those requirements (which would otherwise determine both local regime available capital (carrying value) and local regime calculated capital) and instead apply its stratification methodology based on average revenue. It will be important that the NAIC's stratification methodology appropriately differentiate according to risk as does the sectoral regulatory regime.

II. Paragraph 16 – the revisions to this paragraph include the removal of the 5% quantitative benchmark for determining materiality. While we agree that the 5% threshold, as drafted, might be too high to prove useful, we do believe that a quantitative backstop was helpful for our analysis. NAIC staff noted that regulators never agreed on the 5% threshold and therefore recommended removal – we would suggest that this is an area where more field-testing data could assist in calibrating an appropriate quantitative measure for materiality.

III. Paragraph 9 correctly recognizes that groups often set up entities to manage the general account assets of the insurance operations; these assets are already accounted for in RBC and hence may be considered "non-financial." However, these entities might also manage assets for third parties on a fee for service basis and hence, the GCC must ensure that the proportion of those assets are small compared to the insurer's own general account assets or otherwise require de-stacking as a "financial entity". However, groups might split up the general account assets into several small entities or one large entity and the language should be adjusted to accommodate either structure. That is, the 90% threshold may, based on the structure, be measured individually for each entity or in the aggregate for all such entities. Our edits are below, for your consideration.

> *9. Financial Entity: A non-insurance entity that engages in or facilitates financial intermediary operations (e.g., accepting deposits, granting of credits, or making loans, managing, or holding investments, etc.). Such entities may or may not be subject to specified regulatory capital requirements of other sectoral supervisory authorities. The primary examples of financial entities are commercial banks, intermediation banks, investment banks, saving banks, credit unions, savings and loan institutions, swap dealers, and the portion of special purpose and collective investment entities (e.g., investment companies, private funds, commodity pools, and mutual funds) that represents the Broader Group's aggregate ownership in such entities, whether or not any member of the Broader Group is involved in that entity's management responsibilities (e.g., via investment advisory or broker/dealer duties) for those entities. For purposes of this definition, a subsidiary of an insurance company whose predominant purpose is to manage or hold investments or act as a broker / dealer for those investments on behalf of the insurance company and its affiliated insurance (greater than 90% of all such investment*

subsidiaries' assets under management or held are owned by or for the benefit of these insurance affiliates) should NOT be considered a Financial Entity. In the case where an insurer sets up multiple subsidiaries for this purpose, the 90% may be measured in the aggregate for all such entities. Similarly, in the case of collective investment pools (e.g. private funds, commodity pools, and mutual funds) the 90% may be measured individually, or in the aggregate for each subtype (e.g., private funds, commodity pools, and mutual funds). In addition, other financial entities without a regulatory capital requirement include those which are predominantly engaged in activities that depending on the nature of the transaction and the specific circumstances, could create financial risks through the offering of products or transactions outside the group such as a mortgage, other credit offering, or a derivative, and intra-group cross support mechanisms (as defined below).

November 13, 2020

Commissioner David Altmaier, Chair
Group Capital Calculation (E) Working Group
National Association of Insurance Commissioners

By e-mail to Lou Felice (LFelice@naic.org)

Re: GCC Instructions Exposed for "Fatal Flaw" Comments

Dear Mr. Altmaier:

America's Health Insurance Plans (AHIP) appreciates the opportunity to comment on the Working Group's proposed revisions to the Group Capital Calculation (GCC) Instructions and the related Staff Revisions Summary.

To begin, we again acknowledge the active engagement we have experienced over the past several months with the GCC Working Group (GCCWG) and with NAIC staff. The process has been productive and in a spirit of cooperation and collaboration, and we believe has resulted in demonstrative improvement in the proposed GCC. We look forward to continuing the dialogue to assure a GCC that is appropriate for the U.S. insurance market and our system of state-based supervision.

As a result of that productive engagement with the GCCWG, AHIP's comments that follow on the "fatal flaw" exposure of the GCC Instructions are few, and brief.

Treatment of Debt: In our prior letter of October 15, 2020, we commented on the treatment of debt, and suggested that the 30%/15% proxy allowance for senior/hybrid debt be increased, consistent with the GCCWG's prior action to increase the overall limit from 50% to 75% of Total Adjusted Carrying Value. Our suggestion was not accepted by the GCCWG on its call of October 30, 2020.

As we revisit the discussion of the October 30 call however, the logic that was stated for increasing the overall limit but not the proxy limit seems fraught with some inconsistency. Book value is lost by re-stacking insurers at statutory values, and that impacts both limits. While it is true that the proxy calculation includes a provision for debt that is not subject to that re-stacking impact, both limits can nonetheless be impacted adversely by stress which introduces potential procyclicality. A modest increase in the proxy, say from 30-40%, would be directionally consistent with the prior action taken on the overall limits, would recognize the potential for

procyclical impacts, and be of some benefit to our members (who otherwise would not receive any benefit from the increase in the overall limit alone).

Thus, we respectfully ask the GCCWG to reconsider increasing the proxy limit in that light.

Intangible Assets: Our members are increasingly concerned about the focus of the GCCWG on the collection of data on intangible assets through a template the purpose of which is to calculate the GCC, yet that calculation does not itself require any data on intangibles. They understand the intent of the GCC to be an analytical tool and the interest in intangibles, e.g., as to their liquidity. That said, they question the template as the best way to consider intangibles.

Our members have intangible assets in the form of goodwill, the excess of the purchase price of subsidiaries over the value of tangible assets acquired. In some cases, goodwill has been reallocated to other intangible assets, such as the value of customer relationships or trade names. Regardless, the amounts represent valuable assets that can be monetized in various ways if need be to support various needs across the enterprise. The topic is, however, inherently complex, and circumstances will vary across firms. SAPWG has some matters on its agenda relating to purchase accounting, goodwill, and push-down accounting. And regulators have access to Form 10-Ks of public companies that already transparently report the nature, amounts, and activity involving intangible assets.

Consequently, we believe that this is an area that can best be addressed through guidance in the Financial Analysts Handbook. AHIP and its members would be glad to assist in providing information and helping to develop that guidance.

* * * * * * * * *

Again, we thank you for this ongoing climate of cooperation, patience, and collaboration. We look forward to continuing to work with you as we all begin to see the light at the end of the tunnel.

Sincerely,

America's Health Insurance Plans
Bob Ridgeway
Bridgeway@AHIP.org
501-333-2621

Cc: Tom Finnell

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National Association of Insurance Commissioners

NAIC GROUP CAPITAL CALCULATION INSTRUCTIONS

(REVISED NOVEMBER 17, 2020)

National Association of Insurance Commissioners

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Contents

I. Background

A. Work Performed Up Through 12/31/15

1. In 2015, the NAIC ComFrame Development and Analysis (G) Working Group (CDAWG) held discussions regarding developing a group capital calculation (GCC) tool. The discussions revealed that developing a GCC was a natural extension of work state insurance regulators had already begun, in part driven by lessons learned from the 2008 financial crisis which include better understanding the risks to insurance groups and their policyholders. While insurance regulators currently have authorities to obtain information regarding the capital positions of non-insurance affiliates, they do not have a consistent analytical framework for evaluating such information. The GCC is designed to address this shortcoming and will serve as an additional financial metric that will assist regulators in identifying risks that may emanate from a holding company system.

2. More specifically, the GCC and related reporting provides more transparency to insurance regulators regarding the insurance group and make risks more identifiable and more easily quantified. In this regard, the tool assists regulators in holistically understanding the financial condition of non-insurance entities, how capital is distributed across an entire group, and whether and to what degree insurance companies may be supporting the operations of non-insurance entities, potentially adversely impacting the insurance company's financial condition or policyholders. This calculation provides an additional analytical view to regulators so they can begin working with a group to resolve any concerns in a manner that will ensure that policyholders of the insurers in the group will be protected. The GCC is an additional reporting requirement but with important confidentiality protections built into the legal authority. State insurance regulators already have broad authority to take action when an insurer is financially distressed, and the GCC is designed to provide lead-State regulators with further insights to allow them to reach informed conclusions on the financial condition of the group and the need for further information or discussion

3. State insurance regulators currently perform group analysis on all U.S. insurance groups, including assessing the risks and financial position of the insurance holding company system based on currently available information; however, they do not have the benefit of a consolidated statutory accounting system and financial statements to assist them in these efforts. It was noted prior to development that a consistent method of calculating group capital for typical group risks would provide a very useful tool for state financial regulators to utilize in their group assessment work. It was also noted that a group capital calculation could serve as a baseline quantitative measure to be used by regulators in to compliment the view of group-specific risks and stresses provided by the Own Risk and Solvency Assessment (ORSA) Summary Report filings and in Form F filings that may not be captured in legal entity filings.

4. During the course of several open meetings and exposure periods, CDAWG considered a discussion draft which included three high level methodologies for the group capital calculation: an RBC aggregation approach, a Statutory Accounting Principles (SAP) consolidated approach, and a Generally Accepted Accounting Principles (GAAP) consolidated approach. On September 11, 2015, the CDAWG members unanimously approved a motion to move forward with developing a recommendation for a group capital calculation and directed an appropriate high-level methodology for the recommendation.

5. At a CDAWG meeting on September 24, 2015, pros and cons for each methodology were discussed, and a consensus quickly developed in support of using an RBC aggregation approach if a group capital calculation were to be developed. The NAIC Executive/Plenary ultimately adopted the following charge for the Financial Condition (E) Committee:

   "***Construct a U.S. group capital calculation using an RBC aggregation methodology; liaise as necessary with the ComFrame Development and Analysis (G) Working Group on international capital developments and consider group capital developments by the Federal Reserve Board, both of which may help inform the construction of a U.S. group capital calculation.***"

6. The RBC aggregation approach is intended build on existing legal entity capital requirements where they exist rather than developing replacement/additional standards. In selecting this approach, it was recognized as satisfying regulatory needs while at the same time having the advantages of being less burdensome and costly to regulators and industry and respecting other jurisdictions' existing capital regimes. In order to capture the risks associated with the entire group, including the insurance holding company, RBC calculations would need to be developed in those instances where no RBC calculations currently exist.

7. In early 2016, the Financial Condition (E) Committee formed the Group Capital Calculation (E) Working Group (Working Group), who began to address its charge and various details of the items suggested by the CDAWG. The instructions included herein represent the data, factors, and approaches that the Working Group believed were appropriate for achieving such an objective. The GCC instructions and template are intended to be modified, improved, and maintained by the NAIC in the future as are the *Accounting Practices and Procedures Manual*, the *Annual Statement Instructions* and *Risk-Based Capital formula and Instructions*. This includes but is not limited to future disclosure of additional items developed or referred by other NAIC Working Groups.

II. Definitions

8. **Broader Group:** The entire set of legal entities that are controlled by the Ultimate Controlling Person of insurers within a corporate group. When consider the use of this term, all entities included in the Broader Group should be included in Schedule 1 and the Inventory, but only those that are denoted as "included" in the Schedule 1 will be considered in the actual group capital calculation.

9. **Financial Entity:** A non-insurance entity that engages in or facilitates financial intermediary operations (e.g., accepting deposits, granting of credits, or making loans, managing, or holding investments, etc.). Such entities may or may not be subject to specified regulatory capital requirements of other sectoral supervisory authorities. For purposes of the GCC, entities that are not regulated by an insurance or banking authority (e.g. FINRA or the SEC) will be considered as not subject to a specified regulatory capital requirement. The primary examples of financial entities are commercial banks, intermediation banks, investment banks, saving banks, credit unions, savings and loan institutions, swap dealers, and the portion of special purpose and collective investment entities (e.g., investment companies, private funds, commodity pools, and mutual funds) that represents the Broader Group's aggregate ownership in such entities, whether or not any member of the Broader Group is involved in that entity's management responsibilities (e.g., via investment advisory or broker/dealer duties) for those entities.

For purposes of this definition, a subsidiary of an insurance company whose predominant purpose is to manage or hold investments or act as a broker / dealer for those investments on behalf of the insurance company and its affiliated insurance (greater than 90% of all such investment subsidiaries' assets under management or held are owned by or for the benefit of these insurance affiliates) should NOT be considered a Financial Entity. However, in the case of collective investment entities (e.g., investment companies, private funds, commodity pools, and mutual funds) the 90% will be measured in the aggregate for all affiliated entities within each subtype (e.g., investment companies, private funds, commodity pools, and mutual funds). [*In the case where an insurer sets up multiple subsidiaries for this purpose, the 90% may be measured in the aggregate for all such entities. Similarly, in the case of collective investment pools (e.g. private funds, commodity pools, and mutual funds) the 90% may be measured individually, or in the aggregate for each subtype (e.g., private funds, commodity pools, and mutual funds).*] [FL1]In addition, other financial entities without a regulatory capital requirement include those which are predominantly engaged in activities that depending on the nature of the transaction and the specific circumstances, could create financial risks through the offering of products or transactions outside the group such as a mortgage, other credit offering, or a derivative,.

10. Insurance Group: For purposes of the GCC, a group that is comprised of two or more entities of which at least one is an insurer, and which includes all of the insurers in the Broader Group. Another (non-insurance) entity may exercise significant influence on the insurer(s), i.e. a holding company or a mutual holding company; in other cases, such as mutual insurance companies, the mutual insurer itself may be the Ultimate Controlling Person. The exercise of significant influence is determined based on criteria such as (direct or indirect) participation, influence and/or other contractual obligations; interconnectedness; risk exposure; risk concentration; risk transfer; and/or intragroup agreements, transactions and exposures. An Insurance Group may include entities which facilitate, finance or service the group's insurance operation, such as holding companies, branches, non-regulated entities, and other regulated financial institutions. An insurance Group is thus comprised of the head of the Insurance Group and all entities under its direct or indirect control, and includes all members of the Broader Group that exercise significant influence on the insurance entities and/or facilitate, finance, or service the insurance operations.

An Insurance Group could be headed by:

- an insurance legal entity;
- a holding company; or
- a mutual holding company.

An Insurance Group may be:

- a subset/part of bank-led or securities-led financial conglomerate; or
- a subset of a wider group.

An Insurance Group is thus comprised of the head of the Insurance Group and all entities under its direct or indirect control.

11. Insurance Subgroup / U.S. Operations: Refers to all U.S. insurers within a broader group where the groupwide supervisor is in a non-U.S. jurisdiction. It includes all the directly

and indirectly held subsidiaries of those U.S. insurers. For purposes of subgroup reporting, capital instruments, loans, reinsurance, guarantees would only include those that exist within the U.S. insurers. Amounts included for the U.S. insurers shall include all amounts contained within the financial statements of those entities included in the subgroup reporting, whether those amounts are directly attributable or allocated to a company in the subgroup from an affiliate outside of the U.S. insurers and its direct or indirect subsidiaries.

12. **Lead State Regulator:** as defined in the NAIC's Financial Analysis Handbook, i.e., generally considered to be the one state that "takes the lead" with respect to conducting group-wide supervision within the U.S. solvency system.

13. **Reciprocal Jurisdiction:** as defined in the Model Law for Credit for Reinsurance.

14. **Entity not Subject to A Regulatory Capital Requirement:** This is a financial entity other than an entity that is subject to a specified regulatory capital requirement.

15. **Scope of Application:** Refers to the entities that meet the criteria listed herein for inclusion in the GCC ratio. The application of material risk criteria may result in the Scope of Application being the same as, or a subset of, the entities controlled by the Ultimate Controlling Person of the insurer(s). Please note, U.S. Branches of foreign insurers should be listed as separate entities when they are subject to capital requirements imposed by a U.S insurance regulator, otherwise in as much as they are already included in a reporting legal entity, they are already in the scope of application and there is no need for any additional reporting.

16. **Limited Group Capital Filing**: Refers to a Group Capital Calculation (GCC) filing that includes sufficient data or information to complete the "Input 4 Analytics" Tab and the "Summary 3 – Analytics" Tab of the GCC template. The includes Schedule 1 of the template and may include limited data from other input tabs as deemed necessary for purposes of the analytics.

17. **Material Risk:** Risk emanating from a non-insurance / non-financial entity not owned by an insurer that is of a magnitude that could adversely impact the financial stability of the group as a whole such that the ability of insurers within a group to pay policyholder claims or make other policy related payments (e.g. policy loan requests or annuity distributions) may be impacted.

    To determine whether an entity within the Broader Group poses material risks to the Insurance Group, the totality of the facts and circumstances must be considered. The determination of whether risk posed by an entity is material requires analysis of various aspects pertaining to the subject entity. A determination that a non-insurance / non-financial entity does not pose material risk allows the filer to request exclusion of that entity from the calculation of the GCC ratio in the Inventory Tab. A number of items as listed below should be considered in making such a determination, to the extent they apply Caution is necessary, however. The fact that one or more of these items may apply does not necessarily indicate risk to the Insurance Group is, or is not, material. The group should be able to support its determination of material risk if requested by the lead-State regulator. This should not be used as a checklist or as a scorecard. Rather, the list is intended to illuminate relevant facts and circumstances about a subject entity, the risk it poses, how the Insurance Group might be exposed to that risk and means to mitigate that risk."

Primary Considerations:

- Past experience (i.e., the extent to which risk from the entity has impacted the Insurance Group over prior years/cycles).
- The degree to which capital management across the Broader Group has historically relied on funding by the Insurance Group to cover losses of the subject entity.
- The existence of intra-group cross support mechanisms (as defined below) between the entity and the Insurance Group.
- The means by which risk can be transmitted, i.e., the existence of sufficient capital within the entity itself to absorb losses under stress and/or if adequate capital is designated elsewhere in the Broader Group for that purpose.
- The degree of risk correlation or diversification between the subject entity and the Insurance Group. (e.g., where risks of one or more entities outside the Insurance Group are potentially offset (or exacerbated) by risks of other entities) and whether the corporate structure or agreements allow for the benefits of such diversification to protect the Insurance Group.
- The existence and relative strength or effectiveness of structural safeguards that could minimize the transmission of risk to the Insurance Group (e.g., whether the corporate shell can be broken).

Other Considerations (If primary considerations suggest exclusion may be reasonable, these can be used to further support exclusions):

- The location of the entity in relation to the Insurance Group within the Broader Group's corporate structure and how direct or indirect the linkage, if any, to the Insurance Group may be.
- The activities of the entity and the degree of losses that the entity could pose to the group under the current economic environment or economic outlook

The guidance above recognizes that there are diverse structures and business models of insurers that make it impracticable to apply a one-size-fits-all checklist that would work for materiality determinations across all groups. Strict or formulaic quantitative measures based on size of the entity or its operations of a non-insurance affiliate are an insufficient proxy for materiality of risk to the insurance operations. The GCC Instructions thus consider the unique circumstances of the relevant entity and group and uses an interactive process whereby the group brings forward its suggestions as to entities that should be excluded from the scope of application for a discussion with the lead state, ultimately culminating in an agreement on the scope of application. The guidance in this section helps to facilitate that process and discussion with criteria for cross support mechanisms that can potentially transmit material risk, as defined, to the insurance group as well as safeguards that can mitigate such risk or its transfer.

18. **Cross Support Mechanism:** For purposes of evaluating material risk, depending on the nature of the transaction and the specific circumstances, these may include corporate guarantees, capital maintenance agreements (regulatory or ratings based), letters of credit, intercompany indebtedness, bond repurchase agreements, securities lending or other agreements or transactions that create a financial interdependence or link between entities in the group.

19. **Ultimate Controlling Person:** As used in the NAIC's Insurance Holding Company System Regulatory Act (Model #440). This the entity that exercises control directly or indirectly over all entities within the broader group.

20. **Control:** As used in the NAIC's Insurance Holding Company System Regulatory Act., the term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by Section 4K of Model #440 that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

21. **Affiliate:** As used in the NAIC's Insurance Holding Company System Regulatory Act., an "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. For purposes of the GCC, affiliates will NOT include those affiliates reported on Schedule A or Schedule BA, EXCEPT in cases where there are financial entities reported as or owned indirectly through Schedule A or Schedule BA affiliates In general Schedule A and Schedule BA affiliates will otherwise remain as investments of a parent insurer will be reported as parent of the value and capital calculation of the parent insurer. Any entities that would otherwise qualify as Schedule BA affiliates as described above but are owned by other entities (e.g. foreign insurers or other type of Parent entity) should be treated in the same way.

22. **Person:** As used in the NAIC's Insurance Holding Company System Regulatory Act., a "person" is an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any joint venture partnership exclusively engaged in owning, managing, leasing or developing real or tangible personal property.

III. Exemptions & Scope

A. Groups Exempted from the GCC

23. These instructions do not address groups that are exempt from completing the GCC; those matters are addressed instead within proposed changes to the *Insurance Holding Company System Regulatory Act* (Model #440).

B. Scope of the Broader Group & Scope of Application

24. When considering the scope of application, preparers of the GCC must first understand the information to be included in Schedule 1 of the template. When developing an initial inventory of all potential entities, the preparers of the GCC shall complete Schedule 1, which, except in the case of an Insurance Subgroup (as defined in Section II), requests data for all of the entities directly or indirectly owned by the Ultimate Controlling Person (including the Ultimate controlling Person) that are listed in the insurer's most recent Schedule Y or in relevant Holding Company Filings. This will require the preparers of the GCC to complete basic information about each such entity in Schedule 1, including its total assets, and total revenue and net income for this specific year identified, and the initial filing will require the same information for the prior year. The primary purpose of the Schedule 1 is to 1) assist the lead-state in making an assessment on the entities within the group that should be included in the Scope of Application; and 2) provide the lead state with valuation information to better understand the group. This valuable information produces various ratios and other financial metrics that will be used in the analysis of the GCC and the group by the lead state for their holding company analysis.

25. To assist the Lead State Regulator in assessing the Scope of Application, the Schedule 1 and the Inventory Tab of the template will be completed by each preparer to provide information and certain financial data on all the entities in the group. Each preparer will also use the include / exclude column in Schedule 1 to request its own set of entities to be excluded from the calculation after applying criteria for material risk (as defined in Section II herein) which will be described in the template and evaluated by the Lead State Regulator. A second column will be used by the regulator to reflect entities that the regulator agrees should be excluded.

26. Although all entities must be listed in Schedule 1 and in the Inventory tab, the preparer is allowed to group data for certain financial entities not subject to a regulatory capital requirement and certain non-insurance and non-financial entities. Thus, while the Schedule 1 would include the full combined financial results/key financial information (for all entities directly or indirectly owned by the Ultimate Controlling Person, such data may be reported based upon major groupings of entities to maximize its usefulness and allow the Lead State Regulator to better understand the group, its structure, and trends at the sub-group as well as group level. Prior to completing the GCC annually, the Insurance Group should determine if the proposed grouping is satisfactory to the lead state or if there are certain non-insurance and non-financial entities (such entities are required to be broken out and reported separately) that should be broken out and reported separately.

C. General Process for Determining the Scope of Application

27. The starting point for "Scope of Application" (i.e., for purposes of the GCC specifically) is the entire group except in the case of an Insurance Subgroup (as defined in Section II). However, in

the case of groups with material diverse non-insurance / non-financial activities isolated from the financial / insurance group and without cross support mechanisms as defined in Section II, the preparer may request a narrower scope starting at the entity that controls all insurance and financial entities within the group, (i.e., comprise a subset of, the entities controlled by the Ultimate Controlling Person of the insurer(s) (Broader Group)). However, the adjustments as to the Scope of Application suggested by the preparer in consultation and in agreement with the Lead State Regulator should include consideration of guidance in Paragraph 9 ("Identify and **Include** all Financial Entities") the totality of the facts and circumstances, as described in paragraph 15 ("Definition of Material Risk"). The rationale and criteria applied in allowing the reduced scope should be documented and made available to non-lead states if requested.

The fundamental reason for state insurance regulation is to protect American insurance consumers. Therefore, the objective of the GCC is to assess quantitatively the collective risks to, and capital of, the entities within the Scope of Application. This assessment should consider risks that originate within the Insurance Group along with risks that emanate from outside the Insurance Group but within the Broader Group. The overall purpose of this assessment is to better understand the risks that could adversely impact the ability of the entities within the Scope of Application to pay policyholder claims consistent with the primary focus of insurance regulators.

D. Guiding Principles and Steps to Determine the Scope of Application

28. For most groups, the Scope of Application is initially determined by the preparer in a series of steps, listed here and then further explained as necessary in the text that follows:

- Develop a full inventory of potential entities using the Inventory of the Group template (Schedule 1)
- Denote in Schedule 1 for each non-financial entity whether it is to be "included in or excluded from" the Scope of Application" using the criteria below in the section "Identify Risks from the Broader Group"
- All entities, whether to be included in or excluded from the Scope of Application are to be reported in the Inventory Tab of the template. Information for excluded entities will be limited to Schedule 1B and the corresponding columns in the Inventory Tab.
- Non-financial entities may qualify for grouping on this Inventory Tab as described elsewhere in these instructions.

E. Steps for Determining the Scope of Application

29. Identify and list all Entities in the Insurance Group or Insurance Subgroup (where required)

Include all entities that meet the definition of an affiliate in Section II, above and that that fit the criteria identified in the definition of the Insurance Group or Insurance Subgroup (if applicable), in Section II, above except as modified in Paragraph 30 (Identify Risks from the Broader Group), below. All insurance entities and entities owned directly or indirectly by the insurance entities in the group shall be included in the Scope of Application and reported in the Schedule 1 and

Inventory of the Group template. Other non-insurance/ nonfinancial entities within the Insurance Group may be designated as "exclude" as described in Paragraph 31, below.

30. Identify and Include all Financial Entities

Financial Entities (as defined in Section II, herein) within the Inventory of the Group template shall be included in (i.e. may not be designated as "excluded from") the Scope of Application regardless of where they reside within the Broader Group.

As learned from the 2008 financial crisis, U.S. insurers were not materially impacted by their larger group issues; however, materiality of either equity or revenue of an entity might not be an adequate determinant of potential for risk transmission within the group. Furthermore, risks embedded in financial entities are not often mitigated by the activities of the insurers in the group and may amplify their (the insurers') risks.

Any discretion in evaluating the ultimate risk generated by a defined financial entity that is not subject to a regulatory capital requirement should be applied via review of the material risk definitions/ principles included in Paragraph 15 to set the level of risk as low, medium or high and **not** to exclude such entities from the calculation. The rationale should be documented, and all data required in Schedule 1 must be provided for the entity for purposes of analysis and trending.

31. Identify Risks from the Broader Group

An Insurance Group or Insurance Subgroup may be a subset of a Broader Group, such as a larger diversified conglomerate with insurance legal entities, financial entities, and non-financial entities. In considering the risks to which the Insurance Group or Insurance subgroup is exposed, it is important to take account of those material risks (as defined in Section II) to the Insurance Group from the Broader Group within which the Insurance Group operates. All non-insurance / non-financial entities included within the Insurance Group or Insurance Subgroup that pose material risk to the insurers in the group should be included within (i.e. may not be designated as "excluded from") the Scope of the Application. Non-financial entities within the Broader Group but outside the Insurance Group that pose material risks to the Insurance Group should be included within (i.e. may not be designated as "excluded from") the Scope of Application; non-material non-insurance / non-financial entities within the Broader Group or within the Insurance Group (as both terms are defined in Section II, herein) other than those entities owned by entities subject to a specified regulatory capital requirement should be reported as "excluded". However, no entities outside an Insurance Subgroup (as defined in Section II) should be included in the GCC. When determining which non-financial entities from the broader group to include in the Scope of Application, the preparer must include any entity that could adversely impact the ability of the entities within the Scope of Application to pay policyholder claims or provide services to policyholders consistent with the primary focus of insurance regulators.

32. Review of Submission

The Lead State Regulator should review the Inventory of the Group template to determine if there are entities excluded by the preparer using the criteria above that the Lead State Regulator agrees do not pose material risk to its insurance operations. Additional information may be requested by the Lead State Regulator to facilitate this analysis. For entities where the lead-state regulator

agrees with the request to exclude, the group capital calculation may exclude the data for such entities. Ultimately, the decision to include or exclude entities from the GCC will occur based on the Lead-State regulator's knowledge of the group and related information or filings available to the Lead-State and whether they believe an applicable entity would not adversely impact the entities within the Scope of Application to pay policyholder claims.

A sensitivity analysis is included to calculate to reflect the impact of excluded entities requested, but not approved for exclusion by the lead-State.

33. The preparer, together with the Lead State Regulator , would use the above steps, which includes considering the Lead State Regulator's understanding of the group, including inputs such as Form F, ORSA, and other information from other involved regulators, to determine the reasonableness of the suggested Scope of Application.

34. Updating the Scope of Application

The Scope of Application could be re-assessed by the preparer and the Lead State Regulator each successive annual filing of the GCC provided there has been substantial changes in corporate structure or other material changes from the previous year's filing. Any updates should be driven by the assessment of material risk and changes in group structure as they impact the exclusion or inclusion of entities within the Scope of Application based on material risk considerations.

IV. General Instructions

35. The NAIC Group Capital Calculation Template consists of a number of tabs (sections) within one workbook. The following provides general instructions on each of these tabs. IV.

36. **Attestation:** This tab is intended to work similar to the Annual Statement and RBC attestations, which are both intended to give the regulator greater comfort that the company has completed in accordance with its (these) instructions. It will also indicate whether the group consists of predominantly life, property / casualty or health insurers and whether the submission is a full or limited group capital filing.

37. **Input 1-Schedule 1:** This tab is intended to provide a full inventory of the group, including the designation by the filer of any non-financial entities to be included in, or excluded from, the Scope of Application and include sufficient data or information on each affiliated entity (See Schedule A and Schedule BA exception) within the group so as to allow for analyzing multiple options for scope, grouping and sensitivity criteria, as well as, allowing the lead state regulator to make a determination as to whether the entities to be included in the scope of application or excluded from the scope of application meet the aforementioned criteria. This tab is also used to maximize the value of the calculation by including various information on the entities in the group that allow the lead state to better understand the group as a whole, the risks of the group, capital allocation, and overall strengths and weaknesses of the group.

38. Except as noted in on the Inventory tab, equity method investments that are accounted for based upon SSAP. No. 48 (Joint Ventures, Partnerships, and Limited Liability Companies) are not required to be de-stacked (separately listed) in Schedule 1, i.e. their value would be included in amounts reported by the parent insurer within the calculation. The basis for this approach is predicated on the purpose of the entire group capital calculation which is to produce an expected level of capital and a corresponding level of available capital that are derived by aggregating the amounts reported of capital of the individual entities under the GCC methodology. The available capital for such Joint Ventures, Partnerships, and Limited Liability Companies is already considered in Schedule 1 but its inclusion in its parent's financial statements amounts and can thus be excluded from an inventory (not separately listed) since the parent already receives a corresponding capital charge within its RBC.

Data for this tab is required for a Limited Group Capital filing.

39. **Input 2-Inventory:** This tab is intended to be used by the consolidated group to provide information on the value and capital calculation for all the entities in the group before any de-stacking of the entities. While some of this information is designed to "pull" information from Schedule 1, other cells (blue cells) require input from the group. This tab will include the adjustments for investment in subsidiary other than were an exception is described in these instructions and adjust for intra group arrangements. This tab is set up to subtract those adjustments from capital and therefore should be entered as a 1) positive figure if the adjustment currently has a positive impact on the available capital or the capital calculation; or as a 2) negative figure if the adjustment currently has a negative impact on the available capital or the capital calculation. It will also be used to add relevant entities included as equity investments in Schedules A and BA and to aggregate the resulting adjusted values for use in the actual group capital calculation.

For a Limited Group Capital filing, data will be presented in a summarized format in a limited version of the Inventory Tab in lieu of completing the "full" Inventory Tab (see below).

Limited Group Capital Filing – Input 2 – Inventory: Manually enter data in Inventory B, Column 8 and Inventory C, Column 8 to report a single aggregated value for each entity category

in the group. This will require that eliminations and adjustments normally found in a "full" Inventory B Columns 2-7 and Inventory C, columns 2-7 to be addressed offline.

40. **Input 3-Capital Instruments:** This tab is intended to be used to gather necessary information to that will be used to calculate an allowance for additional available capital based on the concept of structural subordination applied to senior or other subordinated debt issued by a holding company. It will also provide information on all Debt issued within the group.

Data for this tab is NOT required for a Limited Group Capital filing.

41. **Input 4 – Analytics:** In recognizing a primary purpose of the GCC is to enhance group-wide financial analysis, this tab includes or draws from entity-category-level inputs reported in the Tab or elsewhere in the GCC template to be used in GCC analytics. Separate guidance for lead-State regulators to reference in analysing the data provided in the GCC Template (reference applicable location of the guidance - e.g. Financial Analysis Handbook).

Data for this tab is required for a Limited Group Capital filing.

42. **Input 5 – Sensitivity Analysis and Inputs:** This tab includes inputs and / or describes informational sensitivity analysis for other than XXX / AXXX captives, permitted & prescribed practices, debt designated as "Other", unscaled foreign insurer values and other designated sensitivity analysis. The inputs are intended to simply be a disclosure, similar to the disclosure required under Note 1 of the statutory financial statements. The analysis will be applied in the Summary 2 Tab.

Data for this tab is NOT required for a Limited Group Capital filing.

43. **Input 6 – Questions and Other Information:** This tab will provide space for participants to describe or explain certain entries in other tabs. Examples include the materiality method applied to exclude entities in Schedule 1 and narrative on adjustments for intra group debt and adjustments to available capital or capital calculations that are included in the "other adjustment" column in the Inventory Tab.

Data for this tab is NOT required for a Limited Group Capital filing.

44. **Calc 1 – Scaling (Ins):** This tab list countries predetermined by NAIC and provides the necessary factors for scaling available and required capital from non-US insurers to a comparable basis relative to the US Risk-based Capital figures. It also allows for set scaling options (that vary by insurance segment such as life, P/C, and health).

This tab is NOT required fora Limited Group Capital filing.

45. **Calc 2 – Scaling (Non-Insurance):** This tab is used to determine calculated capital for non-insurance entities.

This tab is NOT required for a Limited Group Capital filing.

~~42.~~46. **Summary 1 - Entity Category Level:** This tab provides a summary of available capital and calculated capital for each entity category before the application of capital instruments.

This tab is NOT required for a Limited Group Capital filing.

~~43.~~47. **Summary 2 - Top Level:** This tab calculates various informational GCC ratios resulting from applying "on top" and entity level adjustments to adjusted carrying value and adjusted calculated capital and are described in the Sensitivity Inputs and Analysis Tab section. These "what if" scenario analysis will not be part of the GCC ratio.

This tab is NOT required for a Limited Group Capital filing.

~~44.~~48. **Summary 3 – Analytics:** Provides a summary of various GCC analytics.

This tab is required for a Limited Group Capital filing.

~~45.~~49. **Summary 4 - Grouping Alternatives:** This tab currently calculates and displays a grouping option that was submitted by an interested party.

This tab is NOT required for a Limited Group Capital filing.

~~46.~~50. All cells in the template are color-coded based on the chart below Inputs should only be made in blue cells. Do not add/delete rows, columns, cells or change the structure of the template in any way. If there appears to be an error in the formulas in the template, contact the NAIC.

The following set of colors is used to identify cells:	*Colors used*
Parameters	
Input cells	
Data from other worksheets	
Local calculations	
Results propagated	

VI. Detailed Instructions

Input 1 – Schedule 1

~~47.~~51. 'Schedule 1A' is a small table at the top for identification of the filer. Enter the 'Name of Group', name of the person the Template is 'Completed by' and the 'Date Completed.' Indicate the version number of the template if there are updates or multiple persons completing the template. All figures (in all tabs) should be converted to $'000s. For example, a book value of $123,450 should be entered as 123.45in the template.

~~48.~~52. More detailed information on each legal entity should be reported in Schedule 1B-1E. The order of the entries in Schedule 1 should match that in the Inventory Tab. The first entity listed should be the ultimate controlling party.

~~49.~~53. U.S. Branches of foreign insurers should be listed as separate entities when they are subject to capital requirements imposed by a U.S insurance regulator. They should be reported under the appropriate entity category in [Sch1B Col 6].

~~50.~~54. Entries are required for every entity within the scope of the group. However, while recognizing that lead-State regulators retain the discretion to ask for greater detail, the following simplifications **may** be applied as long as information for every entity is entity is listed in Schedule 1B:

- A single numerical entry for like Financial Entities would be allowed at the intermediate holding company level, assuming that the like entities are owned by a common parent that does not own other entity types, all use the same accounting rules (e.g., all GAAP), and are at least consistent with the way the group manages their business. The entity at which the total data is provided must be assigned an "Entity Category" in Schedule 1 that corresponds to the instructed carrying value and capital calculation for which the entry is made (e.g. an entity that would otherwise be categorized as a non-operating holding company but holds asset managers would be categorized as an asset manager). Entries for the remaining individual entities in the grouping will be reported in Schedule 1B only as "included".

- In addition, a single numerical entry would be allowed for all included non-insurance / non-financial entities at the intermediate holding company level assuming that the intermediate holding company owns only non-insurance / non-financial entities assuming that the entities are owned by a common parent that does not own other entity types, all use the

same accounting rules (e.g., all GAAP), and are at least consistent with the way the group manages their business. This would include any positive residual value of the holding company itself. Entries for the remaining individual entities in the grouping will be reported in Schedule 1B only as "included".

- Values for, non-insurance / non-financial subsidiaries of U.S. RBC filers may remain with their Parent insurers and will not be de-stacked. Entries for these individual entities in the grouping will be reported in Schedule 1B only as "included".

- Mutual Insurance Groups may use the amount of required capital from the top-level Insurer's RBC Report at 2300% x ACL RBC and further adjusted to de-stack foreign insurers and other financial entities owned directly or indirectly (on a look-thru basis) via RBC filing subsidiaries. Such foreign insurance subsidiaries or other financial subsidiaries shall be reported at the carrying values and capital calculations as described later herein.

- Data for U.S. Branches of Foreign insurers may be omitted from Schedule 1 if they are otherwise included in the entries, values, and capital requirements of a foreign insurer.

These simplifications will be treated in a similar manner in Input 2 – Inventory.

~~51.~~55. Any financial entity owned by a Parent insurer and listed in Schedule A or Schedule BA, any insurance or financial entity that is owned indirectly through a Schedule BA affiliate should be listed in Schedule 1 and in the Inventory and assigned the appropriated identifying information (See also the instructions for Part B of the Inventory). These entities will be de-stacked from the values for the Parent insurer. The same treatment for these entities will be afforded when they owned by a foreign insurer or other non-insurance entities.

~~52.~~56. Schedule 1B contains descriptions of each entity. Make selections from drop down menu where available.

- **[Sch1B Col 1] Include / Exclude (Company) –** This column is to select entities where a request is made for exclusion. The filer will indicate which non-insurance / non-financial entities not owned directly or indirectly by an insurer that should be excluded from the GCC as not posing material risk to the group. The filers definition of material risk will be reported in the Other Information Tab

- **[Sch1B Col 2] Include / Exclude (Supervisor)– Column** to be filled in by supervisor. These are entities where the Supervisor agrees with the filer's assessment of material risk and these entities will be excluded from the group capital calculation and may be included in a sensitivity analysis later in the template.

  DRAFTING NOTE: This Column may also be completed by the filer after advance consultation with the lead-State regulator.

- **[Sch1B Col 3] Include / Exclude (Selected)–** Formula to determine treatment of tab for later sensitivity analysis. If supervisor has made a determination of include/exclude in the prior column, that will be used. If not, company's selection will be used.

- **[Sch1B Col** 4**] Entity Grouping -**The column denotes whether this is an insurance or non-insurance / non-financial entity and is also automatically populated based on the entry in Column 8.

- **[Sch1B Col 5] Entity Identifier –** Provide a unique string for each entity. This will be used as a cross reference to other parts of the template. If possible, use a standardized entity code such as NAIC Company Code ("CoCode") or ISO Legal Entity Identifier. CoCodes should be entered as text and not number (e.g. if CoCode is 01234, then the entry should be "01234" and not "1234"). If there is a different code that is more appropriate (such as a code used for internal purposes), please use that instead. If no code is available, then input a unique string or number in each row in whatever manner is convenient (e.g. A, B, C, D, … or 1, 2, 3, 4…). Do not leave blank.

- **[Sch1B Col** 6**] Entity Identifier Type –** Enter the type of code that was entered in the 'Entity Identifier' column. Choices include "NAIC Company Code", "ISO Legal Entity Identifier", "Volunteer Defined" and "Other".

- **[Sch1B Col** 7**] Entity Name –** Provide the name of the legal entity.

- **[Sch1B Col** 8**] Entity Category –** Select the entity category that applies to the entity from the following choices (all US Life Captives shall select the option for RBC Filing Captive, complete the calculation using the Life RBC formula in accordance with instructions below regarding "Additional clarification on capital requirements where a US formula (RBC) is not required" whether the company is required by their captive state to complete the RBC formula or not). Insurers or financial entities that are de-stacked from and insurer's Schedule A or BA should be assigned the corresponding insurer or financial entity category:

~~Non-Insurer Holding Company~~	U.K. Solvency II - Life	Indonesia
RBC Filing U.S. Insurer (Life)	U.K. Solvency II - Composite	Thailand
RBC Filing U.S. Insurer (P&C)	Australia - All	Barbados
RBC Filing U.S. Insurer (Health)	Switzerland - Life	Regime A (Participant Defined)
RBC Filing U.S. Insurer (Other)	Switzerland - Non-Life	Regime B (Participant Defined)
U.S. Mortgage Guaranty Insurers	Hong Kong - Life	Regime C (Participant Defined)
U.S. Title Insurers	Hong Kong - Non-Life	Regime D (Participant Defined)
Other Non-RBC Filing U.S. Insurers	Singapore - All	Regime E (Participant Defined)
RBC filing (U.S. Captive)	Chinese Taipei - All	Bank (Basel III)
Canada - Life	South Africa - Life	Bank (Other)
Canadian - P&C	South Africa - Composite	Financial Entity with a Regulatory Capital Requirement
Bermuda - Other	South Africa - Non-Life	Asset Manager/Registered Investment Advisor - High Risk
Bermuda - Commercial Insurers	Mexico	Asset Manager/Registered Investment Advisor - Medium Risk
Japan - Life	China	Other Financial Entity without a Regulatory Capital Requirement – High Risk
Japan - Non-Life	South Korea	Other Financial Entity without a Regulatory Capital Requirement - Medium Risk
Japan – Health*	Malaysia	Other Financial Entity without a Regulatory Capital Requirement – Low Risk
Solvency II - Life	Chile	Other Non-Ins/Non-Fin with Material Risk
Solvency II -- Composite	India	Other Non-Ins/Non-Fin without Material Risk
Solvency II - Non-Life	Brazil	Non-operating Holding Co.
Solvency II – Non-Life	Argentina	
U.K. Solvency II – Non- Life	Colombia	

*If the GCC group's Japanese insurer Health business (referred to as Third Sector) is greater than 60% of total Life (referred to as First Sector) and Health business combined, as reflected by annualized premium for the year reported, then that group may elect to use the Japan Health scalar set rather than the Life scalar.

All U.S. captives are required to complete the applicable RBC formula template. In addition, any insurer, other than U.S. Captive, that submits an RBC filing to either the State of domicile or the NAIC will be considered an RBC filer.

- **[Sch1B Col** 9**] Alternative Grouping –** This is an optional input field. This field should be used if you wish to show similar entities aggregated into a single line on the "Grouping Alternative Exhibit". For example, if you have a dozen small dental HMO businesses, you may wish to show them as a single line called "Dental HMOs", as opposed to listing each entity separately. This is a level of granularity below 'Entity Category' but above individual entities. No entity should be put in the same 'Alternative Grouping' as its parent. It is fine to put only one entity in a grouping. If any entries are left blank then, in column 17, the 'Entity Name' will be selected as the grouping. This will not impact the order of the entities for which data is entered in Schedule 1 or the Inventory tab.

- **[Sch1B Col** 10**] Parent Identifier –** Provide the 'Entity Identifier' of the immediate parent legal entity for each entity, as applicable. If there are multiple parents, select the parent entity with the largest ownership percentage. Only include one entry. For the top holding company, enter "N/A".

- **[Sch1B Col** 11**] Parent Name –** This will be populated by a formula, so input is not required.

- **[Sch1B Col 12] % Owned by Parent –** Enter percentage of the entity that is owned by the Parent identified earlier in the worksheet. Percentages of ownership should be based on the percentage of voting class securities (unless ownership is maintained other than by control of voting securities) consistent with what is reported pursuant to State holding company regulation filings (Form B or equivalent).

- **[Sch1B Col 13] % Owned within Group Structure --** Enter percentage of the entity that is owned by all entities within the Group.

- **[Sch1B Col 14] State/Country of Domicile –** Enter State of domicile for US insurance entities and country of domicile for all other entities (Use reference that are consistent with those use on Schedule Y where available).

- **[Sch1B Col 15] Zero Valued and Not Admitted Entities– Report for U.S. Insurers Only.** Select the treatment of the entity from following options— 'Zero Valued for RBC or 'Non-Admitted for Accounting and RBC '(Direct or Indirect)'. Zero Valued for RBC are affiliated insurance and financial entities that are otherwise reported in the RBC filer's annual statement at their accounting value (i.e. per Statutory Accounting Principles) but are reported at zero value and zero capital requirements for RBC purposes. Examples include non-Canadian foreign insurers directly owned by U.S. Life RBC filers. The carrying value and capital calculation specified in these instructions for the specific insurance or financial entity type should be reported in Inventory B, Column 2 and Inventory C, Column 2, respectively. DO NOT REPORT ZERO VALUES IN COLUMN 2 OF INVENTORY B AND INVENTORY C FOR THESE AFFILIATES. Only RBC filing entities with this type of affiliate will report in this column.

  Non-admitted for Accounting and RBC (Direct or Indirect) are insurance or other financial affiliates that owned directly indirectly by an RBC filer via a downstream non-financial entity

or holding companies that are reported at zero value per SAP and are also reported at zero value and zero capital requirements for RBC purposes. Examples include U.S. insurers indirectly owned by a U.S. RBC filer thru a not-admitted holding company that has not been subject to an independent audit. The carrying values and capital calculations specified herein associated with the specific insurance or financial indirectly owned entity type should be reported Inventory B, Column 2 and Inventory C, Column 2, respectively. DO NOT REPORT ZERO VALUES IN COLUMN 2 IN INVENTORY B AND INVENTORY C FOR THESE AFFILIATES. Only RBC filing entities with this type of affiliate will report in this column. The excess value in the not-admitted Parent entity may be reported at zero value.

No entry is required in this column for any non-admitted directly or indirectly owned non-insurance / non-financial subsidiary. Report zero for these affiliates in Column 2 of Inventory B and Inventory C.

- **[Sch1B Col 16] Is Affiliates on Schedule A or Schedule BA –** This Column is meant to identify an entity with a financial entity identifier in Col 8 that is otherwise reported on Schedules A or BA but is being moved to this Schedule. Provide a "Y' response where that is applicable. Otherwise leave blank.

- **[Sch1B Col 17] Selected Alternative Grouping –** This will be populated by a formula, so input is not required. If there are any blank entries in Column 9 (Alternative Grouping) this column will set them equal to the name of the entity.

~~53.~~**57.** Schedule 1C contains financials for each entity:

- **[Sch1C Col 1] Basis of Accounting –** Enter basis of accounting used for the entity's financial reporting.

- **[Sch1C Col 2 & 3] Gross and Net Written Premium – Report for all U.S. and non-U.S. insurers** (Use applicable entity Annual Statement data source for US insurers - Life – P/C and Health). Use equivalent local source for non-U.S. insurers or company records when available.

- **[Schedule 1C, Col 4] Reinsurance Assumed from Affiliates –** Report for all U.S and non-U.S. insurers**.** Use applicable entity Annual Statement data source for US insurers (assumed premiums from P/C Schedule F Part 1 and Life and Health Schedule S Part 1 Section 1 and 2). Use equivalent local source for non-U.S. insurers or company records when available.

- **[Schedule 1C, Col 5] Reinsurance Ceded to Affiliates -** Report for all U.S and non-U.S. insurers**.** Use applicable entity Annual Statement data source for US insurers (assumed premiums from P/C Schedule F Part 3 and Life and Health Schedule S Part 3 Section 1 and 2). Use equivalent local source for non-U.S. insurers or company records when available.

- **[Sch1C Col 6] Book Assets -** This should be valued based on the applicable basis of accounting reported under the entity's local regime and represents the total assets as reported in the basic financial statements before eliminations (since that is presumed to be less burdensome on the insurance holding company). Other financial data should similarly be prepared using financial data before eliminations. However, insurance holding companies are

allowed to present such figures after eliminations if they do so for all figures and consistently for all years.

- **[Sch1C Col 7] Book Liabilities -** This should be valued based on the applicable basis of accounting reported under the entity's local regime and represents the total liabilities as reported in the basic financial statements.

- **[Col 8] Gross Paid-in and contributed Capital and Surplus – For U.S insurers report the current year end amounts from Annual Statement Page 3 as follows:**

  a. **Life Insurers: lines 29, 30 and 33**

  b. **P&C Insurers: lines 30, 31 and 34**

  c. **Health Insurers: lines 26 - 28**

~~54.~~**58.** Generally, Schedule 1D will include entries from regulatory filings or entity specific GAAP financial statements as of the reporting date. The amounts reported should be the entity value on a stand-alone (fully de-stacked) or grouped basis (where applicable). This may require use of company records in certain cases. The amounts should be reported at 100% for the entity listed. Any required adjustments for percentage of ownership will be applied later if necessary, to calculate a capital charge.

- **[Sch1D Column 1] Prior Year Entity Identifier –** Report the Legal Entity Identifier, NAIC company code or other identifier used for the entity in the prior year GCC filing for the prior calendar year.

- **[Sch1D Col 2] Prior Year Equity or Capital and Surplus –** Report the value based on net equity reported in the entity stand-alone Balance Sheet. This will generally be the same as what is reported in the current year column in the prior year GCC filing. Where grouping is permitted, the balance reported may be on a grouped basis. Do not report values for non-insurance / non-financial entities owned directly or indirectly by RBC filers or owned by other financial entities with regulatory capital requirements for which the non-insurance / non-financial entity is included in the capital charges for the Parent entity.

- **[Sch1D Col 3] Net Income -** The final reported income figure from the income statement, and therefore is the figure reported after interest, taxes, extraordinary items, etc. For entities with accounting and reporting requirements that specify that dividends paid or received will be part of "net income", report the dividends received in this column. Report dividends to policyholders here as a reduction to net income if required by local accounting or reporting requirements.

- **[Sch1D Col 4] Dividends Paid and Received (Net) –** All entity types report the net amount of dividends paid and received in reporting year to / from and affiliate, a parent shareholder, public shareholders, or policyholders (if not required to be a reduction / increase in net income by local accounting or reporting requirements). All entity types that are subject to accounting and reporting requirements that specify that dividends paid or received will be reported as a surplus adjustment, will report dividends received in reporting year from affiliates in this column.

- **[Sch 1D Col 5] Capital and Surplus Contributions Received from Affiliates -** All entity types. Report sum of Capital Contribution (other than via surplus notes) during the reporting year received from any affiliated entity.

- **[Sch 1D Col 6] All Other Changes in Capital and Surplus.** Include total for all adjustments not listed above. This would include any investment income not already reported in Column 3 or Column 5. Also, report all stock repurchases or redemptions in this column.

  DRAFTING NOTE: Greater detail may be made available on request.

- **[Column 7] Current Year Equity or Capital and Surplus –** Report the value based on net equity reported in the entity stand-alone Balance Sheet for the current year. This will generally be the same as what is reported for the entity in the Inventory B, Column 2 Where grouping is permitted, the balance reported may be on a grouped basis. Do not report values for non-insurance / non-financial entities owned directly or indirectly by RBC filers or owned by other financial entities with regulatory capital requirements for which the non-insurance / non-financial entity is included in the capital charges for the Parent entity.

- **[Sch 1D Col 8] Capital and Surplus Contributions Paid to Affiliates -** All entity types report the total of capital contributions (other than via surplus notes) during the reporting year paid to any affiliated entity.

- **[Sch1D Col 9] Dividends Declared and Unpaid –** For all applicable entities report the amount of dividends declared or approved but not yet distributed.

- **[Sch1D Col 10] Dividends Received and Not Retained –**All holding companies, insurers and financial entities with regulatory capital requirements indicate by "Y" or "N" if part or all of dividends received reported in Column 5 have been paid (passed thru) to a Parent company, to public shareholders, or used to repurchase or redeem shares of stock.

Input 2 – Inventory

~~55.~~59. Columns in Inventory A are being pulled from Schedule 1:

- [Column 1] Insurance/Non-Insurance.

- [Column 2] Entity Identifier
- [Column 3] Entity Identifier Type
- [Column 4] Entity Name –
- [Column 5] Entity Category
- [Column 6] Parent Identifier
- [Column 7] Parent Name
- [Column 8] Basis of Accounting

Columns Requiring Input

~~56.~~60. Enter information on adjustments to carrying value. Considerations specific to different types of entities are located at the end of this subsection.

- **[Inv B Col 1] Carrying Value (Immediate Parent Regime) –** This column is included to accommodate participants with either a U.S. or a non-U.S. based Parent company. In general, carrying values utilized should represent the 1) the subsidiary valuation required by the insurance or other sectoral regulator if the Parent is a regulated entity; or 2) in the case where the Parent is not subject to insurance or other sectoral regulatory valuation, then a subsidiary valuation based US GAAP or other International GAAP as used in the ordinary course of business by the ultimate controlling party in their financial statements.

  The value in this column will include a zero value for entities not admitted per SAP or other jurisdictional regulatory rules. A single entry for all entities that qualify under the grouping exceptions described herein may be made in lieu of individual entries on the line for the affiliate that holds the qualifying entities. This column will include double counting.

  The values recorded for all subsidiaries should be the full value of the subsidiary regardless of percentage of ownership by entities within the group. Where entities are owned partially by entities outside of the group, then report the full value of the subsidiary adjusted to reflect total percentage of ownership within the group.

- **[Inv B Col 2] Carrying Value (Local Regime) –** Record the carrying value recognized by the legal entity's jurisdictional insurance or other sectoral supervisor. This will include the value of capital instruments (e.g. U.S. insurer issued surplus notes) that are specifically recognized by statute, regulation or accounting rule and included in the carrying value of the entity. In the case where the entity is not subject to insurance or other sectoral regulatory valuation, then US GAAP equity (including OCI) or other International GAAP as used in the ordinary course of business by the ultimate controlling party in their financial statements. If an agreed upon change in local carrying value should become effective by 2019, Volunteer Groups are expected to report on that basis. If the group is comprised entirely of U.S based entities under a U.S based Parent company, the entries in this column will be the same as in Column 1 except in cases where the Parent owns not admitted (or otherwise zero valued financial affiliates that would be reported as not admitted in the Parent Regime column but fully admitted (per SAP valuation) in the Local Regime column (see instructions for Schedule 1B, Column 15). However, if such an entity has been listed in the **[Sch1B Col** 2**] Include /**

Exclude (Supervisor) column , indicating that the lead-State regulator agrees that the entity does not pose material risk, then a value will be reported here, but the ultimate calculation will show the results without the excluded entity's value. The carrying value for affiliates that are U.S. RBC filers, the value will be the amount reported TAC on entity's RBC report. This column will include double counting. The values recorded for all subsidiaries should be the full value of the subsidiary regardless of percentage of ownership by entities within the group. Where entities are owned partially by entities outside of the group, then report the full value of the subsidiary adjusted to reflect total percentage of ownership within the group. The entry here should generally be the same as the value reported in Inventory B, Column 1, except where TAC for RBC filers differs from BACV. A single entry for all entities that qualify under the grouping exceptions described herein may be made in the line for the affiliate that holds the qualifying entities in lieu of individual entries.

A sensitivity analysis is included to calculate to reflect the impact of excluded entities requested but not approved for exclusion by the lead-State.

	INVENTORY C - Capital Calculation to be Applied			
Parent Entity	Entity	Inv B, Column 1	Inv B, Column 2	Parent Entity Line Inv C, Column 3
U.S. RBC filer	U.S. RBC filer	RBC ACL (excl. op Risk) x 2	RBC ACL x 2	RBC ACL (excl. op Risk) x 2
U.S. RBC filer	Other U.S. Insurer	Per RBC	Per GCC Entity Instructions	Per RBC
U.S. RBC filer	Foreign Insurer or Other Regulated w/ Capital Reqmt	Per RBC	Jurisdictional or Sectoral PCR Level Capital Reqmt	Per RBC
U.S. RBC filer	Financial w/o Capital Reqmt	Per RBC	Per risk level factor x 3-year avg revenue	Per RBC
U.S. RBC filer	Non-Financial	Per RBC	No entry Required	No entry Required - Do not de-stack
Other U.S. Insurer	U.S. RBC filer	Zero	RBC ACL x 2	Zero
Other U.S. Insurer	Any Other Entity Type	Zero	Per GCC Entity Instructions	Zero
Foreign Insurer or Other Regulated w/ Capital Reqmt	U.S. RBC filer	Per Local Capital Reqmt	RBC ACL x 2	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Other U.S. Insurer	Per Local Capital Reqmt	Per GCC Instructions	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Foreign Insurer or Other Regulated w/ Capital Reqmt	Per Local Capital Reqmt	Jurisdictional or Sectoral PCR Level Per Local Capital	Foreign Insurer or Other Regulated w/ Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Financial w/o Capital Reqmt	Per Local Capital Reqmt	Per risk level factor x 3-year avg revenue	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Non-Financial	Per Local Capital Reqmt	No entry Required	No entry Required - Do not de-stack
Financial w/o Capital Reqmt or Non-Financial	U.S. RBC filer	Zero	RBC ACL x 2	Zero
Financial w/o Capital Reqmt or Non-Financial	Other U.S. Insurer	Zero	Per GCC Entity Instructions	Zero
Financial w/o Capital Reqmt or Non-Financial	Foreign Insurer or Other Regulated w/ Capital Reqmt	Zero	Jurisdictional or Sectoral PCR Level Capital Reqmt	Zero
Financial w/o Capital Reqmt or Non-Financial	Financial w/o Capital Reqmt	Zero	Per risk level factor x 3-year avg revenue*	Zero
Financial w/o Capital Reqmt or Non-Financial	Non-Financial	Zero	Per GCC Instructions*	Zero

In cases where a U.S. Life RBC filer owns a foreign insurer and the BACV value reported for the foreign insurer in the Parent U.S insurers financial statement is adjusted to zero for RBC purposes, then report zero in Inventory B Column 1, and Column 3 for that foreign insurance entity.

- **[Inv B Col 3] Investment in Subsidiary –** Enter an adjustment to remove the investment carrying value of any directly owned subsidiary(ies) from parent's carrying value. This is intended to prevent from double counting of available capital when regulated entities are stacked. The carrying value to be removed should be the investment value carried by the Parent from which the entity is being de-stacked (i.e. the value in Column 1 in Inventory Section B adjusted for ownership percentage). Thus, there will be no adjustment to the Parent's value in this column for entities that are reported at zero value by the parent. Where entities are owned partially by entities outside of the group, then the Parent's percentage of ownership will be calculated based on the value owned within the group. Generally, all non-financial affiliates, Schedule A and Schedule BA assets will remain in the value of the Parent insurer and not entered in this column unless they meet the exceptions described herein. For indirectly owned Schedule A or BA financial entities, only the value of that entity will be included in this column and the remaining value of the downstream BA Parent will remain with the Parent insurer. Similarly the carrying value of U.S. Branch of a foreign insurer that is listed in Schedule 1 and in this section should be entered in this column in the row of the foreign insurer if it is already included in the value of the foreign insurer so that the parent entity may eliminate double counting of that available capital which will now be reported by the stand-alone Branch listed in the inventory. The 'Sum of Subsidiaries' column may provide a useful check against this entry, but it will not necessarily be equal.

  When utilizing public accounting (e.g. GAAP) equity values that differ from regulatory values (e.g. SAP), it is **the GAAP equity** of the insurers must be eliminated from the GAAP Parent in this column, not the SAP (regulated capital). This is necessary in order to allow the calculation to appropriately represent SAP capital of regulated entities and GAAP equity of non-regulated entities. Data on the accounting differences between Parent and Local carrying values will be collected in Column 9 and further detail provided in the Questions and Other Information Tab.

  Note: Values for Schedule A and Schedule BA affiliates that are required to be reported in the Inventory Tab will be adjusted out of the value reported by the U.S. insurer in this column

- **[Inv B Col 4] Intra-group Capital Instruments –** This column is automatically calculated from inputs to the 'Capital Instruments' Tab. It reflects an adjustment to remove carrying value for intra-group financial instruments that that are treated as capital by the issuer and consequently create additional capital within the group upon issuance (most notably U.S. Surplus Notes). Example for Surplus Notes – In both intra-group and unaffiliated transactions, treat the assets transferred to the issuer of the surplus note as available capital. If the purchaser is an affiliate, eliminate the investment value from the affiliated purchaser of the surplus note in this column. If the purchaser is an insurer or other regulated entity, eliminate the purchaser's capital charge (e.g. RBC charge) on the Surplus note investment in the corresponding adjustment column for the capital calculation. No adjustments are made for any intragroup capital instrument that is treated as a liability by the issuer.

- **[Inv B Col 5] Reported Intra-group Guarantees, LOCs and Other –** Enter an adjustment to reflect the notional value weighted for expected utilization for reported intra-group guarantees (including solvency insurance and capital maintenance agreements). Enter the notional value for letters of credit, or other intra-group financial support mechanisms. Explain each intra-group arrangement in the Questions and Other Information Tab.

- **[Inv B Col 6] Other Intra-group Assets –** Enter the amounts to adjust for and to remove double counting of carrying value for other intra-group assets, which could include intercompany balances, such as (provide an explanation of each entry in the Questions and Other Information Tab):

  a. loans, receivables, and arrangements to centralize the management of assets or cash;
  b. derivative transactions;
  c. purchase, sale, or lease of assets; and
  d. other (describe).

- **[Inv B Col 7] All Other Adjustments –**Include a brief explanation in the "Description of 'Other Adjustments'" in the Other Information Tab.

- **[Inv B Col 8] Adjusted Carrying Value** - Stand-alone value of each entity per the calculation to eliminate double counting. This value includes permitted and prescribed practices.

- **[Inv B Col 9] Accounting Adjustments (e.g. GAAP to SAP) –** Report the total difference between the carrying value reported in Column 1 (and Column 3) and the value reported in Column 2. This column will apply to Regulated entities where the stand-alone carrying value is based on regulatory accounting (e.g. SAP) while the value reported for that entity by the Parent is carried at a financial accounting (e.g. GAAP) value. Further detail is reported in the Questions and Other Information Tab.

- **[Inv B Column 10] Gross Revenue 2nd Prior Year (Financial Entities without Regulatory Capital Requirements and Non-financial Entities)** - Report gross revenue (excluding dividends from subsidiaries and affiliates).

- **[Inv B Column 11] Gross Revenue Prior Year (Financial Entities without Regulatory Capital Requirements and Non-Financial Entities)** - Report gross revenue (excluding dividends from subsidiaries and affiliates).

- **Inv B, Col 12] Gross Revenue Current Year (Financial Entities without Regulatory Capital Requirements and Non-Financial Entities) -** Report gross revenue (excluding dividends from subsidiaries and affiliates).

- **[Inv B Col 13] Average Revenue over 3-years (Financial Entities without Regulatory Capital Requirements and Non-Financial Entities –** This column is populated from data in Columns 10, 11 and 12.

  This column will support the capital calculation for asset managers, broker dealers and other Financial Entities without Regulatory Capital Requirements.

~~57.~~61. 'Adjusted Capital Calculation' is reported in a similar manner to the 'Adjusted Carrying Value above'. The columns are in the same order though it is likely that fewer entries will be needed for Columns 4 -7. Further guidance is below.

- **[Inv C Col 1] Entity Required Capital (Immediate Parent Regime) –** This column is included to accommodate participants with either a U.S. or a non-U.S. based Parent company.

In general, entity required capital should represents the capital requirements of the Parent's insurance or other sectoral regulator. 1) for subsidiaries of foreign insurers or other non- U.S. financial entities, the unscaled capital required by the Parent's regulator of the regulated entity based upon the equivalent of a Prescribed Capital Requirement (PCR) level; 2) for subsidiaries, including applicable Schedule A and Schedule BA subsidiaries, of U.S. insurance entities that are subject to RBC, except where the subsidiary is also an RBC filer, the entry should be equivalent of what would be required in the Parent's RBC, adjusted for covariance where applicable (calculated by the preparer) reported at company action level ~~a level of one and a half times company action level RBC~~ (or 2~~3~~ times authorized control level RBC) for that entity ~~(i.e. 1.5 times the RBC requirements included in the Parent's RBC report on a post-covariance basis)~~. Where the subsidiary is also an RBC filer, then the amount reported will be at ~~one and a half times~~ company action level RBC (or 2~~3~~ times authorized control level RBC) AFTER COVARIANCE; 3) for subsidiaries of U.S. insurers that do not file RBC, report the actual amount of capital required in the Parent's capital requirement (if any) for the subsidiary entity: 4) in the case where the Parent is not subject to insurance or other sectoral regulatory valuation, then use zero where applicable. This column will include double counting. The values recorded for all subsidiaries should be the 100% of the specified capital requirements regardless of percentage of ownership by entities within the group. Where entities are owned partially by entities outside of the group, then report the capital requirements of the subsidiary adjusted to reflect total percentage of ownership within the group. A single entry for all entities that qualify under the grouping exceptions described herein may be made on the line for the affiliate that holds the qualifying entities in lieu of individual entries.

- **[Inv C Col 2] Entity Required Capital (Local Regime) –** Enter required capital for each de-stacked entity, as applicable entity description below. For U.S. RBC filing subsidiaries under a U.S. RBC filing parent the amounts will be the same in both the Parent and Local Regime columns except where the RBC filing subsidiary is subject to an operational risk charge. In such cased the amount reported in this column for the subsidiary will include the operational risk charge while the amount reported in Column 1 will exclude the subsidiary's operational risk charge. However, for some entity types his will result in entries for the entities under a U.S based insurance parent to be different from what U.S. RBC would dictate. In addition, where a U.S. insurer directly or indirectly owns not admitted (or otherwise zero valued) financial affiliates, those affiliates would be reported with zero value in the Parent Regime column but at the specified regulatory value described below for that financial entity type in this column. However, if such an entity has been listed in **Sch1B Col** 2**] Include / Exclude (Supervisor column)**, indicating that the lead-State regulator agrees that the entity does not pose material risk, then report the capital calculation in accordance with entity instructions, but the ultimate calculation will show the results without the excluded entity's capital calculation. Directly or indirectly owned non-financial entities that were not admitted or otherwise carried at a zero value in the Parent Regime, may be carried at zero value in this column. A single entry for all entities that qualify under the grouping exceptions described herein may be made in the line for the affiliate that holds the qualifying entities in lieu of individual entries. This column will include double counting. The values recorded for all subsidiaries should be the 100% of the capital requirements regardless of percentage of ownership by entities within the group. Where entities are owned partially by entities outside of the group, then report the capital requirements of the subsidiary adjusted to reflect total percentage of ownership within the group.

~~58.~~62. For financial entities without a regulatory capital requirement and for non-insurance / non-financial entity types where additional options are noted below, the options are shown here for informational purposes only and the calculations are described in the tabs where the relevant data and calculations reside

Additional clarification on capital requirements where a formula is required:

- U.S. RBC filing Insurers – Report RBC at Company Action Level (2~~3~~00% x ACL)

- Foreign Insurance Entities – The local capital requirement as specified below for each jurisdiction should be reported, by legal entity, at a Prescribed Capital Requirement (PCR) level~~, or the equivalent of one and a half times company action level RBC (or 3 times authorized control level RBC)~~ ~~The amounts reported will be subject to scaling later in the calculation. Scaled values will be included in the GCC capital calculation (see Scaling Tab)~~. This treatment is different than what U.S. Risk-based Capital (RBC) would require and recognizes other regulators view of adequate capital for insurers within another jurisdiction. It is more reflective of risk within the group context. A sensitivity analysis will be included in the Sensitivity Analysis Tab using the jurisdictional PCR scaled per the Excess Relative Ratio method (See Appendix 1) for insurers in foreign jurisdictions that are subject to scaling.

- Subsidiaries based in the European Union should use the Solvency II Solo SCR (Solvency Capital Requirement) as the PCR.

- For US subsidiaries, the RBC Company Action Level of each insurer should be reported~~re-calibrated to the point at which regulatory action can be taken in any state based on RBC alone, i.e., the point at which the trend test begins, which is one and a half times company action level~~.

- For Australian subsidiaries, the PCR is the target capital as set by the insurer/group in accordance with APRA requirements. Effectively, this would be "Target capital under ICAAP". PCR is not a set multiple of MCR.

- For Bermudian subsidiaries, the Legal Entity PCR in Bermuda for medium and large commercial insurers is called the “Enhanced Capital Requirement” (ECR) and is calibrated to TailVaR at 99% confidence level over a one-year time horizon.

- For Hong Kong subsidiaries, under the current rule-based capital regime, if applied similar to the concept of PCR, the regime's PCR would be 150% of MCR for life insurers and 200% of MCR for non-life insurers.

- For Japanese subsidiaries, the PCR is the solvency margin ratio of 200%.

- For Korean subsidiaries, the PCR is 100% of risk-based solvency margin ratio.

- For Singaporean subsidiaries, the PCR is 120% of total risk requirement (i.e. capital requirement).

- For Chinese Taipei subsidiaries, the PCR is 200% of RBC ratio.

- For Canadian life entities, the baseline PCR should be stated to be "100% of the LICAT Base Solvency Buffer". Carrying value should include surplus allowances and eligible deposits. For property/casualty entities, the PCR should be the MCT capital requirement at the target level.

- For South Africa subsidiaries, the PCR is 100% of the SAM SCR.

- For any entities that cannot be mapped to the above categories, scaling will be at 100%

~~59.~~63. Additional clarification on capital requirements where a US formula (RBC) is not required:

- For those U.S. insurers that do not have an RBC formula, the minimum capital per state law should be used as the basis for what is used for that insurer in the group capital calculation. This may differ from what U.S. Risk-based Capital (RBC) would require. It is more reflective of the regulatory view of risk in the group context. The following requirements should be used in other specified situations where an RBC does not exist:

- **Mortgage Guaranty Insurers:** The minimum capital requirement shall be based upon the NAIC's requirements set forth in the Mortgage Guaranty Insurance Model Act (#630).

- **Financial Guaranty Insurers:** The minimum capital requirement shall be based upon the NAIC's requirements set forth in the Financial Guaranty Insurance Guideline (Guideline 1626), specifically considering Section 2B (minimum capital requirements) and Section 3 (Contingency, Loss and Unearned Premium Reserves) and the other requirements of that guideline that impact capital (e.g. specific limits).

- **Title Companies:** The minimum capital requirement shall represent 2~~3~~00% of the required level of reserves carried by the insurance company.

- **Other Companies:** A selected basis for minimum capital requirements derived from a review of state laws. Where there is a one-off treatment of a certain type of insurer that otherwise would file RBC (e.g., HMOs domiciled in California), the minimum capital required by their respective regulator could be considered in lieu of requiring the entity to complete an RBC blank

- **Captives**- US insurers that have captives should complete the applicable RBC formula regardless of whether the captive is required to complete it in their captive state. The amounts input into RBC by the captive shall be based upon the actual assets and liabilities utilized in the regulatory reporting used by the captive. Captives used exclusively for self-insurance (either by US life insurers or any other type of insurer) or insurance provided exclusively to its own employees and/or its affiliates, should not complete an RBC calculation and the entire entity should be treated as non-insurers and receive the same charge as a non-regulated entity.

~~60.~~64. Non-insurance Financial Entities Subject to a Specified Regulatory Capital Requirement:

- All banks and other depository institutions – the unscaled minimum required by their regulator. For U.S. Banks that is the OCC Tier 1 or other applicable capital requirement. This

is understood to be consistent with how the Federal Reserve Board would apply its Building Block Approach.

- Any other financial entity that is determined to be subject to a specified regulatory capital requirement will bring that requirement in the GCC at the first level of regulator intervention (if applicable).

- This differs from what U.S. Risk-based Capital (RBC) would require. It recognizes the sectoral regulator's view of risk for a particular financial entity type. It is more reflective of risk in the group context.

~~61.~~65. Non-insurance Financial Entities NOT Subject to a Specified Regulatory Capital Requirement:

- All asset managers and registered investment advisors and all other financial entities as defined in Section II.- ~~Capital required by their sectoral regulator. If no specified capital requirement, then~~ use the capital calculation specified below based the level of risk assigned to the entity by applying the material risk principles defined in Section II herein. However, asset managers and investment affiliates (not qualifying the be treated as non-financial entities per paragraph 9, in Section II herein) will be reported at either medium or high risk. In certain cases, these entities may be subject to a layer of regulation (e.g. S.E.C. or FINRA) but are not generally subject to a specified capital requirement.

  High Risk: 10% x 3-year average revenue

  DRAFTING NOTE: a Basel Charge of 15% will be used for the IAIS ICS

  Medium Risk: 5.0% x 3-year average revenue. This represents Basel charged operational risk charge

  Low Risk: 2.5% x 3-year average revenue

DRAFTING NOTE: Medium risk could be used as a starting point while the stratified methodology is further developed

~~62.~~66. Other Non-Insurance, Non-Financial Entities with Material risk

- Non-insurance, non-Financial Entities may not be as risky as Financial Entities. For entities not owned by RBC filers or other entities where there is a regulatory capital charge for the entity in the capital formula, use an equity charge of 10.5% (post tax) for predominantly life insurance groups 9.5~~14~~% for predominantly P/C insurance groups and 3.5% for predominantly health insurance groups x BACV. If the entity is not subject to a capital charge or is included in the capital charge of another financial entity, then enter zero in Column 1 and the charge specified in this paragraph in Column 2. These factors are based on average after covariance RBC charges for the respective insurer types and are calibrated at 2~~3~~00% x ACL RBC. This is meant to be consistent with how the entity would be treated if owned by an RBC filer while recognizing that the entity may be excluded from the GCC if it does not pose material risk to the insurers in the group.

Non-insurance / non-financial entities owned by RBC filing insurers (or owned by other entities where a regulatory capital charge applied to the non-insurance / non-financial affiliate) is will remain in the Parent's capital charge and reported at that value in Column 1. but will be reported as zero in Column 2. These non-financial entities may not be excluded from the GCC.

One additional informational capital calculation for all non-financial entities will be applied using current year gross revenue from the Inventory B, Column 12 with the calculation occurring and results available in the Calc 2 Tab as follows:

5% of reporting year gross revenue based on a medium level risk for a financial entity.

~~63.~~67. Non-operating Holding Companies

- Non-operating holding companies will be treated the same as other non-insurance / non-financial entities with material risk. Unless reported on a grouped basis (see paragraph 52, above), for purposes of applying the capital calculation, the carrying value of stand-alone positive valued and negative valued non-operating holding companies will be netted. If the net value is zero or less (floored at zero for purposes of applying a charge), the charge applied will be zero. If the filer chooses to designate the non-operating holding company as a non-insurance / non-financial entity without material risk and requests exclusion, then no allowance for debt issued by that holding company may be included in the calculation.

INVENTORY C - Capital Calculation to be Applied

Parent Entitiy	Entity	Inv B, Column 1	Inv B, Column 2	Parent Entity Line Inv C, Column 3
U.S. RBC filer	U.S. RBC filer	RBC ACL (excl. op Risk) x 3	RBC ACL x 3	RBC ACL (excl. op Risk) x 3
U.S. RBC filer	Other U.S. Insurer	Per RBC	Per GCC Entity Instructions	Per RBC
U.S. RBC filer	Foreign Insurer or Other Regulated w/ Capital Reqmt	Per RBC	Jurisdictional or Sectoral PCR Level Capital Requirement (Scaled)	Per RBC
U.S. RBC filer	Financial w/o Capital Reqmt	Per RBC	12% x 3-year avg revenue	Per RBC
U.S. RBC filer	Non-Financial	Per RBC	No entry Required	No entry Required - Do not de-stack
Other U.S. Insurer	U.S. RBC filer	Zero	RBC ACL x 3	Zero
Other U.S. Insurer	Any Other Entity Type	Zero	Per GCC Entity Instructions	Zero
Foreign Insurer or Other Regulated w/ Capital Reqmt	U.S. RBC filer	Per Local Capital Reqmt	RBC ACL x 3	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Other U.S. Insurer	Per Local Capital Reqmt	Per GCC Instructions	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Foreign Insurer or Other Regulated w/ Capital Reqmt	Per Local Capital Reqmt	Jurisdictional or Sectoral PCR Level Capital Requirement (Scaled)	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Financial w/o Capital Reqmt	Per Local Capital Reqmt	12% x 3-year avg revenue	Per Local Capital Reqmt
Foreign Insurer or Other Regulated w/ Capital Reqmt	Non-Financial	Per Local Capital Reqmt	No entry Required	No entry Required - Do not de-stack
Financial w/o Capital Reqmt or Non-Financial	U.S. RBC filer	Zero	RBC ACL x 3	Zero
Financial w/o Capital Reqmt or Non-Financial	Other U.S. Insurer	Zero	Per GCC Entity Instructions	Zero
Financial w/o Capital Reqmt or Non-Financial	Foreign Insurer or Other Regulated w/ Capital Reqmt	Zero	Jurisdictional or Sectoral PCR Level Capital Requirement (Scaled)	Zero
Financial w/o Capital Reqmt or Non-Financial	Financial w/o Capital Reqmt	Zero	12% x 3-year avg revenue*	Zero
Financial w/o Capital Reqmt or Non-Financial	Non-Financial	Zero	Per GCC Instructions*	Zero

* Subject to grouping exception in GCC instruction

Capital Calculation Adjustments:

- **[Inv C Col 3] Investment in Subsidiary –** Enter an adjustment to remove the required capital of the directly owned subsidiary(ies) from parent's required capital. The capital requirement to be removed should be the capital requirement carried by the Parent from which the entity

is being de-stacked (i.e. the value reported in Column 1 in Inventory Section C adjusted for ownership percentage). Thus, there will be no adjustment to the Parent's value in this column for entities that are reported at zero value by the parent This is intended to prevent double counting required capital when regulated entities are stacked. [Example: When de-stacking an RBC filer from another RBC filer, the amount entered on the Parent line would be the RBC of the subsidiary. When de-stacking financial entities that are subject to diversification in a capital formula (e.g. RBC) the amount entered on the Parent line is the post-diversified capital requirement as calculated by the preparer(which is also the amount to be reported for the de-stacked entity on the entity's line. Generally the capital requirements for Schedule A and BA affiliates and other non-financial affiliates will remain in the capital requirements of the Parent insurer and not entered in this column, except that the capital requirements for any financial entity reported in a Parent's Schedule A and BA, any financial entity indirectly owned through another Schedule A or BA affiliate listed in Schedule 1 and in this section should be entered in this column in the row of the entity that directly or indirectly owns that Schedule A and BA affiliate so that the parent entity may eliminate double counting of that capital requirement capital which will now be reported by the stand-alone Schedule A or BA affiliate listed in in the inventory. For indirectly owned Schedule A and BA financial entities, only the capital requirements for that entity will be included in this column and the remaining capital requirement of the downstream BA Parent will remain with the Parent insurer. Similarly the capital requirement for any U.S. Branch of a foreign insurer that is listed in Schedule 1 and in this section should be entered in this column in the row of the foreign insurer if it is already included in the capital requirement of the foreign insurer so that the parent entity may eliminate double counting of that capital requirement which will now be reported by the stand-alone Branch listed in the inventory. The amounts entered in this column for a Parent must correspond to the capital required by the parent entity which is being de-stacked from that Parent.

Capital calculations for Schedule A and Schedule BA indirectly owned **financial entities** that are owned by Schedule A or Schedule BA assets are reported in the Inventory Tab affiliates and will be adjusted out of the value reported by the U.S. insurer in this column (since the non-financial direct parent Schedule A or BA affiliate is not listed in the Inventory Tab.

In the Questions and Other Information Tab, a capital requirement should be reported for the indirectly owned entity based on the insurers Schedule A or Schedule BA charge rather than a charge (which would be zero) attributable to the Schedule A or BA entity that directly owns the financial entity.

- **[Inv C Col 4] Intra-group Capital Instruments –**This column would generally be used if there is potential double counting of capital requirements (e.g. RBC charges on surplus notes purchased by an affiliated U.S. insurer from a U.S. insurer issuer).

- **[Inv C Col 5] Reported Intra-group Guarantees, LOCs and Other –**This column would generally be used if there is potential double counting of capital requirements (e.g. RBC charges on guarantees or LOCs.).

- **[Inv C Col 6] Other Intra-group Assets –**This column is not intended to be used for required capital but is included in case a volunteer believes it is necessary from reporting an inaccurate required capital figure.

a. loans, receivables, and arrangements to centralize the management of assets or cash.

b. derivative transactions.

c. purchase, sale, or lease of assets.

d. Other (describe in "Questions and Other Information Tab")

- **[Inv C Col 7] All** Other Adjustments – Include a brief explanation in the "Description of 'Other Adjustments'" in the Questions and Other Information Tab. Use this column is for adjustments related to required capital that correspond to adjustments in Inventory B, Column 7 and in cases where a volunteer believes it's necessary to adjust an inaccurate regulatory required capital figure [Example: RBC calculation applied as a permitted practice.

  DRAFTING NOTE: Consider whether this column should be used rather than Column 2 for zero value entities.

- **[Inv C Col 8]** Adjusted Capital Calculation Stand-alone capital calculation for each entity per the calculation to eliminate double counting. This value includes the impact of permitted and prescribed practices

- Inventory D is for 'Reference Calculations Checks'. These are calculations that can serve as checks on the reasonability/consistency of entries.

  a. [**Inv D Col 1 – 3] Sum of Subsidiaries (Carrying Value) –** This automatically generated column calculates the value of the carrying value of the underlying subsidiaries. It is provided for reference when filling out the 'Investment in Subsidiary' column. This sum will often, but not always, be equal to the 'Investment in Subsidiary' column.

  b. [Inv D Col 4 – 6] Sum of Subsidiaries (Calculated Capital) – Similar to above but for calculated capital.

  c. [Inv D Col 7-8] Carrying Value / Adj Calc Cap – This is a capital ratio on the adjusted and unadjusted figures. Double-check entities with abnormally large/small/negative figures to make sure that adjustments were done correctly.

Input 3 – Capital Instruments

~~64.~~**68.** Provide all relevant information pertaining to paid-up (i.e. any receivables for non-paid-in amounts would not be included for purposes of calculating the allowance) financial instruments issued by the Group (including senior debt issued by a holding company), except for common or ordinary shares and preferred shares. This worksheet aims to capture all financial instruments such as surplus notes, senior debt, hybrid instruments and other subordinated debt. Where a Volunteer Group has issued multiple instruments, the Volunteer Group should not use a single

row to report that information; one instrument per row should be reported (multiple instruments issued under the same terms may be combined on a single line). All qualifying debt should be reported as follows.

~~65.~~69. Debt issued by US led groups:

- Surplus Notes – Report the outstanding value of all surplus notes in Column 8 whether issued to purchasers within or outside the group. The outstanding value of Surplus notes issued to entities outside the group and that is already recognized by State regulators and reported 100% as capital in the carrying value of U.S insurer issuers in Section B of the **inventory tab and will not be included in the additional capital allowance.** Surplus notes issued within the group generally result in double counting and will not be included in the additional capital allowance. See instructions below.

- Subordinated Senior Debt (and Hybrid Debt e.g., debt issuances that receive an amount of equity credit from rating agencies) issued – The outstanding value will be reported in Column 8. Recognition for structurally subordinated debt will be allowed to increase available capital. For purposes of qualifying for recognition as additional capital, both of the following criteria must be met:

  a. The instrument has a fixed term (a minimum of five years at the date of issue or refinance, including any call options). However, if the instrument is callable within the first five years from the date of issue:
     - Any such call is at the option of the issuer only (the instrument is not retractable by the holder);
     - The called instrument must be replaced in full before or at redemption by a new issuance of the same or higher quality instrument.

  ~~a.~~b. Supervisory approval is required for any ordinary or extraordinary dividend or distribution from any insurance subsidiary to fund the repurchase or redemption of the instrument. Supervisory approval of ordinary dividends is met if the supervisor has in place supervisory controls over distributions, including the ability for the supervisor to limit, defer and/or disallow the payment of any distributions should it find that the insurer is presently, or may potentially become, financially distressed. There shall be no expectation, either implied or through the terms of the instrument, that such approval will be granted without supervisory review.[FL2]

- "Other" Debt - The outstanding value will be reported in Column 8 and will be further described in the Other Information Tab and will be reported in a manner that is consistent with Senior Subordinated Debt as described above. Such Debt will not initially be included in the additional capital allowance for the GCC. An additional allowance of this debt as additional capital will be calculated in this Tab and reported as a sensitivity analysis in the Summary 2 Tab, subject to future determination on whether it will become part of the GCC calculation.

- Foreign Debt - Report the outstanding value of Non-U.S. senior debt issued to entities outside the group in Column 8. Debt specifically recognized by statute, regulation or accounting rule as additional capital resources by the lead jurisdiction based on contractual subordination or

where a regulatory regime proactively enforces structural subordination through appropriate regulatory / supervisory controls over distributions from insurers in the group **will not be included in the calculation of an additional capital allowance** if it is already reported as capital in the carrying value of the issuer in Section B of the **inventory tab. It will be included in the calculation of an additional capital allowance if recognized by the local jurisdiction and NOT already included in the value of the issuer** in Section B of the **inventory tab.** b. Cases where the value of debt instruments issued to purchasers outside the group has not been recognized by the legal entity's insurance or other sectoral supervisor **will not be included in the additional capital allowance.**

~~66.~~**70.** Please fill in columns in Section 3A as follows for all capital instruments–

- **[Column 1] Name of Issuer –** Name of the company that issued the capital financial instrument. [1]Will populate automatically from the 'Entity Identifier" column in this subsection'.

- **[Column 2] Entity Identifier –** Provide the reference number that was input in Schedule 1.

- **[Column 3] Type of Financial Instrument –** Select type from dropdown. Selections include Senior Debt, Surplus Notes (or similar), Hybrid Instruments and "Other" Subordinated Debt.

- **[Column 4] Instrument Identifier –** Provide a unique security identifier (such as CUSIP). ALL debt instruments must include an internal identifier if not external identifier is available.

- **[Column 5] Entity Category –** Links automatically to selection made on 'Inventory Tab' worksheet.

- **[Column 6] Year of Issue –** Provide the year in which the financial instrument was issued or refinanced.

- **[Column 7] Year of Maturity –** Enter the year in which the financial instrument will mature.

- **[Column 8] Balance as of Reporting Date –** Enter the principal balance outstanding as reported in the general-purpose financial statements of the issuer.

- **[Column 9] Intragroup Issuance –** Select whether the instrument was issued on an intra-group basis (that is, issued to a related entity within the group). This column will be used to remove "double counting". This column is a dropdown box with options "Y" and "N"

- **[Column 10] Treatment in Inventory B –** Select option that applies:

  a. **Capital - This instrument is recognized or credited as capital in local regulatory regime and reported as part of the adjusted carrying value of the issuer and was not purchased by an affiliate–** This includes the value of qualifying senior and hybrid debt instruments (if recognized as capital) and U.S. surplus notes (or similar local regime instruments) that are issued to entities outside the group recognized in the Inventory B

Tab The outstanding value of those debt instruments will not be included in the calculation of a proxy allowance for additional capital.

b. **Liability – This instrument is reflected by the issuer as a liability in the adjusted carrying value in the Inventory B Tab and was not purchased by an affiliate. -** This would apply to all qualifying senior and hybrid debt issued to purchasers outside the group that is not recognized as capital by the local regulator that are issued to entities outside the group recognized in the Inventory B Tab. The value will be included in the calculation of a proxy allowance for additional capital.

c. **Liability designation** would also apply to all non-qualifying senior and hybrid instruments and all debt categorized as "Other" issued to purchasers outside the group that is not recognized as capital by the local regulator. The value of these instruments will **NOT** be included the calculation for the in the calculation of a proxy allowance for additional capital.

d. **Intragroup –** This would apply to all qualifying instruments purchased by an affiliate within the group. The outstanding value of those debt instruments will not be included in the calculation of a proxy allowance for additional capital. If the financial instrument is recognized or credited as part of the issuer's available capital in Inventory B, then an adjustment for intra-group capital instruments is made in Inventory B, Column 4 and Inventory C adjustments(if necessary to eliminate an associated capital requirement). If the financial instrument is treated as a liability by the issuer, then no intra-group capital instrument adjustment is required in Inventory B or Inventory C.

e. The outstanding value of all non-qualifying senior and hybrid instruments and financial instruments categorized as "Other Debt" whether issued to purchasers inside or outside the group will not be included in the calculation of a proxy allowance for additional capital and no other adjustments are required in the template. However, in the unlikely event that the instrument is treated as available capital to the issuer in Inventory B, an adjustment in Inventory B, Column 4 to remove the available capital would be required.

Additional information on instruments categorized as "Other Debt" in the Type of Financial Instrument Column will require additional information to be provided in the Questions and Other Information Tab.

For intra-group surplus notes, the adjustment will impact the carrying value and associated capital calculation of the purchasing affiliated entity.

- **[Column 11] Intragroup Purchaser Identifier –** Enter the entity identify for the affiliate entity that purchased the instrument.

- **[Column 12] Description of Other Debt Instruments –** Provide a description of instruments designated as "Other"

- **[Column 13] Regulatory Approval – Respond "Y" or "N" as to whether debt is subject to a call provision in the first 5 years.**

- **[Column 14] Qualified Debt~~Base~~** – This column is calculated automatically using data ON THE ENTRIES IN Columns 3, 8 and 10. It represents the amount of qualifying debt that will be used ~~for~~ in the calculation of an allowance for addition capital under the alternate subordination method and the~~a~~ proxy allowance method. This amount will be carried into Section 3C, Line 3.

~~67.~~71. Section 3C will be auto filled with the exception of Column 1, Line 2

- **[Column 1, Line 1] Total Paid-In and Contributed Capital and Surplus** – This is the amount reported on Page 3 of the Annual Statement submitted to regulators by a U.S. insurer.

- **[Column 1, Line 2] Alternate Subordination Calculation –** This manual entry is the excess of qualifying debt over liquid assets reported in the consolidate financial statements [+ the carrying value of unregulated entities][FL3] held by the issuing consolidated holdco. No entry is expected for a mutual group.

- **[Column 1, Line 4]** The total reported under the alternate subordination approach~~as tracked down streamed~~ will be compared to the total amount of gross paid-in or contributed capital and surplus reported by the insurance entities within the group as reported in Schedule 1. The greater value will be carried into the calculation for an additional capital allowance.

  No more than 100% of the total outstanding value of qualified senior and hybrid debt will be allowed into the calculation.

- **[Column 1, Line 5] Proxy Calculation for Additional Capital Allowance** – A calculation will be made in this Tab in Section 3B that will apply 30% of available capital plus the value of all qualifying debt to become part of the proxy allowance for additional capital for qualifying senior subordinated. An additional amount of 15% of available capital plus the value of all qualifying debt will be calculated to become part of a proxy allowance for additional capital be for hybrid debt.

  No more than 100% of the total outstanding value of qualified senior and hybrid debt will be allowed into the calculation.

- **[Column 1, Line 6]** The greater of the proxy calculation or the larger of paid in capital or alternate subordination calculation will be allowed as additional capital. However, an overall limit of no more than 75% of the total adjusted carrying value in Inventory B will be applied. Adjustments to increase available capital will be calculated from data on this page. The summary results of the components of the calculation (paid in capital and surplus, proxy calculation and limitations) are populated as titled in the calculation columns beyond Column 14. The additional capital allowance calculated for capital instruments will be shown as an "on-top" adjustment in the Summary 1 – Entity Level

~~68.~~72. Informational ~~Proxy~~ calculation to include~~for~~ "Other Subordinated Debt" – A sensitivity analysis will be applied in a designated calculation column on this Tab and carried into the Summary 2 Tab to adjust the amount of additional capital in the proxy calculation by the amount of "Other Debt" reported in Column **8** of this Tab issued to purchasers outside the group. This informational sensitivity analysis will include an additional allowance for such debt up to 15% of

available capital plus the value of all qualifying debt including qualifying "Other" Debt subject to the same limitations noted for the proxy allowance in general.

Input 4 – Analytics

~~69.~~73. The entity type information supporting analytics summarized in Summary 3 - Analytics are pulled into this tab from data or information reported in other Tabs in the GCC template. That data is exported into summaries in the Summary 3 – Analytics Tab. Only 2020 data is currently to be populated. However, it is contemplated that going forwards, data for prior years will also be populated such that it will provide the lead-State regulator with metrics to identify trends over time.

Input 5 - Sensitivity Analysis and Inputs

~~70.~~74. The sensitivity analysis is calculated in the Summary 2 Tab. Most inputs for the analysis are populated from other Tabs as described below and carried into the analysis which are reported in the Summary 2 Tab. However certain analysis requires inputs from this Tab. Inputs are required in this Tab for Analysis 2, 3, 8, and 9. Sensitivity Analysis are intended to provide the lead-state regulator additional information that helps them better understand the financial condition of the group. Similar to the sensitivity analysis included in the legal entity RBC, it provides the regulator with additional information and allows them to consider "what-if" scenarios to better understand the impact of such items. The results of these analysis will not impact the GCC ratio.

- **[Analysis 1]: GCC Overall sensitivity analysis** – No additional data is needed in the Tab. The overall GCC ratio will be presented at 300% x ACL level. This calculation will increase the calculated capital for most entity types by a factor of 1.5. However, entities with existing regulatory capital requirements (e.g. foreign insurers and banks) will be reported at the same level specified in these instructions for both the GCC and the sensitivity analysis (i.e. at 100% of the jurisdictional or sectoral PCR requirements.

- **[Analysis 2]: Excluded non-insurance / non-financial entities without material risk –** No additional data is needed in the Tab. The data for entities where exclusion has been requested and the lead-State does not agree will be populated based on entries in Schedule 1B, Column 3 and data in Inventory B, Column 2 and Inventory C, Column 2. This analysis will be applied and reported in the Summary 2 Tab. It will provide the regulator with the impact of excluding non-agreed upon entities on the GCC ratio**.**

- **[Analysis 3 and 4]: Permitted practices –** This information shows the amount of US permitted practices as described in the Preamble of the NAIC Accounting Practices & Procedures Manual and the sensitivity analysis allows the state to understand the size of the practices related to the overall group capital position and their impact on the GCC ratio.

- **Prescribed practices –** This information to be entered on this Tab shows the amount of US prescribed and prescribed practices as described in the Preamble of the NAIC Accounting Practices & Procedures Manual and the sensitivity analysis allows the state to understand the size of the practices related to the overall group capital position and their impact on the GCC ratio. This analysis will be applied and reported in the Summary 2 Tab.

Permitted and Prescribed Practices - Report Values from Annual Statement Note 1 (excluding those pertaining to XXX/AXXX captives)

a. Entity Identifier
b. Value of permitted practice
c. Capital Requirement attributable to permitted practice (if any)
d. Description of permitted practice
e. Value of prescribed practice
f. Capital requirement attributable to permitted practice (if any)
g. Description of prescribed practice

- **[Analysis 5]: Foreign Insurer Capital Requirements Scaled** – No additional data is needed in the Tab. This information shows the amount of foreign insurer capital calculations scaled by applying scalars using the Excess Relative Ratio approach at a 200% x ACL RBC calibration level and at 300% x ACL for all non-U.S. jurisdictions where scalar data is available (See Appendix 1). The sensitivity analysis allows the state to understand the impact of scaling on the GCC ratio. This information is populated from the Scalar Tab. This analysis will be applied and reported in the Summary 2 Tab.

- **[Analysis 6]: Debt Classified as "Other" –** No additional data is needed in the Tab. The analysis data will be populated from the Capital Instruments Tab and the analysis and will be applied and reported in the Summary 2 Tab.

- **[Analysis 7]: Alternative capital Calculation for Non-Financial Entities -** No additional data is needed in the Tab. The values reported will represent the alternative values for capital calculation that is being captured in the template. The data will be populated from Schedule 1 and Inventory B and the analysis will be applied and reported in Scaling Non – Insurance Tab (Calc 2).

- **[Analysis 8]** For Captives other than XXX/AXXX, all other US captives shall 1) make an asset adjustment similar to that described below;

Asset Impact

~~71.~~75. For the asset impact, it is ONLY required for the assets included in a captive or an entity not required to follow the statutory accounting guidance in the NAIC *Accounting Practices & Procedures Manual*. It is not required for assets for those groups that retain such business in a non-captive traditional insurance company(ies) that is already required to follow the *NAIC Accounting Practices & Procedures Manual*. Please note, variations for state prescribed and permitted practices are captured in the separate sensitivity analysis.

~~72.~~76. The asset impact amount shall be determined based upon a valuation that is equivalent to what is required by the *NAIC Accounting Practices & Procedures Manual* (NAIC SAP). For this purpose, "equivalent" means that, at a minimum the listed adjustments (as follows) be made with the intent of deriving a valuation materially equivalent to what is required by the *NAIC Accounting Practices and Procedures Manual*, however, without requiring adjustments that are overly burdensome (e.g. mark-to market bonds used by some captives under US GAAP, vs full SAP that considers NAIC designations). To be more specific, the asset impact shall be developed

by accumulating the impact on surplus because of an accumulation of all the following in paragraphs 79 and 80 combined. Please note that Letters of Credit or other financial instruments that operate in a manner like a letter of credit, which are not designated as an asset under either NAIC SAP or US GAAP and are required to be adjusted out of the available assets (i.e. the asset reduction is recorded as a negative figure in the template).

~~73.~~**77.** To achieve the above, accumulate the effect of making the following impact and record as a negative figure in the template, an asset adjustment for all the following explicit assets not allowed to be admitted under NAIC SAP:

~~74.~~**78.** Assets specifically not allowed under NAIC *Accounting Practices and Procedures Manual in accordance with paragraph 9 of Statement of Statutory Accounting Principles No. 97—Investments in Subsidiary, Controlled and Affiliated Entities*:

- *SSAP No. 6—Uncollected Premium Balances, Bills Receivable for Premiums, and Amounts Due From Agents and Brokers*
- *SSAP No. 16R—Electronic Data Processing Equipment and Software*
- *SSAP No. 19—Furniture, Fixtures, Equipment and Leasehold Improvements*
- *SSAP No. 20—Nonadmitted Assets*
- *SSAP No. 21—Other Admitted Assets* (e.g., collateral loans secured by assets that do not qualify as investments are nonadmitted under SAP)
- *SSAP No. 29—Prepaid Expenses*
- *SSAP No. 105—Working Capital Finance Investments*
- *Expense costs that are capitalized in accordance with GAAP but are expensed pursuant to statutory accounting as promulgated by the NAIC in the Accounting Practices and Procedures Manual (e.g., deferred policy acquisition costs, pre-operating, development and research costs, etc.);*
- *Depreciation for certain assets in accordance with the following statutory accounting principles:*
- *SSAP No. 16R—Electronic Data Processing Equipment and Software*
- *SSAP No. 19—Furniture, Fixtures, Equipment and Leasehold Improvements*
- *SSAP No. 68—Business Combinations and Goodwill*
- *The amount of goodwill of the SCA more than 10% of the audited U.S. GAAP equity of the SCA's last audited financial statements*
- *The amount of the net deferred tax assets (DTAs) of the SCA more than 10% of the audited U.S. GAAP equity of the SCA's last audited financial statements.*
- *Any surplus notes held by the SCA issued by the reporting entity*

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~~75.~~79. In addition, record as a negative figure, an asset impact for any assets that are not recognized as an admitted asset under the principles of SSAP No. 4—*Assets and Nonadmitted including*:

- *Letters of credit, or other similar instruments, that operate in a manner like a letter of credit and therefore do not meet the definition of an asset as required under paragraph 2.*
- *Assets having economic value other than those which can be used to fulfill policyholder obligations, or those assets which are unavailable due to encumbrances or other third-party interests should not be recognized on the balance sheet and are therefore considered nonadmitted.*
- *Assets of an insurance entity pledged or otherwise restricted by the action of a related party, the assets are not under the exclusive control of the insurance entity and are not available to satisfy policyholder obligations due to these encumbrances or other third-party interests. Thus, such assets shall not be recognized as an admitted asset on the balance sheet.*
- **[Analysis 9]: Other Regulator Discretion –** This analysis is designed to reflect other regulator adjustments including for transactions other than XXX / AXXX reinsurance where there are differences in regulatory regimes exist and there is a desire to fully reflect U.S. Statutory Accounting treatment or to reflect the lead-states view of risk posed by financial entities without specified regulatory capital requirements or risk posed by non-insurance / non-financial entities that have been included in the GCC. This will be a post-submission item completed by the lead-state regulator. Enter the following information here:

  a. Entity Identifier
  b. Amount of adjustment
  c. Description of regulatory issue

DRAFTING NOTE: This Column may also be completed by the filer after advance consultation with the lead-State regulator.

Input 6 – Questions and Other Information

~~76.~~80. This tab provides space for participants to describe or provide greater detail for specified entries in other tabs (as noted in the instructions for the columns in those tabs) or additional relevant information not captured in the template. Examples include the materiality method applied to exclude entities in Schedule 1; adjustments for intra group debt, description of permitted practices; scalars proposed / supporting information for jurisdiction without a prescribed scalar; and adjustments to available capital or capital calculations that are included in the "other adjustment" column in the Inventory Tab. Specified items are included in the Tab. Other information that the filer believes is relevant should be added freeform in this tab.

Information or Detail for Items Not Captured in the Template

- Materiality Standard for Non-Financial entities - Describe the methodology used to "exclude" non-financial entities as not posing material risk.

- Intercompany Guarantees– Provide requested information

  a. Entity Identifier issuing the guarantee
  b. Entity Identifier of entity or entities that are covered by the guarantee
  c. Indicate the notional or fixed value of the guarantee
  d. Describe the nature of the guarantee

- Capital Maintenance Agreements – Provide requested information

  a. Entity Identifier obligated under the agreement
  b. Entity Identifier for entity or entities that are covered by the guarantee
  c. Indicate the notional or fixed value of the agreement
  d. Describe the nature of the agreement

Information or Detail for Items Captured in the Template

- Value of intangible assets included in non-insurance Holding Companies – Provide the requested information for all entities designated in the~~with a~~ non-operating holding company entity category~~type~~.

  a. Entity Identifier
  b. All Goodwill
  c. All intangibles related to health care services acquisitions included in local carrying value column in Inventory B. Examples include but are not limited to Customer relationships (policy retention; long-term health services contracts) and Technology/Patents/Trade Names and Provider Network contracts
  d. All other Intangible assets included in local carrying value column in Inventory B
  e. Total of lines b, c, and d.*
  ~~a.~~f. A description of each intangible asset included in line d.
  ~~b. Total value of intangible assets included in local carrying value column in Inventory B*~~
  ~~c. Description and amount of each intangible asset~~

  *Auto populated

  Further detail on amounts reported for specific intangibles other than goodwill may be requested by the lead-State regulator during review of the GCC template

- Currency Adjustments –Provide requested information only for entities where the amount reported for an entity in Inventory B Column 2 is different than the amount in Inventory B, Column 1 due to currency conversion.

  a. Entity Identifier
  b. Currency Type reported in Inventory B Column 1 and Inventory C, column 1 (Foreign currency)
  c. Conversion rate applied
  d. Source of conversion rate applied[FL4]

- Intra-group Assets - Description of Adjustments for intra-group assets reported in Inventory B, Column 7 and Inventory C, Column 7. Provide the following information:

  a. Entity Identifier
  b. Amount reported in Inventory B, Column 7*
  c. Description of adjustment

  * Auto populated

- Other Adjustments - Description of adjustments reported in Inventory B, Column 8 and Inventory C, Column 8. Provide the following information:

  a. Entity Identifier
  b. Amount reported in Inventory B, Column 7*
  c. Description of adjustment

  * Auto populated

- Accounting Adjustments– Provide requested information only for entities where the amount reported for an entity in Inventory B Column 1 is different than the amount in Inventory B, Column 2 due to differences in accounting basis

  a. Entity Identifier
  b. Value reported in Inventory B Column 1*
  c. Value reported in Inventory B Column 2*
  d. Total Amount of Adjustments related to difference in accounting basis*
  e. Nature of Adjustment (e.g. GAAP to SAP)
  f. ~~Description and amount of the Adjustments (e.g. treatment of deferred acquisition cost; reserve valuation; treatment of intangible assets~~)[FL5]

  *Auto populated

- The tab also includes a listing of all Schedule A and Schedule BA affiliates along with the following information:

  a. Parent identifier (if available) this is the same information as is included in Schedule 1 (Sch. 1B, Col 3) as would be entered for non-Schedule A / BA affiliates

  b. Parent Name – Enter the Name of the Parent

c. Is Parent a Schedule A or BA Asset? - This column is only required for financial entities that are Directly owned by a Schedule A or BA Affiliate. No other downstream affiliates owned by Schedule A or BA entities need to be listed. These entities are not normally independently reported in Schedules A and BA so are extra entries.

d. Financial? (Y/N) - if the entity meets the criteria as being a financial entity, indicate with a "yes" response. A "no" response is not required for other entities listed. "Yes" entries should correspond to "yes" entries in Schedule 1(Sch. 1B, Col 17)

e. Carrying Value of Immediate Parent – Report the value listed in Schedule A and BA of the Parent insurer. For those cases where an indirect financial entity is reported use the value used by the direct Parent

f. Capital Requirement for Immediate Parent - Report the value listed in the RBC report of the Parent insurer (pre-tax where applicable). For those cases where an indirect financial entity is listed, report the value of the capital requirement attributable to the Insurer rather than the direct non-financial Schedule BA parent. The capital requirement reported in this column for the immediate Schedule BA parent should be adjusted to deduct the amount moved to Schedule 1 and Inventory C.

Calc 1 – Scaling (Insurance Entities)

~~77.~~81. All entries in this tab are calculation cells populated using data from within the tab or using data from elsewhere in the template. Scaled values for calculated capital will become part of the GCC ratio. The calculated values will be summarized by entity type in Summary 1 – Entity Level Tab. The concept of a scalar was first introduced to address the issue of comparability of accounting systems and capital requirements between insurance regulatory jurisdictions. The idea is to scale capital requirements imposed on non-U.S. insurers so as to be comparable to an RBC based requirement. Two approaches for scaling related to foreign insurers were presented, and others are being explored and will be reviewed. A decision on the scaling methodology to be adopted into the GCC Template will be made at the end of the review. In the interim a scalar of 100% of the jurisdictional PCR will be applied to all jurisdictions where a risk sensitive capital requirement is in place.

~~78.~~82. Information on the Excess Relative Ratio (ERR) scalar methodology will be collected and applied in the Sensitivity Analysis Tab

SEE APPENDIX 1 FOR MORE INFORMATION AND EXAMPLES ON HOW THE ERR SCALARS ARE CALCULATED.

~~79.~~83. For jurisdictions without risk sensitive capital requirements a 100% charge will be applied to adjusted carrying value.

Calc 2 – Capital Calculations for Non-insurance Entities

~~80.~~84. All entries in this tab are either calculation cells using data from within the tab or using data populated from elsewhere in the template. Calculated capital for all entities except insurers will be reported in this Tab. The calculated values will be summarized by entity type in Summary 1 – Entity Level Tab.

~~81.~~85. In addition, one informational option for calculated capital for financial entities without an existing regulatory capital requirement and one informational option for calculated capital for non-financial entities will be reported in this tab. Those calculation will not be carried into the Summary 1 – Entity Level Tab and will not be part of the GCC ratio.

~~82.~~86. Only amounts for entities that the filer and the lead- State regulator agree should **not** be excluded (See Schedule 1B, Column 2) will be brought into the calculation in this Tab and Summary 1 – Entity Level. Entities where the Lead-State does not agree with the filer's request to exclude an entity will be part of the GCC ratio.

Summary 1 - Entity Level GCC Summary

~~83.~~87. Summarized results by entity type for the GCC ratio will be reported in this tab. An on top adjustment for debt allowed as additional capital will be added at the bottom of the table. All informational sensitivity analysis will be reported in Summary 2 and will not impact the GCC ratio.

Summary 2 – Informational Sensitivity Tests

~~84.~~88. Summary results for each informational sensitivity analysis described in the Sensitivity Analysis Inputs Tab will be shown here. Each sensitivity analysis will be shown on a stand-alone basis. It is expected that each informational sensitivity analysis will run automatically in the background and the results for each displayed in this Tab. The results for the informational sensitivity analysis will not be included in **Summary 1 - Entity Level**.

Summary 3 – Analytics

~~85.~~89. Summary results for metrics described in the Analytics Guidance **[insert attachment or appendix reference]** and utilizing data collected in the Input 4 – Analytics Tab or other Tabs in the GCC will be calculated and presented here.

Summary 4 - Alternative Grouping Option(s) (a.k.a. Cigna Illustration)

~~86.~~90. One sample alternative structure for grouping entities in the GCC calculation is displayed based on a suggested method. It can be modified, or other suggestions can be accommodated based on combining of data from **Schedule 1 and the Inventory** in to be defined ways**.**

This tab is intended to be an additional analytical tool. The tool summarizes the GCC based upon how a reporting entity views its organization, and provides regulators that view, to align it with regulatory information, other than what is reported elsewhere in the GCC Template, that the reporting entity has submitted such as current filings, communications, etc. In this summary view, entities are organized into like regimes and multiple entities may be grouped together, in order to create a view of capital that is easy to review and analyze within each grouping. The intent of this approach is to provide an additional analytical tool designed to enhance dialogue between the lead regulator and the company contemplated by the GCC filing. This view is transparent (no scalers, no adjustments, no de-stacking) so that financial information may be cross-walked to other financial submissions such as RBC filings.

~~87.~~91. The results are dependent on how the reporting entity populated. Input 1 - Schedule 1, Column H, [7] Alternative Grouping. For example, if you have a dozen small dental HMO businesses, you may wish to collapse the results to a single line called "Dental HMOs", by populating Input 1 - Schedule 1, Column H, [7] Alternative Grouping for each dental HMO as "Dental HMOs". Then "Right-click" and select "Refresh" to see the results with the "Dental HMOs" combined.

~~88.~~92. For your reference, the data for the Summary 4 -Grouping Alternative is from Calc 1 - Scaling (Ins, Bank) which is fed by the inputs you have made in Input 1 - Schedule 1, Input 2 – Inventory, etc.

Appendix 1 – Explanation of Scalars

~~89.~~93. The concept of a scalar is to equate the local capital requirement to an adjusted required capital level that is comparable to U.S. levels. The purpose of a scalar is to address the issue of comparability of accounting systems and capital requirements between jurisdictions. The following provides details on how the scalars were calculated by the NAIC, or how they are to be used when the NAIC has not developed a scalar for a country due to lack of public data.

Excess Relative Ratio Approach

~~90.~~94. Included below are various steps to be taken in calculating the excess relative ratio approach to developing jurisdiction-specific scalars. In order to numerically demonstrate how this approach could work, hypothetical capital requirements and financial amounts have been developed for Country A. Based on preliminary research that has been performed by NAIC staff, it appears that the level of

conservatism built into accounting and capital requirements within a jurisdiction may differ significantly for life insurers and non-life insurers. Therefore, ideally each jurisdiction would have two different scalars based on the type of business. The example below includes information related to life insurers in the U.S. and Country A.

1. Understand the Jurisdiction's Capital Requirements and Identify the First Intervention Level

   a. The first step in the process is to gain an understanding of the jurisdiction's capital requirements. This can be done in a variety of ways including reviewing publicly available information on the regulator's website, reviewing the jurisdiction's Financial Sector Assessment Program (FSAP) reports and discussions with the regulator.

      In Country A, assume that the capital requirements for life insurers are based on a capital ratio, which is calculated as follows:

      $$\text{Capital ratio} = \frac{\text{Total available capital}}{\text{Base required capital (BRC)}}$$

      In the U.S., capital requirements are related to the insurer's risk-based capital (RBC) ratio. For purposes of the Relative Ratio Approach, an Anchor RBC ratio is used and calculated as follows:

      $$\text{Anchor RBC ratio} = \frac{\text{Total adjusted capital}}{\text{100\% Company Action Level RBC*}}$$

      * 100% Company Action Level RBC is equal to the Total RBC After Covariance, without adjustment or 200% Authorized Control Level RBC.

   b. Similar to legal entity RBC requirements in the U.S., Country A utilizes an early intervention approach by establishing target capital levels above the prescribed minimums that provide an early signal so that intervention will be timely and for there to be a reasonable expectation that actions can successfully address difficulties. Presume that this target capital level is similar to the U.S.'s Company Action Level (CAL) event, both of which can be considered the first intervention level in which some sort of action—either on the part of the insurer or the regulator—is mandated. For simplification purposes, NAIC staff is not considering the RBC trend test in this memo.

   c. For Country A, the target capital level is presumed to be a capital ratio of 150%. That is, the insurer's ratio of total available capital to its BRC should be above 150% to avoid the first level of regulatory intervention. Again, this is similar to the U.S.'s CAL event, which is usually represented as an RBC ratio of 200% of Authorized Control Level (ACL) RBC (ignoring the RBC trend test.). In the Relative Ratio approach, the Anchor RBC ratio represents the Company Action Level event (or first level of regulatory intervention) as 100% CAL RBC (instead of 200% ACL RBC), because CAL RBC is the reference point that is used to calibrate against other regimes. The Anchor RBC Ratio (Total Adjusted Capital ÷ 100% CAL RBC) tells us how many "multiples of trigger level capital" that the company holds. Conceptualizing the CAL event as 100% CAL RBC allows the consistent

definition of local capital ratios that are calibrated against a "multiples of the trigger level" approach, to ensure an apples-to-apples comparison[2].

2. Obtain Aggregate Industry Financial Data

~~91.~~95. The next step is to obtain aggregate industry financial data, and many jurisdictions include current aggregate industry data on their websites. Included below are the financial amounts for use in this exercise.

U.S. Life Insurers – Aggregate Data
Total Adjusted Capital = $495B
Authorized Control Level RBC = $51B
Company Action Level RBC = $102B

Country A Life Insurers – Aggregate Data
Total Available Capital = $83B
BRC = $36B

3. Calculate a Jurisdiction's Industry Average Capital Ratio

~~92.~~96. To calculate a jurisdiction's average capital ratio, the aggregate total available capital for the industry would be divided by the minimum or base capital requirement for the industry in computing the applicable capital ratio. In Country A, this would be the BRC. In the U.S., this base or minimum capital requirement is usually seen as the ACL RBC, but because the Relative Ratio Approach is using 100% CAL RBC as a reference point to calibrate other regimes to, the Relative Ratio formula uses 100% CAL RBC as the baseline and the first-intervention level to calculate the Average Capital Ratio and Excess Capital Ratio. As a result, the scaled ratio of a non-U.S. company should inform regulators how many multiples of first-intervention level capital the non-U.S. company holds. Included below is the formula to calculate a jurisdiction's industry average capital ratio:

Calculation of U.S. Industry Average Capital Ratio – Life Insurers

$$\frac{\$495B \text{ (Total Adjusted Capital)}}{\$102B \text{ (CAL RBC)}} = \mathbf{485\%}$$

Calculation of Country A Industry Average Capital Ratio – Life Insurers

While it is mathematically equivalent to use 200% ACL RBC as the denominator, the Approach is designed to use the representation of first-intervention level capital levels as the conceptual underpinning of the Relative Ratio Approach, where 100% CAL RBC is the reference point to calibrate against other regimes.

$$\frac{\$83B \text{ (Total Available Capital)}}{\$36B \text{ (BRC)}} = \mathbf{231\%}$$

4. Calculate a Jurisdiction's Excess Capital Ratio

~~93.~~97. The next step is to understand the level of capital the industry is holding above the first intervention level. Therefore, to calculate a jurisdiction's excess capital ratio, one would first need to calculate the amount of the capital ratio carried in excess of the capital ratio required at the first intervention level. This amount would then need to be divided by the capital ratio required at the first intervention level.

General Excess Capital Ratio Formula

$$\frac{\text{Average Capital Ratio} - \text{Capital Ratio at the First Intervention Level}}{\text{Capital Ratio at the First Intervention Level}}$$

~~94.~~98. Based on the formula above and information provided in Steps #2 and #3, included below are how to calculate each jurisdiction's excess capital ratio. Note: The first intervention level in the U.S. is defined in the Relative Ratio Approach as 100% CAL RBC, while the first intervention level in Country A is a capital ratio of 150%.[3]

Calculation of U.S. Excess Capital Ratio – Life Insurers

$$\frac{485\% \text{ (Average Capital Ratio)} - 100\% \text{ (Capital Ratio at the First Intervention Level)}}{100\% \text{ (Capital Ratio at the First Intervention Level)}} = \mathbf{385\%}$$

Calculation of Country A Excess Capital Ratio – Life Insurers

$$\frac{231\% \text{ (Average Capital Ratio)} - 150\% \text{ (Capital Ratio at the First Intervention Level)}}{150\% \text{ (Capital Ratio at the First Intervention Level)}} = \mathbf{54\%}$$

5. Compare a Jurisdiction's Excess Capital Ratio to the U.S. Excess Capital Ratio to Develop the Scalar

~~95.~~99. Based on the information above, the U.S. excess capital is 385%. In other words, life insurers in the U.S. carry approximately 385% more capital than what is needed over the first intervention level. Country A's excess capital ratio is 54%. That is, life insurers in Country A carry approximately 54% more capital than what is needed over the first intervention level.

[3] 100% CAL RBC translates to an ACL RBC level of 200%, but for conceptual purposes, the Relative Ratio Approach refers to the U.S. first intervention level as 100% CAL RBC, as 100% CAL RBC is the reference point to which the Relative Ratio Approach calibrates other regimes. In other words, 100% CAL RBC ensures that the scaled ratio of Country A results in a ratio that determines how many multiples of first-intervention level capital that the company in Country A is holding.

~~96.~~100. To calculate the scalar, one would divide a jurisdiction's excess capital ratio by the U.S. excess capital ratio. Therefore, the calculation of Country A's scalar for life insurers would be 54% ÷ 385% = 14% Therefore, Country A's scalar for life insurers would be 14%

6. Apply to the Scalar to the Non-U.S. Insurer's Amounts in the Group Capital Calculation

~~97.~~101. In order to demonstrate how the calculation of the scalar works, it would be best to provide a numerical example. For purposes of this memo, assume that a life insurer in Country A reports required capital of $341,866 and total available capital of $1,367,463. (These are the amounts previously used in a hypothetical calculation example that was discussed by the Working Group during its July 20, 2016, conference call.) As noted previously, the above information and calculation suggests that U.S. life insurers carry capital far above the minimum levels, while life insurers in Country A carry capital far closer to the minimum. Therefore, in order to equate the company's $341,866 of required capital, we must first calibrate the BRC to the first regulatory intervention level by multiplying it by 150%, or Country A's capital ratio at the first intervention level. The resulting amount of $512,799 is then multiplied by the scalar of 14% to get a scaled minimum required capital of $71,792.

~~98.~~102. Further, the above rationale suggests that the available capital might also be overstated (since it does not use the same level of conservatism in the reserves) by the difference between the calibrated required capital of $512,799 and the required capital after scaling of $71,792, or $441,007. Therefore, we should now deduct the $441,007 from the total available capital of $1,367,463 for a new total available capital of $926,456. These two recalculated figures of required capital of $71,792 and total available capital of $926,456 is what would be included in the group's capital calculation for this insurer. These figures are further demonstrated below.

Calculation of Scaled Amounts for Group Capital Calculation

Amounts as Reported by the Insurer in Country A

Total available capital = 1,367,463

Minimum required capital (BRC) = 341,866

Calibration of BRC to 1st Regulatory Intervention Level

341,866 (BRC) * 150% = 512,799

Scaling of Calibrated Minimum Required Capital

512,799 (Calibrated BRC) * 14% (Scalar) = 71,792 (Difference of 441,007)

Scaled Total Available Capital

1,367,463 (Total Available Capital) – 441,007 (Difference in scaled required capital) = 926,456

~~99.~~103. Given these scaled amounts, one can calculate the numerical effect on the company's relative capital ratio by using the unscaled and scaled amounts included below.

	Unscaled Amounts from Table Above	*Scaled Amounts from Table Above*
Total Available Capital	1,367,463	926,456
Base Required Capital	341,866	71,792
Capital Ratio (= TAC / BRC)	400%	1290%

~~100.~~104. Considering the fact that life insurers in Country A hold much lower levels of capital over the first intervention level as compared to U.S. life insurers, the change in the capital ratio from 400% (unscaled) to 1290% (scaled) appears reasonable and consistent with the level of conservatism that we understand is built into the U.S life RBC formula driven primarily from the conservative reserve valuation.

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Attachment I - Summary of Revisions Post October 30, 2020 Fatal Flaw Exposure:

Only the new revisions made in response to general comments are marked in the November 16 Version of the GCC Instructions are shown. In all applicable sections the revision to a 200% x ACL calibration have been made.

Section II - Definitions

- Paragraph 9 clarifies treatment of financial entities regulated by SEC and FINRA.
- Paragraph 9 Further clarifies when to treat affiliated investment managers and underlying collective investment entities as non-financial entities
- Paragraph 16 (New) adds a definition of a limited GCC filing

Section IV – General Instructions

- Adds instructions on which Tabs / Data to include in a Limited GCC Filing

Input 2 - Inventory

- Paragraph 66 (Page 32) clarifies treatment of non-operating holdcos and their related debt.

Input 3 - Capital Instruments

- Paragraph 69 (Page 36) adds call criteria for qualifying debt.
- Paragraph 70 (Page 39) add NEW Y/N Column 13 relating to “call” provisions.
- Paragraphs 70 71 (Page 39) replaced “Downstream Tracked” with the APCIA suggested approach.

Input 5 – Sensitivity Analysis

- Paragraph 74 (Page 40) Adds new Analysis 1 – 300% ACL sensitivity analysis.

Input 6 – Other Information

- Paragraph 80 (Page 44) Revised data required for Intangible Assets.

The GCC Template will be updated in line with the revised instructions where applicable.