

Draft date: 9/11/25

Virtual Meeting

JOINT MEETING OF THE CAPITAL ADEQUACY (E) TASK FORCE AND THE RISK-BASED CAPITAL MODEL GOVERNANCE (EX) TASK FORCE

Thursday, October 23, 2025

12:00 – 1:00 p.m. ET / 11:00 a.m. – 12:00 p.m. CT / 10:00 – 11:00 a.m. MT / 9:00 – 10:00 a.m. PT

ROLL CALL

RISK-BASED CAPITAL MODEL GOVERNANCE (EX) TASK FORCE

NAIC Member	State/Territory
Judith L. French, Co-Chair	Ohio
Nathan Houdek, Co-Chair	Wisconsin
Doug Ommen, Co-Vice Chair	Iowa
Michael Wise, Co-Vice Chair	South Carolina
Michael Conway	Colorado
Andrew N. Mais	Connecticut
Karima M. Woods	District of Columbia
Michael Yaworsky	Florida
Dean Cameron	Idaho
D.J. Bettencourt	New Hampshire
Mike Causey	North Carolina
Jon Godfread	North Dakota
Robert L. Carey	Maine
Cassie Brown	Texas
Scott A. White	Virginia
Patty Kuderer	Washington

NAIC Support Staff: Dan Daveline

CAPITAL ADEQUACY (E) TASK FORCE

NAIC Member	Representative	State/Territory
Doug Ommen, Chair	Mike Yanacheak, Chair	Iowa
Judith L. French, Vice Chair	Tom Botsko, Vice Chair	Ohio
Mark Fowler	Charles Hale/Richard Russell	Alabama
Heather Carpenter	David Phifer	Alaska
Ricardo Lara	Thomas Reedy	California
Michael Conway	Rolf Kaumann	Colorado
Andrew N. Mais	Wanchin Chou	Connecticut
Karima M. Woods	Philip Barlow	District of Columbia
Michael Yaworsky	Jane Nelson	Florida

Ann Gillespie	Matt Cheung	Illinois
Holly W. Lambert	Roy Eft	Indiana
Vicki Schmidt	Tish Becker	Kansas
Sharon P. Clark	Russell Coy	Kentucky
Timothy J. Temple	Tom Travis	Louisiana
Grace Arnold	Fred Andersen	Minnesota
Angela L. Nelson	John Rehagen	Missouri
Remedio C. Mafnas	Remedio C. Mafnas	N. Mariana Islands
Eric Dunning	Tadd Wegner	Nebraska
Ned Gaines	Hermoliva Abejar	Nevada
Justin Zimmerman	Justin Zimmerman	New Jersey
Jon Godfread	Matt Fischer	North Dakota
Glen Mulready	Andy Schallhorn	Oklahoma
Michael Humphreys	Diana Sherman	Pennsylvania
Elizabeth Kelleher Dwyer	Ted Hurley	Rhode Island
Michael Wise	Ryan Basnett	South Carolina
Carter Lawrence	Trey Hancock	Tennessee
Cassie Brown	Jamie Walker/Rachel Hemphill	Texas
Scott A. White	Doug Stolte	Virginia
Patty Kuderer	Steve Drutz	Washington
Nathan Houdek	Amy Malm	Wisconsin

NAIC Support Staff: Eva Yeung

AGENDA

1. Introductory Remarks — *Director Judith L. French (OH)*
2. Discuss Background and Update on the RBC Preamble — *Mike Yanacheak (IA)*
3. Discuss Comments Received on Proposed Preamble — *Mike Yanacheak (IA)*
 - A. Risk-Based Capital (RBC) Preamble Proposal Attachment One
 - B. Industry Comments Attachment Two
 - C. RBC Purposes and Guideline Ad Hoc Subgroup Summaries Attachment Three
4. Questions and Comments from the Task Force Members. Interested Regulators, and Interested Parties — *Director Judith L. French (OH)*
5. Discuss Any Other Matters Brought Before the Task Forces — *Commissioner Nathan Houdek (WI)*
6. Adjournment

Capital Adequacy (E) Task Force

RBC Proposal Form

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Capital Adequacy (E) Task Force | <input type="checkbox"/> Health RBC (E) Working Group | <input type="checkbox"/> Life RBC (E) Working Group |
| <input type="checkbox"/> Catastrophe Risk (E) Subgroup | <input type="checkbox"/> P/C RBC (E) Working Group | <input type="checkbox"/> Longevity Risk (A/E) Subgroup |
| <input type="checkbox"/> Variable Annuities Capital. & Reserve (E/A) Subgroup | <input type="checkbox"/> Economic Scenarios (E/A) Subgroup | <input type="checkbox"/> RBC Investment Risk & Evaluation (E) Working Group |

<p style="text-align: right;">DATE: <u>4-24-24</u></p> <p>CONTACT PERSON: <u>Eva Yeung</u></p> <p>TELEPHONE: <u>816-783-8407</u></p> <p>EMAIL ADDRESS: <u>eyeung@naic.org</u></p> <p>ON BEHALF OF: <u>Capital Adequacy (E) Task Force</u></p> <p>NAME: <u>Tom Botsko</u></p> <p>TITLE: <u>Chair</u></p> <p>AFFILIATION: <u>Ohio Department of Insurance</u></p> <p>ADDRESS: <u>50 West Town Street, Suite 300</u> <u>Columbus, OH 43215</u></p>	<p style="text-align: center;"><u>FOR NAIC USE ONLY</u></p> <p>Agenda Item # <u>2024-16-CA</u> Year <u>2024</u></p> <hr/> <p style="text-align: center;"><u>DISPOSITION</u></p> <p>ADOPTED:</p> <p><input type="checkbox"/> TASK FORCE (TF) _____</p> <p><input type="checkbox"/> WORKING GROUP (WG) _____</p> <p><input type="checkbox"/> SUBGROUP (SG) _____</p> <p>EXPOSED:</p> <p><input checked="" type="checkbox"/> TASK FORCE (TF) <u>04/30/2024</u></p> <p><input type="checkbox"/> WORKING GROUP (WG) _____</p> <p><input type="checkbox"/> SUBGROUP (SG) _____</p> <p>REJECTED:</p> <p><input type="checkbox"/> TF <input type="checkbox"/> WG <input type="checkbox"/> SG _____</p> <p>OTHER:</p> <p><input type="checkbox"/> DEFERRED TO _____</p> <p><input type="checkbox"/> REFERRED TO OTHER NAIC GROUP _____</p> <p><input type="checkbox"/> (SPECIFY) _____</p>
--	---

IDENTIFICATION OF SOURCE AND FORM(S)/INSTRUCTIONS TO BE CHANGED

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Health RBC Blanks | <input checked="" type="checkbox"/> Property/Casualty RBC Blanks | <input checked="" type="checkbox"/> Life and Fraternal RBC Blanks |
| <input type="checkbox"/> Health RBC Instructions | <input type="checkbox"/> Property/Casualty RBC Instructions | <input type="checkbox"/> Life and Fraternal RBC Instructions |
| <input type="checkbox"/> Health RBC Formula | <input type="checkbox"/> Property/Casualty RBC Formula | <input type="checkbox"/> Life and Fraternal RBC Formula |
| <input type="checkbox"/> OTHER _____ | | |

DESCRIPTION/REASON OR JUSTIFICATION OF CHANGE(S)

The purpose of this proposal is to provide edits to the RBC Preamble to clarify and emphasize the purposes and the intent of using RBC.

Additional Staff Comments:

**** This section must be completed on all forms.**

Revised 2-2023

Risk-Based Capital

Preamble

History of Risk-Based Capital by the NAIC

A. Background

1. The NAIC, through its committees and working groups, facilitated many projects of importance to state insurance regulators, the industry, and users of statutory financial information in the early 1990s. That was evidenced by the original mission statement and charges given to the Capital Adequacy (E) Task Force (CADTF) of the Financial Condition (E) Committee.
2. From the inception of insurance regulation in the mid-1800s, the limitation of insurance company insolvency risk has been a major goal of the regulatory process. The requirement of adequate capital has been a major tool in limiting insolvency costs throughout the history of insurance regulation. Initially, the states enacted statutes requiring a specified minimum amount of capital and surplus for an insurance company to enter the business or to remain in business.
3. Fixed minimum capital requirements were largely based on the judgment of the drafters of the statutes and varied widely among the states. Those fixed minimum capital and surplus requirements have served to protect the public reasonably well for more than a century. However, they fail to recognize variations in risk between broad categories of key elements of insurance, nor do they recognize differences in the amount of capital appropriate for the size of various insurers.
4. In 1992, the NAIC adopted the life risk-based capital (RBC) formula with an implementation date of year-end 1993. The formula was developed for specific regulatory needs. Four major categories were identified for the life formula: asset risk; insurance risk; interest rate risk; and all other business risk. The property/casualty and health formulas were implemented in 1994 and 1998, respectively. The focus of these two formulas is: asset risk; underwriting risk; credit risk; and business risk (health).
5. The total RBC needed by an insurer to avoid being taken into conservatorship is the Authorized Control Level RBC, which is 50% of the sum of the RBC for the categories, adjusted for covariance. The covariance adjustment is meant to take into account that problems in all risk categories are not likely to occur at the same time.
6. The mission of the CADTF was to determine the amount of capital an insurer should be required to hold to avoid triggering various specific regulatory actions. The RBC formula largely consists of a series of risk factors that are applied to selected assets, liabilities, or other specific company financial data to establish the threshold levels generally needed to bear the risk arising from that item.
7. To carry out its mission, the CADTF was charged with carrying out the following initiatives:
 - Evaluate emerging “risk” issues for referral to the RBC working groups/subgroups for certain issues involving more than one RBC formula.
 - Monitor emerging and existing risks relative to their consistent or divergent treatment in the three RBC formulas.
 - Review and evaluate company submissions for the schedule and corresponding adjustment to total adjusted capital (TAC).
 - Monitor changes in accounting and reporting requirements resulting from the adoption and continuing maintenance of the *Accounting Practices and Procedures Manual* and the *Valuation Manual* to ensure that model laws, publications, formulas, analysis tools, etc., supported by the CADTF continue to meet regulatory objectives.

Preamble

8. The RBC forecasting, and instructions were developed and are now maintained in accordance with the mission of the CADTF as a method of measuring the threshold amount of capital appropriate for an insurance company to avoid capital specific regulatory requirements based on its size and risk profile.

B. Purpose of Risk-Based Capital

9. The purpose of RBC is to identify potentially weakly capitalized companies **in order to** facilitate regulatory actions **designed to**, in most cases, ensure policyholders will receive the benefits promised without relying on a guaranty association or taxpayer funds. Consequently, the RBC formula calculates capital level trigger points that enable regulatory intervention in the operation of such companies.
10. **RBC instructions**, RBC reports and adjusted report(s) are intended solely for use by the commissioner/state in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers and are considered confidential. All domestic insurers are required to file an RBC report unless exempt by the commissioner. There are no state permitted practices to modify the RBC formula and all insurers are required to abide by the RBC instructions.
11. Comparison of an insurer's TAC to any RBC level is a regulatory tool that may indicate the need for **possible** corrective action with respect to the insurer and is **not intended or appropriate as a means to rank insurers generally**. Therefore—except as otherwise required under the provisions of *Risk-Based Capital (RBC) for Insurers Model Act* (#312) or the *Risk-Based Capital (RBC) for Health Organizations Model Act* (#315)—the making, publishing, disseminating, circulation or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated or place before the public, in a newspaper, magazine or other publication, or in a form of a notice, or in any other way, an advertisement, announcement or statement **(including but not limited to press releases, earnings releases, webcast materials, or any other earnings presentations or webcasts)** containing an assertion, representation or statement with regard to the RBC levels of any insurer or of any component derived in the calculation by any insurer is prohibited.

C. Objectives of Risk-Based Capital Reports

12. The primary responsibility of each state insurance department is to regulate insurance companies in accordance with state laws, with an emphasis on solvency for the protection of policyholders. The ultimate objective of solvency regulation is to ensure that policyholder, contract holder and other legal obligations are met when they come due and that companies maintain capital and surplus at all times and in such forms as required by statute.

To support this role, the RBC reports identify potentially weakly capitalized companies in that each insurer must report situations where the actual TAC is below a threshold amount for any of the several RBC levels. This is known as an “RBC event” and reporting is mandatory. The state regulatory response is likely to be unique to each insurer, as each insurer's risk profile will have some differences from the average risk profile used to develop the RBC formula factors and calculations.

There are several RBC levels with different levels of anticipated additional regulatory oversight following the reporting of an RBC event. Company Action Level (CAL) has the least amount of additional regulatory oversight, as it envisions the company providing to its regulator a plan of action to increase capital or reduce risk or otherwise satisfy the regulator of the adequacy of its capital. Regulatory Action Level (RAL) is the next higher level, where the regulator is more directly involved in the development of the plan of action. Authorized Control Level (ACL) anticipates an even higher amount of regulatory action in implementing the plan of action. **Mandatory Control Level (MCL) requires the insurance commissioner to place the reporting entity under regulatory control.**

D. Critical Concepts of Risk-Based Capital

13. Over the years, various financial models have been developed to try to measure the “right” amount of capital that an insurance company should hold.¹ “No single formula or ratio can give a complete picture of a company's

¹ Report of the Industry Advisory Committee to the Life Risk-Based Capital (E) Working Group, p. 6; Nov. 17, 1991.

Preamble

operations, let alone the operation of an entire industry. However, a properly designed formula will help in the early identification of companies with inadequate capital levels and allow corrective action to begin sooner. This should ultimately lower the number of company failures and reduce the cost of any failures that may occur.”

14. Because the NAIC formula develops threshold levels of capitalization rather than a target level, it is **neither useful nor appropriate** to use the RBC formula to compare the RBC ratio developed by one insurance company to the RBC ratio developed by another. Comparisons of amounts that exceed the threshold standards do not provide a **reliable** assessment of their relative financial strength. **For example, a company with an RBC ratio of 600% is not necessarily financially stronger than a company with an RBC ratio of 400%.** For this reason, Model #312 and Model #315 prohibit insurance companies, their agents and others involved in the business of insurance using the company’s RBC results to compare competitors.
15. The principal focus of solvency measurement is the determination of financial condition through an analysis of the financial statements and RBC. However, protection of the policyholders can only be maintained through continued monitoring of the financial condition of the insurance enterprise. Operating performance is another indicator of an enterprise’s ability to maintain itself as a going concern.
16. The CADTF and its RBC working groups are charged with evaluating refinements to the existing NAIC RBC formula and considering improvements and revisions to the various RBC blanks to 1) conform the RBC blanks to changes made in other areas of the NAIC to promote uniformity (when it is determined to be necessary); and 2) oversee the development of additional reporting formats within the existing RBC blanks as needs are identified.
17. The CADTF and its RBC working groups will monitor and evaluate changes to the annual financial statement blanks and the *Purposes and Procedure Manual of the NAIC Investment Analysis Office* to determine if assets or, specifically, investments evaluated by the NAIC Securities Valuation Office are relevant to the RBC formula in determining the threshold capital and surplus for all insurance companies or whether reporting available to the regulator is a more appropriate means to addressing the risk. The CADTF will consider different methods of determining whether a particular risk should be added as a new risk to be studied and selected for a change to the applicable RBC formula, but due consideration will be given to the materiality of the risk to the industry, as well as the very specific purpose of the RBC formulas to develop regulatory threshold capital levels.

E. Limited use of Risk-Based Capital

18. **Use of RBC is limited to identifying potentially weakly capitalized companies to facilitate regulatory action and oversight. Any other application of RBC would be inappropriate to the detriment of policyholders, companies, and investors. While RBC may be used in other components of the regulatory framework, such uses should be in the context of identifying potentially weakly capitalized companies. For example, statutory accounting may leverage RBC in determining the admissibility of certain types of assets, when the benefits of those assets may not be readily available to the policyholders of a troubled company.**
19. **RBC does not provide a complete, clear, or meaningful ranking of insurers. For example, an insurer voluntarily strengthening assumptions used for reserving would generally reduce an insurer's RBC ratio but does not indicate a weaker position than a similarly situated insurer who did not elect to strengthen assumptions used for reserving. Regulators are able to consider a complete picture of the insurer's financial situation to appropriately follow up on RBC action levels. Using RBC beyond its intended purpose could create perverse incentives for companies that are not at risk of triggering an action level.**
20. **RBC requirements for particular risk categories were developed based on specific regulatory guidelines and following agreed upon procedures and methodologies. The RBC requirements were developed with regulatory needs in mind. They were not developed or intended for any other use. As such, except where prescribed, RBC requirements would not be appropriate to rely on in other contexts such as reserve setting or risk management or evaluating the risk of investments. While the development of RBC requirements often rely on historical data points, the data used extends over a substantial period of years and the actuarial modeling extends out over a long time horizon. They do not reflect risk at any one point in time. Moreover, the granularity of an analysis for**

Preamble

RBC purposes likely differs from the granularity appropriate for other applications. Therefore, RBC requirements are not appropriate to evaluate the relative or absolute level of risk outside of the context of a regulatory framework for identifying potentially weakly capitalized companies.

21. Because RBC is a broad tool to facilitate regulatory oversight, an insurer's RBC can fluctuate without indicating a corresponding change in the insurer's financial strength.

**Mariana Gomez-Vock**

Sr. Vice President, Prudential Issues & International

202-624-2313

MarianaGomez-Vock@acli.com

Brian Bayerle

Chief Life Actuary

202-624-2169

BrianBayerle@acli.com

Colin Masterson

Policy Analyst

202-624-2463

ColinMasterson@acli.com

May 30, 2024

Tom Botsko

Chair, NAIC Capital Adequacy (E) Task Force (CADTF)

Re: 2024-16-CA (Provide Edits to the RBC Preamble)

Dear Chair Botsko,

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide feedback on the CADTF exposure of 2024-16-CA which aims to provide edits to the RBC Preamble to clarify that a company's RBC and adjusted reports should not be used to rank insurers.

ACLI supports regulators' ability to maintain RBC as a tool to identify potentially weakly capitalized companies and facilitate regulatory actions that ensure companies make good on their promises to policyholders, and we are committed to working constructively with regulators on this effort. However, regarding the current exposure, we request a delay in proceeding so that stakeholders may properly consider all key issues and potential unintended consequences. Delaying consideration of the RBC Preamble changes would provide industry and regulators with more time to craft appropriate updates that both address concerns around the public usage of RBC and harmonize with other ongoing projects at the NAIC.

The uses of insurance capital have evolved considerably since the original adoption of the NAIC Risk-Based Capital (RBC) For Insurers Model Act (#312, hereafter "Model Act"). For example, the ability of companies to share their RBC ratio in public forums has significantly strengthened public perceptions of the U.S. state-based regulatory system of insurance companies, e.g., during and after the financial crisis of 2008 and 2009. Further, other regulatory regimes have required

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 275 member companies represent 93 percent of industry assets in the United States.

[acli.com](https://www.acli.com)

disclosure of information of company capital positions that highlight the importance of RBC transparency, including:

- GAAP Accounting Standard ASC 944-505-50-1, which states: “Insurance entities shall disclose in their financial statements... (t)he amount of statutory capital and surplus necessary to satisfy regulatory requirements (based on the entity's current operations) if significant in relation to the entity's statutory capital and surplus.” Companies have previously received notices from the SEC stating that reporting within the 10-K “above the minimum required RBC levels” is not a sufficient statement.
- Other foreign jurisdictions (e.g., Japan ESR) require some sort of solvency disclosure and removing the publication of the RBC ratio would make the U.S. one of the few jurisdictions that does not.
- The Employment Liability Insurance Report requests TAC and ACL information.
- Insurance Core Principle (ICP) 20.10 of the International Association of Insurance Supervisors (IAIS) requires that companies disclose “the capital available to cover regulatory capital requirements.”

In addition, this proposed change to the RBC Preamble could lead to a significant lack of transparency into an insurer's financial health for consumers and policyholders. It could complicate validation of RBC-related information for rating agencies, investment analysts, and reinsurance and other arrangements.

While we strongly urge regulators to delay action in order to conduct further analysis, we believe the following edits are, at a minimum, necessary. These edits are included in redlined sections later on in this letter. Additional edits may be necessary as industry and regulators learn more about the ramifications of these changes:

- Paragraph 11: We recommend striking the proposed parenthetical statement which is not part of the language in Model Act, which is otherwise quoted. We would also recommend adding a paragraph regarding striking a balance on considering the needs of other stakeholders including the consumers relying on transparent measures of financial health.
- Paragraph 14: We recommend replacing “neither useful nor appropriate” with “may not be meaningful” as we believe the proposed language calls into question the reliability of RBC, contrary to the interests of both regulators and the industry. Additionally, we recommend removing the example from this paragraph for the same reason.
- Paragraph 18: Recommend changing “limited” to “intended”, and striking the second sentence of this proposed paragraph, and focus on the affirmative use of the RBC data.
- Paragraph 20: Recommend striking the third and fourth sentences of this proposed paragraph and focus on the affirmative use of the RBC data.

One possible way to address regulator concerns around public disclosure of RBC is to have companies include a disclaimer around the intended purpose of RBC data as described in the RBC Preamble. We would be happy to work with regulators on the precise wording of such a disclaimer.

Lastly, we would caution against any changes to the Annual Statement related to this effort, specifically, the Total Adjusted Capital (TAC) and Authorized Control Level (RBC) values in the Five-Year Historical Data sheet of the Annual Statement. The Model Act specifically allows for this disclosure, and we believe retaining these lines is necessary for the above regulatory requirements and to maintain appropriate transparency within the RBC framework. Removal of these lines would likely increase the use of alternate metrics that estimate financial strength which may introduce inconsistencies between entities and inaccuracies due to estimation, neither of which is to the benefit of regulators and stakeholders.

The following is a redline of the proposed edits (as highlighted in yellow in the exposure) that we believe will address our preliminary concerns while providing appropriate clarifications:

Section B 11.

- Comparison of an insurer's TAC to any RBC level is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer and is not intended or appropriate as a means to rank insurers generally. Therefore—except as otherwise required under the provisions of Risk-Based Capital (RBC) for Insurers Model Act (#312) or the Risk-Based Capital (RBC) for Health Organizations Model Act (#315)—the making, publishing, disseminating, circulation or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated or place before the public, in a newspaper, magazine or other publication, or in a form of a notice, or in any other way, an advertisement, announcement or statement (including but not limited to press releases, earnings releases, webcast materials, or any other earnings presentations or webcasts) containing an assertion, representation or statement with regard to the RBC levels of any insurer or of any component derived in the calculation by any insurer is prohibited.

Because the RBC framework has been developed with certain regulatory needs in mind, state regulators have decided keep some elements of the calculation confidential, as well as any workout plans for companies that have triggered a regulatory action level. Publication of limited RBC disclosures in the Annual Statement accommodates the interests of stakeholders that include policyholders, investors, insurers, and other regulatory authorities, and strikes an appropriate balance between confidentiality and transparency.

Section D 14.

- Because the NAIC formula develops threshold levels of capitalization rather than a target level, it may not be meaningful is neither useful nor appropriate to use the RBC formula to compare the RBC ratio developed by one insurance company to the RBC ratio developed by another. Comparisons of amounts that exceed the threshold standards do not provide a reliable assessment of their relative financial strength. For example, a company with an RBC ratio of 600% is not necessarily financially stronger than a company with an RBC ratio of 400%. For this reason, Model #312 and Model #315 prohibit insurance companies, their agents and others involved in the business of insurance using the company's RBC results to compare competitors.

Section E 18.

- Use of RBC is intended limited to identifying potentially weakly capitalized companies to facilitate regulatory action and oversight. Any other application of RBC would be inappropriate to the detriment of policyholders, companies, and investors. While RBC may be used in other components of the regulatory framework, such uses should be in the context of identifying potentially weakly capitalized companies. For example, statutory accounting may leverage RBC in determining the admissibility of certain types of assets, when the benefits of those assets may not be readily available to the policyholders of a troubled company.

Section E 20.

- RBC requirements for particular risk categories were developed based on specific regulatory guidelines and following agreed upon procedures and methodologies. The RBC requirements were developed with regulatory needs in mind. They were not developed or intended for any other use. As such, except where prescribed, RBC requirements would not be appropriate to rely on in other contexts such as reserve setting or risk management.

~~or evaluating the risk of investments.~~ While the development of RBC requirements often rely on historical data points, the data used extends over a substantial period of years and the actuarial modeling extends out over a long time horizon. They do not reflect risk at any one point in time. Moreover, the granularity of an analysis for RBC purposes likely differs from the granularity appropriate for other applications. Therefore, RBC requirements are not appropriate to evaluate the relative or absolute level of risk outside of the context of a regulatory framework for identifying potentially weakly capitalized companies.

Thank you once again for the consideration of our comments and we look forward to further discussion on this matter at a future session of the Capital Adequacy (E) Task Force.

Sincerely,

 Mariana E. Gomez B. Banerjee Colin Masterson

cc: Eva Yeung, NAIC



Colin Masterson

Sr. Policy Analyst

202-624-2463

ColinMasterson@acli.com

May 9, 2025

Mike Yanacheak

Chair, NAIC Capital Adequacy (E) Task Force (CADTF)

Tom Botsko,

Vice Chair, NAIC Capital Adequacy (E) Task Force (CADTF)

Re: Re-Exposure of Proposal 2024-16-CA (Revised Preamble)

Dear Chair Yanacheak and Vice Chair Botsko:

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide additional feedback on Proposal 2024-16-CA which aims to revise the Risk-Based Capital (RBC) Preamble to clarify that a company's RBC and adjusted reports should not be used to rank insurers. This was an item that we previously commented on in May 2024 and we are grateful for the work of regulators and NAIC staff alike in bringing back this issue for further consideration following the 2025 Spring National Meeting in Indianapolis.

ACLI supports regulators' ability to maintain RBC as a tool with which they can identify potentially weakly capitalized companies in order to facilitate regulatory actions designed to ensure that policyholders will receive their promised benefits. This aligns with a goal of our organization that every American have the opportunity to purchase products that provide them guaranteed financial security.

While we appreciate the re-exposure of the proposed Preamble edits from last year, we remain concerned with the language as drafted. In accordance with the structure of the document itself, we offer the following commentary which elaborates on our general position stated above within the context of the included consideration questions:

1. *As it is currently drafted, the proposed edits in Proposal 2024-16-CA do not include any edits to the 5-year Historical Data page in Annual Statement Blanks. Are there any comments/objections adopting the proposed edits to preamble "as is"?*
- While ACLI is supportive of the NAIC's treatment of the 5-year Historical Data page in the Annual Statement Blanks as a separate issue, we do not support adopting the proposal as it is currently written. The edits do not adequately reflect the uses of insurance capital which have evolved considerably since the original adoption of the NAIC RBC For Insurers

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 275 member companies represent 93 percent of industry assets in the United States.

acli.com

Model Act (#312, hereafter “Model Act”). The ability of companies to share their RBC ratio in public forums has also significantly strengthened public perceptions of the U.S. state-based regulatory system of insurance companies, especially during such times as the 2008 Financial Crisis and the COVID-19 pandemic. Further, different regulatory regimes, rating agencies, and other parties have required disclosure of information of company capital positions that highlight the importance of RBC transparency, including:

- GAAP Accounting Standard ASC 944-505-50-1, which states: “Insurance entities shall disclose in their financial statements...(t)he amount of statutory capital and surplus necessary to satisfy regulatory requirements (based on the entity's current operations) if significant in relation to the entity's statutory capital and surplus.”.
- Companies have previously received notices from the SEC stating that reporting within the 10-K “above the minimum required RBC levels” is not a sufficient statement.
- Other foreign jurisdictions (e.g., the Canadian Office of the Superintendent of Financial Institutions, Japan ESR, EU & UK Solvency II, IAIS Insurance Capital Standard (ICS), Swiss Solvency Test, et. al.) require some sort of solvency disclosure and removing the publication of the RBC ratio would make the U.S. one of the few jurisdictions that does not.
- The Employment Liability Insurance Report requests TAC and ACL information.
- The Insurance Core Principle (ICP) 20.10 of the International Association of Insurance Supervisors (IAIS) requires that companies publicly disclose the capital available to cover regulatory capital requirements.
- The Moody’s Rating Agency’s RBC roll forward with their variable annuity and captive survey requests where TAC, CAL and RBC % are shown.
- We also continue to urge the NAIC to adopt the edits suggested in our May 30, 2024 letter (please see Appendix I). Specifically, these were edits to Preamble Sections B.11., D.14., E.18., and E.20.

2. *Please provide examples of ways how risk-based capital ratios are used other than the intended purposes of identifying potentially weakly capitalized companies:*

- While it was not feasible during this exposure period to gather information on the life insurance industry’s uses of RBC ratios, ACLI would like to offer further dialogue with our members to regulators and NAIC staff for their consideration. Given the diversity of our companies in terms of size, product mix, and ownership structure, there could be many different uses of risk-based capital data that are not in conflict with the Model Act or with the description of RBC in the current version of the Preamble. We believe that specific and substantive examples of how life companies use RBC information could be incredibly helpful for all parties involved as we attempt to clarify and strengthen the RBC Preamble and ACLI would be more than willing to be the forum where such information is aggregated.

Though we understand regulators’ position that a company’s RBC and adjusted reports should not be used to rank insurers generally, for all of the reasons stated above, we suggest not adopting the Preamble changes as written and instead suggest the alternatives outlined in our previous comment letter which was included as a part of the current exposure.

If the public disclosure of RBC is a primary concern of regulators, ACLI would also like to reaffirm our willingness to work with the Task Force on drafting a potential disclaimer around the intended purpose of RBC data, as described in the RBC Preamble, for companies to include when they are providing the information in any of the ways described above and elsewhere.

Thank you once again for considering our feedback and we look forward to additional conversation soon at a session of the Capital Adequacy (E) Task Force.

Sincerely,

Colin Masterson

cc: Eva Yeung, NAIC

Appendix 1:

The following is a redline of the proposed edits (as highlighted in yellow in the exposure) that we believe will address our preliminary concerns while providing appropriate clarifications:

Section B 11.

- Comparison of an insurer's TAC to any RBC level is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer and is not intended or appropriate as a means to rank insurers generally. Therefore—except as otherwise required under the provisions of Risk-Based Capital (RBC) for Insurers Model Act (#312) or the Risk-Based Capital (RBC) for Health Organizations Model Act (#315)—the making, publishing, disseminating, circulation or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated or place before the public, in a newspaper, magazine or other publication, or in a form of a notice, or in any other way, an advertisement, announcement or statement (including but not limited to press releases, earnings releases, webcast materials, or any other earnings presentations or webcasts) containing an assertion, representation or statement with regard to the RBC levels of any insurer or of any component derived in the calculation by any insurer is prohibited.

Because the RBC framework has been developed with certain regulatory needs in mind, state regulators have decided keep some elements of the calculation confidential, as well as any workout plans for companies that have triggered a regulatory action level. Publication of limited RBC disclosures in the Annual Statement accommodates the interests of stakeholders that include policyholders, investors, insurers, and other regulatory authorities, and strikes an appropriate balance between confidentiality and transparency.

Section D 14.

- Because the NAIC formula develops threshold levels of capitalization rather than a target level, it may not be meaningful is neither useful nor appropriate to use the RBC formula to compare the RBC ratio developed by one insurance company to the RBC ratio developed by another. Comparisons of amounts that exceed the threshold standards do not provide a reliable assessment of their relative financial strength. For example, a company with an RBC ratio of 600% is not necessarily financially stronger than a company with an RBC ratio of 400%. For this reason, Model #312 and Model #315 prohibit insurance companies, their agents and others involved in the business of insurance using the company's RBC results to compare competitors.

Section E 18.

- Use of RBC is intended limited to identifying potentially weakly capitalized companies to facilitate regulatory action and oversight. Any other application of RBC would be inappropriate to the detriment of policyholders, companies, and investors. While RBC may be used in other components of the regulatory framework, such uses should be in the context of identifying potentially weakly capitalized companies. For example, statutory accounting may leverage RBC in determining the admissibility of certain types of assets, when the benefits of those assets may not be readily available to the policyholders of a troubled company.

Section E 20.

- RBC requirements for particular risk categories were developed based on specific regulatory guidelines and following agreed upon procedures and methodologies. The RBC requirements were developed with regulatory needs in mind. They were not developed or intended for any other use. As such, except where prescribed, RBC requirements would

~~not be appropriate to rely on in other contexts such as reserve setting or risk management or evaluating the risk of investments.~~ While the development of RBC requirements often rely on historical data points, the data used extends over a substantial period of years and the actuarial modeling extends out over a long time horizon. They do not reflect risk at any one point in time. Moreover, the granularity of an analysis for RBC purposes likely differs from the granularity appropriate for other applications. Therefore, RBC requirements are not appropriate to evaluate the relative or absolute level of risk outside of the context of a regulatory framework for identifying potentially weakly capitalized companies.



May 30, 2024

Judith L. French (Ohio)
Chair, NAIC Capital Adequacy (E) Task Force (CADTF)

Doug Ommen (Iowa)
Vice Chair, NAIC Capital Adequacy (E) Task Force (CADTF)

Dear Ms. French and Mr. Ommen,

Aegon Ltd. ("Aegon") and the Transamerica Companies ("Transamerica") welcome the opportunity to comment on the CADTF exposure of 2024-16-CA. Transamerica represents the U.S. insurance operations of Aegon, whose shares are traded on the New York and Euronext (Amsterdam) stock exchanges.

We understand the proposed preamble changes to be a precursor to the removal of RBC information from the public statutory annual statement. We believe that the ramifications of such removal would be significant, and we urge the Task Force to defer action on this proposal so that these ramifications can be carefully considered.

As a public company, it is important for our investors to have accurate information about Aegon's ability to return invested capital. Transamerica's RBC constrains its generation of free capital, and Transamerica has historically generated a significant percentage of Aegon's free capital. Eliminating RBC transparency would introduce uncertainty among investors, making Aegon's shares less attractive for investment.

We also fear unintended consequences for the state-based system of regulation. Making RBC confidential would make state regulation an outlier and in contravention of international standards. Moreover, proposed preamble language that frames RBC as unreliable for well-capitalized companies may be perceived as calling into question its efficacy for purposes of regulatory action against weakly capitalized companies.

In searching the *Proceedings of the NAIC*, we found no evidence that state regulators ever intended for public RBC reporting to be temporary. We do not believe that a decision to reverse a three-decade-old policy decision should be taken lightly. We urge regulators to take additional time to consider the full ramifications of this proposal.

Thank you for considering our feedback. We look forward to further discussions at a future meeting of the Capital Adequacy Task Force.

Sincerely,

A handwritten signature in black ink, reading "William J. Schwegler".

William J. (Bill) Schwegler
Transamerica
Senior Director, Financial Policy
6400 C Street SW
Cedar Rapids, IA 52499
Ph: 319-355-2667
bill.schwegler@transamerica.com

cc: Kim Cross, Iowa Insurance Division
Mike Yanacheak, Iowa Insurance Division



May 31, 2024

Tom Botsko
Chair, Capital Adequacy (E) Task Force
National Association of Insurance Commissioners

Re: Risk-Based Capital Preamble Exposure

Dear Chair Botsko,

On behalf of the Prudential Regulation Committee (the committee) of the American Academy of Actuaries,¹ I appreciate the opportunity to provide input to the Capital Adequacy Task Force (CADTF) on the exposed revisions to the [Risk-Based Capital Preamble, 2024-16-CA](#). The Academy's mission is to serve the public and the U.S. actuarial profession. As part of that mission, the Academy has historically closely collaborated with the NAIC and state regulators in updating components of the NAIC's risk-based capital (RBC) framework to maintain it as an appropriate solvency monitoring tool. The committee has the following comments regarding the Exposure.

The Importance of RBC Transparency

We believe that maintaining public disclosure of the RBC level of individual insurance companies is beneficial to policyholders, consumers, and other external stakeholders. While recent discussion at the CADTF and the paragraphs added to the Preamble may point to the potential removal of RBC disclosures, we emphasize that a transparent basis of evaluating insurance company solvency is essential for an insurance regulatory regime. For example, maintaining public disclosure of available and required capital is aligned with the globally accepted framework for insurance supervision, as outlined in International Association of Insurance Supervisors (IAIS) [Insurance Core Principle \(ICP\) 20.10](#). Disallowing such disclosures of the NAIC's risk-based capital may imply a distancing from these principles for a sound supervisory regime.

We believe that RBC has served its purpose well in that it has assisted regulators in identifying weakly capitalized companies. It has also provided a general and consistent way for other stakeholders to obtain a high-level understanding of a company's solvency position, which promotes public confidence. Removal of this important information may lead to the development of alternative metrics of solvency risk assessment and public reliance on those metrics, which would be detrimental to the public given the effectiveness of RBC.

The Uses of RBC Information

We appreciate the edits in the Exposure regarding certain misuses of RBC such as use for ranking individual companies or for detailed comparisons. While we recognize that there are instances in which

¹ The American Academy of Actuaries is a 20,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

public data can be used for purposes that are not appropriate, if the data is valuable for its appropriate purposes eliminating it from the public domain may not be the best approach to solving the problem.

We also note that the Exposure may emphasize some of the misuses of RBC without fully highlighting the benefits that RBC has provided to companies, regulators, policyholders, and the industry in general for many years. The proposed changes to paragraphs 11 and 14 and the new section E may be interpreted by some readers as critical of RBC generally. While we understand the purpose of these paragraphs in terms of outlining RBC's limitations, they may call into question the perceived validity and reliability of RBC when it has worked well for its purpose for many years. Therefore, we suggest the CADTF also consider potential revisions that reinforce the significant value that RBC has provided to date.

We agree with the additions made in section E about RBC being developed and calibrated for its primary use, the identification of potentially weakly capitalized companies. However, we disagree that any other use of RBC is inappropriate, including the use of RBC information outside of specific RBC action levels. For example, excess capital above the defined Authorized Control Level RBC provides useful information for company management and is regularly used by those focused on financial management and solvency risk, including actuaries. Part of sound risk management involves an assessment of Statutory-required and available capital levels in baseline and stressed conditions which can inform risk-based decision making. In addition, for some companies, RBC can be effective in capturing their risks, and these companies may reasonably use RBC as their primary capital management tool. We believe that the language in the exposure could better reflect these important company uses of RBC.

We also observe that RBC is utilized for other regulatory review tools such as ORSA and GCC, so the added language in Section E appears inconsistent with this practice of using RBC for broader purposes. For GCC specifically, the NAIC's recent adoption of the excess relative ratio scaling approach indicates that capital levels above minimum requirements remain relevant, in this case, for understanding group solvency. As such, we believe the sole emphasis on identifying potentially weakly capitalized companies may not be appropriate and recommend tempering the language in Section E.

If you have any questions or would like to discuss further, please contact Will Behnke, the Academy's Risk Management and Financial Reporting policy analyst, at behnke@actuary.org.

Sincerely,

Tricia Matson, MAAA, FSA
Chairperson, Prudential Regulation Committee
American Academy of Actuaries

PETER GOULD

May 5, 2025

Capital Adequacy (E) Task Force
NAIC

Re: Risk Based Capital Proposal 2024-16-CA

https://content.naic.org/sites/default/files/inline-files/2024-16-CA_0.pdf

Dear Members of the CATF:

I am a retiree and annuity contract owner. I depend on annuities for a considerable portion of my retirement income. I purchased annuities as a source of retirement income I would not outlive - not as speculative investments.

As an annuity owner, the insurer's obligations to me are spelled out in my contracts. However, there are no provisions in my contracts that protect me or provide me with rights to prevent my insurer from becoming insolvent or unable to meet their contractual obligations to me. As a result, consumers like me, as well as the insurance professionals who serve them, who ignore the financial stability and claims-paying ability of an insurer do so to their own detriment.

As an annuity owner with skin in the game, I'm uniquely qualified to share my strong opposition to the above-referenced proposal. I'm astounded that a regulator, charged with protecting consumers, would even think of suppressing RBC information.

After carefully studying the proposal and initial comment letters, it's clear to me that:

1. The change in the preamble is a thinly veiled attempt to remove RBC data from publicly available annual statutory statements. This would deprive stakeholders (including consumers, policy owners, investors, insurance professionals, researchers, journalists, academics and others) of information that is vital to the selection and monitoring of insurers.
2. Stakeholders have had access to this information for 30+ years. The information is useful for a variety of reasons - helping regulators identify weakly capitalized companies, providing stakeholders a general and consistent way to evaluate an insurer's condition. There's no compelling (or minor) reason to change the current policy and hide the information from stakeholders.
3. Transparency is important in the regulation of insurers and evaluation of their solvency. This is made clear in the International Association of Insurance Supervisors (IAIS) Insurance Core Principle (ICP) 20.10. In a similar manner, transparency is required under GAAP Accounting Standard ASC 944-505-50-1, for reporting on a company's 10-K. The proposal would be a glaring deviation from both US GAAP accounting requirements and from international regulatory best practices - to the detriment of all stakeholders.

Capital Adequacy (E) Task Force
May 5, 2025
Page 2

Rather than work against stakeholders, CATF's energy should be directed toward improved consumer protection and greater transparency. To that end, I propose the following:

1. Reject proposal 2024-16-CA
2. Improve transparency by adding the statutory statement RBC information to the NAIC website as part of the Consumer Information Search Financial Overview Report, so that it's easily searchable and accessible to all stakeholders.

In closing, the rationale for the proposal is severely flawed - it's just an attempt to mask the real problem - the toxic mixture of non-existent guardrails and weak enforcement, that would allow a company's RBC to go from 600 to negative 20,000 in one year (A-Cap). If the objective is to bury and ignore the problem, simply drop all references to RBC in the Model Code and eliminate the Capital Adequacy (E) Task Force.

Thank you for your consideration of my comments and for the work that you do to protect consumers.

Yours truly,

Peter Gould

Peter Gould



May 8, 2025

Mike Yanacheak
Chair, Capital Adequacy (E) Task Force
National Association of Insurance Commissioners

Re: [Proposal 2024-16-CA](#) (Revised Preamble)

Dear Chair Yanacheak,

On behalf of the Risk Management and Financial Reporting Practice Council's Prudential Regulation Committee (the Committee) of the American Academy of Actuaries,¹ I appreciate the opportunity to provide input to the Capital Adequacy Task Force (CADTF) on the re-exposed revisions to the Risk-Based Capital Preamble, 2024-16-CA (the Re-exposure). The Academy's mission is to serve the public and the U.S. actuarial profession. As part of that mission, the Academy has historically closely collaborated with the NAIC and state regulators in updating components of the NAIC's risk-based capital (RBC) framework to maintain it as an appropriate solvency monitoring tool. The Committee provided comments on the initial 2024-16-CA exposure in 2024, and this letter reiterates those comments and responds to the additional questions in the Re-exposure.

The Use of RBC Information

The Committee appreciates the edits in the Re-exposure regarding certain misuses of RBC, such as use for ranking individual companies or for detailed comparisons. While we recognize that there are instances in which public data can be used for purposes that are not appropriate, the edits to the Preamble, in our view, go too far in critiquing nonregulator use of publicly available RBC information and in critiquing any use beyond identifying potentially weakly capitalized companies.

We understand and agree with the additions made in section E about RBC being developed and calibrated for its primary use. However, we disagree with the implication that any nonregulator use of RBC is inappropriate, including the use of RBC information outside of specific RBC action levels. For example, excess capital above the defined Authorized Control Level RBC provides useful information for company management and is regularly used by those focused on financial management and solvency risk, including actuaries. Part of sound risk management involves an assessment of statutory-required and available capital levels in baseline and stressed conditions which can inform risk-based decision making. In addition, some companies can reasonably use RBC as their primary capital management tool to the extent that they have performed an analysis and determined that it effectively captures their solvency risks. Finally, the public at large may also benefit from understanding to what extent a given company's capitalization exceeds a regulatory action level.

¹ The American Academy of Actuaries is a 20,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For 60 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

We also observe that RBC is utilized within other regulatory review tools such as Own Risk Solvency Assessment (ORSA) and Group Capital Calculation (GCC), and the added language in Section E appears inconsistent with this practice of regulators using RBC for broader purposes. For GCC specifically, the excess relative ratio scaling approach adopted by the NAIC indicates that capital levels above minimum requirements are relevant for understanding group solvency. As such, we believe the emphasis on RBC as solely identifying potentially weakly capitalized companies is too narrow, and we recommend tempering the language in Section E.

Question 2 of the Re-exposure requests examples of how RBC ratios are used beyond their primary purpose for regulators to identify potentially weakly capitalized companies. As noted earlier, companies use RBC ratios in baseline and stressed conditions to inform risk-based decision making, and some companies use RBC as their primary capital management tool. From our perspective, these examples are reasonable uses of RBC information, and the edits to the preamble could be interpreted to dissuade such uses.

The Benefits of RBC

We also observe that the proposed edits emphasize some of the misuses of RBC without fully highlighting the benefits that RBC has provided to companies, regulators, policyholders, and the industry in general. The proposed changes to paragraphs 11 and 14 and the new Section E may be interpreted by some readers as critical of RBC generally. While we understand the purpose of these paragraphs in terms of outlining RBC's limitations, they may call into question the perceived validity and reliability of RBC when it has worked well for its purpose for many years.

Question 1 of the Re-exposure asks whether there are any objections to adopting the proposed edits as-is. In addition to acknowledging the other valid uses of RBC noted earlier, we suggest the CADTF include in Section E (paragraphs 18-21) a presentation that identifies the value that RBC has provided to date alongside critiques that have been raised regarding other uses of RBC. For example, the overarching statements in paragraphs 18 (e.g., "Any other application of RBC would be inappropriate...") and 20 (e.g., "RBC requirements are not appropriate to evaluate the relative or absolute level of risk...") could be replaced by statements that better communicate and/or balance the strength of the RBC framework to external stakeholders.

The Importance of Public RBC Disclosures

While we understand that the Re-exposure does not include edits to the 5-year Historical Data page in the Annual Statement Blanks, the past discussion at the CADTF and the proposed edits to the Preamble could be interpreted to advocate for the potential removal of public RBC disclosures. We emphasize that a transparent basis of evaluating insurance company solvency is essential for an insurance regulatory regime. RBC, in addition to assisting regulators in identifying weakly capitalized companies, has also provided a general and consistent way for other stakeholders to obtain a high-level understanding of a company's solvency position, which promotes public confidence in the insurance system in the United States. In effect, we believe the public disclosure of the RBC level of individual insurance companies has been beneficial to policyholders, consumers, and other external stakeholders.

If you have any questions or would like to discuss further, please contact Will Behnke, the Academy's Risk Management and Financial Reporting policy project manager, at behnke@actuary.org.

Sincerely,

Dana Hunt MAAA, FSA

Chairperson, Prudential Regulation Committee

American Academy of Actuaries

Center for Insurance Research

145 South Main Street. • Haverhill, MA 01835

May 9, 2025

Capital Adequacy Task Force
Commissioner Doug Ommen, Chair
Director Judith L. French, Vice Chair
Eva Yeung, NAIC Staff
NAIC Central Office
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

RE: Comments on Exposure Proposal 2024-16-CA (Revised Preamble)

Dear Members of the Task Force:

I am writing to offer my comments on the re-exposed draft of 2024-16-CA (Revised Preamble) (dated April 24, 2024). I am one of the members of the NAIC consumer liaison program and the Director of the Center for Insurance Research. I also serve on the Consumer Advisory Committee of the Interstate Insurance Product Regulation Commission. The Center for Insurance Research (CIR) is a nonprofit, 501(c)(3) public policy and advocacy organization founded in 1991 that represents consumers on insurance matters nationally.

I am writing to express my opposition to the Revised Preamble draft to the extent it criticizes the public disclosure of Total Adjusted Capital and the Authorized Control Level in the Five Year Historical page of the Annual Statement Blank. I believe it is vital to maintain public access to these data elements¹ to consumers and consumer intermediaries (such as CIR and academics who research insurance topics) because: 1) RBC disclosures are an important tool for groups like mine, who use these elements for their intended purposes; 2) transparency of the summary RBC results is necessary to meet the objectives of state insurance regulators, the NAIC and consumer intermediaries in maintaining a strong, state-based system of financial oversight; and 3) access

¹ My comments pertain specifically to the summary ACL and TAC data elements as they appear in the current Annual Statement Blanks. The calculation of these numbers involves confidential, non-public information and CIR does not oppose the confidentiality of formula inputs as necessary to protect trade secrets and regulatory decision-making.

to summary RBC result data is already established in existing state laws and regulations across the country and the contemplated revisions would create gaps and/or conflicts with existing statutory law and complicate the freedom of information obligations of state insurance departments.

As a preliminary matter, I wish to express my agreement with the comments of the industry interested parties:

- *TransAmerica/Aegon* – CIR agrees wholeheartedly that it “is important for investors to have accurate information” and that “Making RBC confidential would make state regulation an outlier and in contravention of international standards.”
- *American Academy of Actuaries* – CIR fully endorses the Academy’s statement that “maintaining public disclosure of the RBC level of individual insurance companies is beneficial to policyholders, consumers, and other external stakeholders” and that “a transparent basis of evaluating insurance company solvency is essential for an insurance regulatory regime” in accordance with global insurance supervision standards. CIR also agrees that the Exposure does not full highlight “the benefits that RBC has provided to companies, regulators, policyholders, and the industry in general for many years.”
- *American Council of Life Insurers* – CIR concurs the “ability of companies to share their RBC ratio in public forums” strengthens public perceptions of the U.S. state-based insurance regulation system. ACLI is also correct in noting that numerous regulatory and statutory standards² require that RBC data be disclosed, such as GAAP rules, foreign jurisdiction requirements for multi-national companies, and IAIS standards. CIR further agrees that removing the RBC data elements could “lead to a significant lack of transparency into an insurer’s financial health for

² As the ACLI notes, disclosure is expressly contemplated by the NAIC Model Act – which has been enacted as statutory law in many jurisdictions and removing the disclosure from Annual Statements could lead to serious conflict of laws issues and result in public records law violations for insurance departments as discussed further below.

consumers and policyholders.” Furthermore, ACLI is correct in noting that removing the reported data elements would just result in the use of alternate metrics – ones that are not subject to the design and oversight of state insurance regulators – which would not be available to consumers, consumer intermediaries and academics due to prohibitive costs.³

1) RBC disclosures are an important tool for consumers and consumer intermediaries.

While concern about the potential mis-use of RBC data elements is understandable, it does not justify concealing summary RBC data elements from members of the public. As acknowledged in the Exposure itself, there are already existing prohibitions on the mis-use of reported RBC data elements contained in the NAIC Model Risk-Based Capital Acts (Model Acts no. 312 and 315) that expressly prohibit “the making, publishing, disseminating, circulation or placing before the public, ... an advertisement, announcement or statement ... containing an assertion, representation or statement with regard to the RBC levels of any insurer or of any component.” These prohibitions have been enacted as statutory law in jurisdictions across the country, so current state laws expressly allow for the disclosure of certain RBC data elements and provide regulators with the authority to curb abuse.

CIR has never used the RBC data elements reported in statutory annual statements to “rank” insurers or to develop financial strength comparisons for use by consumers. Nor is CIR aware of any other consumer group that has used RBC data elements for these purposes.

³ For example, the A.M. Best Company calculates its own financial solvency score (as do other rating agencies) called BCAR. Based on our review, BCAR seems to produce similar results as the RBC calculation, but is instead a proprietary method owned by a private company that charges tens of thousands of dollars for access to its data. While an expense of that magnitude may be acceptable to corporations (though ultimately paid by policyholder premiums), it is beyond the means of individual consumers, academics and consumer groups. Thus, removing RBC summary results from the annual statement blank will prevent transparency to policyholders and consumers who lack the resources to pay exorbitant sums to private data providers.

I can state that RBC data elements – and particularly those reported on the 5 Year Historical Page – have been vital in reviewing proposed corporate transactions such as mutual to stock conversions, mergers and acquisitions that impact insurance policyholders. CIR has acquired a certain level of expertise in evaluating corporate reorganizations and how they might impact insurance policyholders through our work on demutualizations and other transactions. As such, we are often consulted by other non-profits across the country about reviewing proposed reorganizations including mergers, MHC reorganizations, mutual to stock conversions, and the acquisition and/or conversion of non-profit health plans (like Blue Cross and Blue Shield plans). Typically, in seeking policyholder approval (and/or customer disclosures distributed to explain the nature of the transaction), a reorganizing company will provide numerous rationales for proposed changes in their corporate or financial structure. Often this includes statements regarding the need for additional capital or financial flexibility because of potential market pressures on current capital resources. In order for policyholders to fairly evaluate these potential benefits (just as investors are entitled to financial transparency as noted by the industry commentators), they must be able review the basic financial data – and the Five Year Historical page of the Annual Statement and the existing RBC disclosures in particular are a valuable resource. By consulting the Five Year Historical exhibit, consumers and consumer intermediaries like myself can get a five year snapshot of the finances of a company. The RBC elements are not being used to compare one company to another, or rank different companies, but instead to monitor and review the trends of a single company which the consumer does business with. If the Five Year Historical exhibit shows a trend in the RBC calculations, it informs consumers that capital flexibility might in fact be an important issue in support of a corporate transaction – but if it does not then policyholders can learn that it is a potential benefit of a transaction, but not the most immediately impactful aspect of a reorganization. This is clearly an appropriate use of summary RBC data elements. Consumers should not be left in the dark about the finances of companies that they rely upon to protect their property and loved ones, particularly in light of the fact that an insurance contract can be a decades long commitment between a policyholder and their insurance carrier.

2) Transparency of RBC results is necessary to maintain a strong, state-based system of financial oversight as acknowledged by the NAIC.

The NAIC and state regulators have made RBC the centerpiece of the modern state-based financial regulation system. RBC is a crucial component of the Group Capital Calculation (GCC) developed by insurance regulators to provide a state-focused method of solvency regulation comparable to solvency regulation systems in other jurisdictions – particularly the the IAIS. This permits industry to operate world-wide without becoming subject to duplicative and unnecessary levels of financial regulation. With the RBC being so vital to the state-based financial solvency system, it is inappropriate (especially in the modern data age) to withhold summary RBC results from the public.

The importance of demonstrating and explaining the RBC system to the public to build confidence in the state based financial regulation system has been recently acknowledged by the NAIC. In February, the Executive Committee created a new task force directly under EX to further enhance and develop the RBC system – the Risk-Based Capital Model Governance (EX) Task Force. On February 9, 2025, the RBC Capital Model Governance Task Force released a memorandum detailing its duties which noted (in relevant part):

- “... as the insurance market has become more global and large insurers have become internationally active, there has been an increase in the need for global insurance supervisors to understand differences across regulatory jurisdictions to effectively supervise these groups. Through these collaborative efforts, U.S. regulators and NAIC staff continue to engage with international stakeholders in efforts to improve understanding and knowledge of the U.S. state-based regulatory system, including the role of RBC. In short, this initiative will not only serve as an opportunity for an update to RBC governance; it is also an opportunity to define and communicate the strengths of the RBC framework to a global audience.”
- “Oversee the development of an education and public messaging campaign to highlight the benefits and strengths of the RBC framework as an important part of the U.S. state-based insurance regulatory system.”

See NAIC Memorandum Re: Risk-Based Capital Model Governance (EX) Task Force (February 9, 2025) (<https://content.naic.org/sites/default/files/inline-files/2025%20Task%20Force%20Memo.pdf>) (emphasis added). This public messaging and education about RBC and the state-based insurance regulation system was also acknowledged in a press release issued by the NAIC and newly formed Task Force later in February about the charges of the Task Force:

- The Task Force will “design a communication campaign highlighting the RBC formulas’ strengths in the U.S. state-based system of financial regulation and solvency oversight.”
- Wisconsin Insurance Commissioner Nathan Houdek was quoted: “The new RBC Task Force will not only serve as an opportunity for state regulators to enhance RBC; it is also an opportunity to reinforce the global competitiveness of the U.S. RBC framework as we educate international stakeholders on these guidance updates.”
- “Oversee the development of an education and public messaging campaign to highlight the benefits and strengths of the RBC framework as an important part of the U.S. state-based insurance regulatory system.”

See NAIC Executive Committee Launches Risk Based Capital Task Force to Improve Governance NAIC News Release (Feb. 20, 2025) (<https://content.naic.org/article/naic-executive-committee-launches-risk-based-capital-task-force-improve-governance>) (emphasis added).

Given the importance of the RBC to determination of the GCC and its importance in establishing the ability of the state-based regulatory system to be accepted internationally (so that U.S. based insurers can operate world-wide), and the fact that the Executive Committee of the NAIC has recently formed a new task force expressly charged with developing a public messaging and education system around the use of RBC as the cornerstone of the U.S. state-based financial regulation system, it would be counter-productive for the Capital Adequacy Task Force to recommend removing summary RBC data elements from the annual statement blanks.

If the Task Force has not done so already, any decision on this matter should be delayed pending a potential referral to the new RBC Capital Model Governance (EX) Task Force to ensure such a change would not be undermining

the work of the newly formed Capital Model Governance Task Force. If the Executive Committee has determined that public messaging and education about the RBC system are necessary for the continuation of the state-based regulatory system, then this Task Force should not be removing RBC information from the public purview.

3) Removing summary RBC data element disclosures is contrary to existing state statutes and could create gaps and/or conflicts that could create unnecessary FOIA compliance work and potential FOIA liability for insurance departments.

As ACLI has noted, the NAIC Model Acts governing RBC (which have been enacted as statutes in accredited states) expressly contemplate public disclosure of summary RBC data elements and rather prohibit misuse of RBC numbers to promote insurers or other communications. This is the law of the land in virtually every jurisdiction, and removing RBC data elements from the annual statement blanks will not alter the laws of each individual state (nor could it), but rather only make it more difficult for insurance departments to comply with open records laws in their states.

In the current environment, a consumer or consumer intermediary need only consult an annual statement to find the summary RBC data elements, many of which are easily accessible through company or department websites without the need to engage in the time-consuming process of submitting a FOIA and spending department resources in responding to information requests. However, if the summary RBC data elements are stripped from the annual statement, organizations like mine will be forced to submit more frequent FOIA requests to departments. Altering the Preamble also creates the specter of a conflict of laws. If the Preamble suggests that summary RBC data elements are non-public, but state law provides they are appropriate for public disclosure (so long as they are not mis-used), then insurance department staff may be placed in the difficult position of choosing which to comply with. And violation of public information laws can have serious consequences for state agencies. Public records laws in many jurisdictions convey strict fines and penalties for non-compliant agencies. There is no need to create this sort of confusion or exposure risk for state insurance departments when it is established law that there are valid uses of summary RBC data elements and when it would undermine the stated goals of the Executive Committee to make the RBC system understood and accepted in the global marketplace.

Capital Adequacy Task Force
May 9, 2025
Page 8

For foregoing reasons, I recommend this Task Force reject the proposed revisions to the Preamble that suggest or imply the summary RBC data elements are non-public and should be removed from the annual statement blanks.

Thank you for the consideration of these comments.

Sincerely,

/s/

Brendan Bridgeland
Director
insuranceresearch@comcast.net



601 Pennsylvania Avenue, NW
South Building, Suite 500
Washington, D.C. 20004

T 202.778.3200
F 202.331.7487
ahip.org

October 15, 2025

Judith French, Co-Chair, Risk-Based Capital Model Governance (EX) Task Force
Nathan Houdek, Co-Chair, Risk-Based Capital Model Governance (EX) Task Force
Mike Yanacheak, Chair, Capital Adequacy (E) Task Force
Health Risk-Based Capital (E) Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Via Email: Dan Daveline at ddaveline@naic.org and Eva Yeung at eyeung@naic.org

Re: Comments on the Previously Exposed NAIC 'Risk-Based Capital Preamble'

Dear Director French, Commissioner Houdek and Mr. Yanacheak:

On behalf of AHIP, we appreciate the opportunity to provide comments on the above referenced NAIC exposure.

AHIP is very appreciative of the work done to date on the drafting of edits to the existing NAIC Risk-Based Capital (RBC) Preamble. AHIP understands the concerns raised about a public exposure of RBC measures. We agree it is important to focus on RBC disclosure restrictions related to sales and marketing materials and RBC comparisons; however, we believe that disclosure of RBC in earnings presentations and materials, or similar uses, should be allowed so long as this is not being used for marketing or comparison purposes.

Thank you for the opportunity to provide these comments to this NAIC exposure. We look forward to continuing to engage in this important discussion.

Sincerely,

Miranda Motter
AHIP Senior Vice President, State Affairs and Policy
MMotter@AHIP.org
202-923-7346

cc: LaCosta Wix, AHIP Senior Regulatory Counsel
Raymond Nelson, AHIP Consultant

Mariana Gomez-Vock

Sr. Vice President, Prudential Policy & International

MarianaGomez-Vock@accli.com

Colin Masterson

Sr. Policy Analyst

ColinMasterson@accli.com

October 20, 2025

Director Judith L. French, *Co-Chair, NAIC Model Governance (EX) Task Force (MoGo)*

Commissioner Nathan Houdek, *Co-Chair, NAIC Model Governance (EX) Task Force (MoGo)*

Mr. Mike Yanacheak, *Chair, NAIC Capital Adequacy (E) Task Force (CADTF)*

Re: Proposed Edits to the Risk-Based Capital (RBC) Preamble

Dear Chairs French, Houdek, and Yanacheak:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit comments regarding RBC proposal form 2024-16-CA which would limit insurers' ability to discuss important RBC-related information in public forums, emphasize RBC's perceived limitations, and reduce transparency around companies' capital positions. This issue is deeply concerning to our members.

While we agree that a company's RBC ratio alone should not be used to rank insurers' financial strength generally, the Preamble should continue to re-affirm the appropriate disclosure and discussion of information that is already publicly disclosed in annual statements. ACLI has proposed preamble changes (as shown in the *Appendix* below) to better reflect the important and appropriate role RBC plays in the U.S. solvency system. We encourage CADTF to adopt ACLI's amendments.

We have strong concerns about the exposed Preamble language because it will decrease transparency around the industry's capital levels and cast doubt on reasonable uses of RBC and we urge the NAIC not to adopt the exposed amendments. ACLI concerns with the proposed preamble are outlined below:

- Reducing transparency around RBC and financial regulation contradicts the NAIC's broader goal of promoting the strength of the state-based regulatory framework internationally. Affirming the **benefits** of Annual Statement RBC disclosures in the Preamble would better align with global solvency standards.
- Moving toward RBC obscurity and opacity is unnecessary and unwarranted, when the industry, regulatory community, and other stakeholders have benefited from and become accustomed to public disclosure of RBC over the past 30 years. Restricting public discussion of RBC-related information already disclosed in Annual Statements may erode stakeholder trust and hinder informed engagement.
- Impeding disclosures required by other regulatory or standard-setting bodies (Federal Reserve, Securities and Exchange Commission, Financial Accounting Standards Board, etc.) could create compliance challenges and reduce regulatory alignment. The proposed Preamble amendments would create tension with what the companies are **required** to publicly disclose in the Annual Statement, 10-K, 10-Q and GAAP financials, and what they are permitted to **discuss**.
- Limiting RBC's role to identifying potentially weakly capitalized companies disregards other regulatory uses of RBC, including in the Group Capital Calculation and Aggregation Method, where

the use of Excess Relative Ratio scalars indicates that capital levels above the minimum action levels are relevant for understanding group solvency.

- Limiting the use of RBC solely to identify weakly capitalized insurers disregards the appropriate ways that companies use RBC levels outside of RBC action levels and provides an inappropriate critique of valid, non-regulator uses of RBC.
- Addressing concerns around potential misuse of RBC ratios to rank order insurers can be done in a more targeted way that does not decrease the transparency of company's capital positions or limit companies' ability to discuss publicly available data in earnings releases.

RBC is a vital component of the larger policyholder protection framework, which benefits from public disclosure, transparency and understanding.

ACLI agrees that RBC is a critical tool to help regulators identify potentially weakly capitalized companies and take action, when necessary, to ensure that policyholders will receive their promised benefits. However, RBC has evolved over the years to provide an increasing amount of precision about the underlying risks. For example, regulators have increased the granularity of C-1 bond factor changes from six categories to twenty potential categories and designations.

Beyond the specific components of the framework, the uses of RBC have changed as well. RBC is no longer solely used to "identify weakly capitalized companies." It is now part of a complex solvency assessment and regulatory framework that includes other tools like the Own Risk Solvency Assessment and Liquidity Stress Testing that support efforts to assess capital adequacy and risk management. RBC also serves as the foundation for an enterprise view of capital in the Group Capital Calculation and Aggregation Method (AM), the latter of which serves as the U.S. implementation of the global Insurance Capital Standard (ICS). RBC ratios have also become a vital resource for a broader set of stakeholders than state insurance regulators which, has been foundational to growth, competitiveness, and stability of the U.S. insurance market. ACLI urges the NAIC to focus on messages that promote the strength of the RBC system, rather than emphasize its perceived limitations.

The Preamble should reflect how appropriate uses of RBC information furthers the shared goals of prudential transparency, regulatory effectiveness, and consumer protection.

While staying within the bounds of the RBC Model Act, insurers should be permitted to explain RBC ratios, the basic components of which are publicly available for most companies. Stakeholders have a legitimate interest in knowing this information which provides crucial transparency and insights into the general financial condition of insurers. Transparency can strengthen public perceptions of the U.S. state-based regulatory system of insurance companies, especially during times of stress.

ACLI disagrees with the proposed changes to Section E that claim *any* non-regulator use of RBC is inappropriate. For companies, understanding excess capital over Authorized Control Level (ACL) RBC provides useful information to companies for managing financial and solvency risk. RBC levels are also used for risk management purposes: a basic component of sound risk management involves an assessment of statutorily required and available capital levels in baseline and stressed conditions which to inform risk-based decision making. In addition, according to the American Academy of Actuaries May 8 letter, some companies can reasonably use RBC as their primary capital management tool to the extent that they have performed an analysis and determined that it effectively captures their solvency risks. ACLI strongly opposes the insertion of language in the Preamble that denigrates reasonable uses of RBC by companies.

Restricting insurers from discussing publicly available RBC information in earnings releases and earnings calls reduces the availability of critical solvency information and will lead to the creation of less uniform alternatives.

Restricting insurers from disclosing RBC levels in earnings communications could unintentionally reduce the availability of critical solvency information to investors and policyholders. Many public companies disclose their RBC levels and how the ratio compares to a company's targets and risk tolerances. Information about RBC levels helps investors assess the company's position and potential actions the company may take in raising or deploying capital, and it allows stakeholders to assess the amount of capital available to the holding company for dividends, share repurchases and other strategic transactions.

Prohibiting this type of disclosure and discussion of information that is already available in the Annual Statement (e.g., five-year history of Total Available Capital/Authorized Control Level RBC) runs counter to the principles of transparency and accountability that underpin effective prudential oversight and may weaken market discipline by obscuring signals of financial strength or emerging vulnerabilities.

RBC levels are an objective and transparent measure for the market, rating agencies, investors, and other stakeholders to use when considering the financial position of insurers. Without it, the industry and its stakeholders will need to create alternative capital measures for communicating the financial position of insurers and holding companies. These new metrics may be less uniform and may create confusion in the marketplace. Consumers advocacy groups have also raised concerns that information asymmetry could arise if they are forced to rely on costly third-party methodologies.

Conclusion

ACLI strongly urges CADTF to accept the ACLI proposed Preamble changes (as shown in the *Appendix* below) which will address concerns about using RBC to rank order companies while also acknowledging the important and appropriate role of RBC in the US solvency system. If CADTF declines to adopt ACLI's proposed changes, we urge the Task Force to engage in more dialogue with the industry before adopting any edits to the Preamble. This will help ensure the RBC framework continues to protect policyholders while appropriately balancing U.S. insurers' ability to innovate and compete on the global stage while providing transparency to all stakeholders.

ACLI reaffirms our willingness to work with the Task Force(s) on drafting potential disclaimer language regarding the intended purpose of RBC data, for companies to include when they are providing RBC-related information to stakeholders. Thank you very much for the opportunity to submit this commentary and we look forward to the next meeting on this subject on October 23, 2025.

Sincerely,



Mariana Gomez-Vock



Colin Masterson

cc: Eva Yeung, NAIC; Maggie Chang, NAIC

Appendix – ACLI Suggested Preamble Edits:

We are sending the following red-line edits and additions which build on those which ACLI originally submitted in our comment letters from June 2024 and May 2025. These edits aim to strike the appropriate balance between regulator's concerns over the use of RBC outside of NAIC's regulatory framework, while providing the appropriate transparency expected of the insurance industry for other regulators, consumers, and the market writ large.

We note for clarity that the yellow highlights reflect the original CADTF-proposed Preamble edits and the red text is what is being put forward by ACLI for NAIC consideration.

Note: Yellow highlighted text indicates additions proposed by CADTF. Red text, including strikeouts, are ACLI's proposed edits.

Section B 11.

- Comparison of an insurer's TAC to any RBC level is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer and is not intended or appropriate as a means to rank insurers generally. Therefore—except as otherwise required under the provisions of Risk-Based Capital (RBC) for Insurers Model Act (#312) or the Risk-Based Capital (RBC) for Health Organizations Model Act (#315)—the making, publishing, disseminating, circulation or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated or place before the public, in a newspaper, magazine or other publication, or in a form of a notice, or in any other way, an advertisement, announcement or statement ~~(including but not limited to press releases, earnings releases, webcast materials, or any other earnings presentations or webcasts)~~—containing an assertion, representation or statement with regard to the RBC levels of any insurer or of any component derived in the calculation by any insurer is prohibited.

Because the RBC framework has been developed with certain regulatory needs in mind, state regulators have decided keep some elements of the calculation confidential, as well as any workout plans for companies that have triggered a regulatory action level. Publication of limited RBC disclosures accommodates the interests of stakeholders that include policyholders, investors, insurers, and other regulatory authorities, and provides an appropriate degree of transparency.

Section D 14.

- Because the NAIC formula develops threshold levels of capitalization rather than a target level, it may not be meaningful is neither useful nor appropriate to use the RBC formula to compare the RBC ratio developed by one insurance company to the RBC ratio developed by another. Comparisons of amounts that exceed the threshold standards do not provide a reliable assessment of their relative financial strength. ~~For example, a company with an RBC ratio of 600% is not necessarily financially stronger than a company with an RBC ratio of 400%.~~ For this reason, Model #312 and Model #315 prohibit insurance companies, their agents and others involved in the business of insurance using the company's RBC results to compare competitors.

Section E 18.

- Use of RBC is intended limited to identifying potentially weakly capitalized companies to facilitate regulatory action and oversight. ~~Any other application of RBC would be inappropriate to the detriment of policyholders, companies, and investors. While RBC may be used in other components of the regulatory framework, such uses should be in the context of identifying potentially weakly capitalized companies. For example, statutory accounting may leverage RBC in~~

determining the admissibility of certain types of assets, when the benefits of those assets may not be readily available to the policyholders of a troubled company.

Section E 20.

- RBC requirements for particular risk categories were developed based on specific regulatory guidelines and following agreed upon procedures and methodologies. The RBC requirements were developed with regulatory needs in mind. They were not developed or intended for any other use. As such, except where prescribed, RBC requirements would not be appropriate to rely on in other contexts such as reserve setting or risk management or evaluating the risk of investments. While the development of RBC requirements often rely on historical data points, the data used extends over a substantial period of years and the actuarial modeling extends out over a long time horizon. They do not reflect risk at any one point in time. Moreover, the granularity of an analysis for RBC purposes likely differs from the granularity appropriate for other applications. Therefore, RBC requirements are not appropriate to evaluate the relative or absolute level of risk outside of the context of a regulatory framework for identifying potentially weakly capitalized companies.

RBC Purposes and Guidelines Ad Hoc
Sept. 19, 2023

Participating in the call were: Tom Botsko (OH), Steve Broadie (American Property Casualty Insurance Association—APCIA), Crystal Brown (NAIC), Maggie Chang (NAIC), Kevin Clark (IA), Steve Drutz (WA), Rachel Hemphill (TX), Matthew Richard (TX), Todd Sells (NAIC), Ed Toy (Risk & Regulatory Consulting), Eva Yeung (NAIC), and Ali Zaker-Shahrak (CA).

Hemphill said that at a high level, the intent of the meeting is to look at the risk-based capital (RBC) preamble and reiterate the purpose of RBC. She said in previous RBC calls, it's been noted that there could be a conflict in maintaining RBC for regulatory use versus structuring it for non-regulatory purposes. Hemphill said there was an initial review of the preamble to see how it was drafted and where emphasis was placed. Section B reiterated that the purpose of RBC is to identify potentially weakly capitalized companies and facilitate regulatory actions that ensure insurers can meet their obligations.

Botsko asked if the first sentence in Section B could be all caps and bold. Hemphill said that this is an example of what the group is considering, as there are pieces of the preamble that are being ignored, and she wants to call them out. She suggested merging the first and second sentences in Section B.9 and bolding them to emphasize the purpose of RBC. Richard and Broadie suggested additional modifications to the first two sentences which further clarify the regulatory aspect of RBC.

Hemphill emphasized that repeating the purpose of RBC throughout the document should be a strong consideration, as well as reiterating in Section B.10 that RBC reports and adjusted reports are provided solely for commissioner use. She said that improving the language to make it stronger and clearer would be beneficial. Hemphill noted that the group may want to further clarify the language in Section B.11 and emphasize that RBC is not intended to rank insurers and mention the problems associated with ranking insurers by RBC. Hemphill said in Section D.13, where it said no single formula is right, that means that RBC is not perfect, and the group is not trying to make it perfect. She suggested trying to tie this sentiment to the purpose.

Hemphill summarized Section E—Limited Use of Risk-Based Capital (**Attachment**). The section reiterates how RBC should be used, which is to identify “potentially weakly capitalized companies to facilitate regulatory oversight,” and she said that another use of RBC would not be appropriate. RBC is not intended to rank insurers, as it would not give a clear or meaningful ranking of insurers. She said an example would be an RBC change that would not correspond to a meaningful interpretation of the RBC level and the financial strength. There could be two completely analogously situated insurers, where one voluntarily chose to strengthen assumptions for reserving, and the other did not. The RBC ratio would generally be reduced for the insurer that had taken the prudent action of strengthening their assumptions without it impacting their financial situation.

Hemphill said regulators are considering a more complete picture of what is going on for an insurer to appropriately follow up on RBC action levels. She said a concern with using RBC beyond its intended purpose would create perverse incentives for companies that are not actually at risk of triggering an action level but because of the perception that might get used as more of a ranking tool, the company manages their RBC level rather than their business. She said because RBC is a broad tool to facilitate regulatory oversight. RBC can fluctuate without a corresponding change in the insurer's financial strength. Therefore,

the group should not attempt to parse granular RBC differences and, instead, should consider RBC as having specific thresholds and action levels.

Toy said the changes being discussed are related to the RBC ratio and action levels and how they should be appropriately or not appropriately used. He said that the individual components, such as the RBC factors, are not meant to suggest that it is a measure of capital risk in the near term. Hemphill agreed and said that something should be added to the preamble on the components of RBC, as well. She said she has seen reviews of reserve setting where companies were relying on an RBC factor to develop an assumption and said that she is concerned about having too large of an approximation for a specific purpose.

Broadie thinks the group should not extensively include how RBC is a blunt tool instrument because the International Association of Insurance Supervisors (IAIS) is assessing whether the aggregation method is comparable with its insurance comparable standard, as the U.S. is largely based on RBC. He said the group strongly wants this assessment to be completed and, again, cautioned on referencing RBC as a blunt tool instrument. Hemphill said that RBC is not tailored to an individual company and its specific risks. Organizations will always need a company-specific review and assessment to understand their risk profile. RBC isn't designed for every situation, and it's not expected that any international standard would be either. Clark said that regulators assess RBC on where the company stands relative to trigger level, which is consistent with typical regulatory practice.

Zaker-Shahrak asked what the RBC ratio should convey once it's calculated. Hemphill reiterated that RBC is a tool used to identify potentially weakly capitalized companies, and companies must still evaluate their businesses on an individual basis, and they should not take the RBC level as the definitive stay on a company, as RBC could evolve over time. However, RBC is still a useful tool. Zaker-Shahrak asked how useful RBC is and if the group can identify what it covers. He asked specifically what one could conclude from a company whose RBC ratio is 300%. Brown said that prior to the implementation of RBC, there were fixed minimum capital and surplus requirements, and some states still have these requirements. However, states have different requirements, and these can vary among lines of business. She said that RBC was designed to give regulators and commissioners the authority to act through the *Risk-Based Capital (RBC) Model Act* (#312). If a company goes below 200%, the commissioner has the authority to act because the company has triggered an action level. Brown said that RBC was not designed to be used as a stand-alone tool. Brown said RBC is one tool in the regulatory toolbox and gives regulators the ability to act.

Clark said that if he saw a company with a 250% RBC ratio, without any other context, it wouldn't provide much information because RBC alone doesn't reveal much. Hemphill reiterated that RBC is useful, but it's not a complete picture. Brown said that if a regulator does see a 250% RBC ratio, they may look further at the individual components to identify the biggest driver of the authorized control level change or if there was a significant change in total adjusted capital, which could show what may require further investigation.

Zaker-Shahrak said the RBC ratio is not meaningful because of how it was calculated. Richard said that it is a rule of thumb, and it has not been calibrated based on a one- and 200-year scenario. RBC is not a risk measure, but it is a rule of thumb that regulators use to identify companies that require further investigation. Toy said he did not want to underplay the value of RBC, as it is a very important regulatory tool, but it cannot be used on its own. He said there are other factors that explain the RBC ratio, and regulators have steps in place for when they see an RBC ratio at a certain level or trending in a particular

direction, that is what the ratio was designed for. He said RBC is basically a tripwire mechanism, notifying regulators as to when they should be concerned and consider taking regulatory action. When RBC is at an extreme level, regulators are required to act, and then they should look at what is driving the RBC ratio—is it because of excessive investment risk, operational risk, or is there a liabilities issue? Toy said RBC is a vital regulatory tool, but it is one of many and is meant to warn regulators to potentially take certain actions. Hemphill agreed and said that the distinction the group is trying to make is that RBC is vital and useful, but it is something that prompts action and is not a conclusion. The group's concern is that is not how RBC is being used and its being taken as something that on its own you make a summary conclusion based.

Broadie said that historically, RBC was the first risk-sensitive capital measure developed in the regulatory community around the world. It was developed in response to a time when companies were experiencing significant insolvency, and this was a tool developed to prevent this. Broadie asked where the ranking issue is being seen. He said he was not aware of it on the property/casualty insurance sector but noted that it has been a concern. Botsko said that investment companies are saying that they cannot sell their products because it has a negative impact on their RBC. Toy said that this highlights some investment issues such as labeling investments to achieve a specific RBC charge, which is not the point of statutory accounting or RBC. A company should be investing based on the risk. Hemphill emphasized that the real concern is taking actions that are not prudent in a broader business sense to specifically manage RBC when it's not to avoid an action level.

Hemphill said there are several options for the group to clarify the purpose: 1) edit the preamble; 2) develop FAQs; 3) add guidance to the handbooks; 4) create a one-page purpose; and 5) potentially removing total adjusted capital (TAC) and authorized control level (ACL) in the annual statement. She also discussed where to post the information. Botsko said that removing TAC and ACL has been brought up in prior years, and there has been significant pressure to keep it on the five-year history page. He said when he reads the preamble, it basically says it should not be publicly available. Clark said he supports the effort but is skeptical that any significant change will happen unless the ratio becomes completely non-public. He said insurance companies are already aware of the purpose of RBC, and that purpose is clearly stated in the preamble, but companies still use it as a financial statement metric. Hemphill agreed and said it is still worthwhile to explore more significant steps such as modifying the public aspects of the annual statement. Richard said that despite regulators' best efforts, if a company still finds it useful to provide this information to investors, they may still provide this information even if it's not the correct way to use it. Chang asked if there was a consequence for a company using the RBC ratio outside of its intended purpose. Brown said that Section 8 of the Model #312 specifies that RBC is confidential, and it shouldn't be used or disseminated anywhere. RBC is a regulator-only tool to be used by the commissioner. Chang said what if there were guardrails for RBCs over 300%, and they could have different accounting treatment. She asked if that would indirectly disclose the RBC ratio or if it has to be very specific information that discloses the ratio. Brown said it was her understanding that it is the ratio and the completed RBC filing that is confidential because TAC and ACL are part of the five-year historical page. She said the reason TAC and ACL was included was for transparency but also confidentiality. She said it was not clear if there was consideration to remove those amounts after a few years.

Drutz said he concurs with the group that changing the wording may not make a difference, but he did think that changing the preamble is important. He also said he thought removing TAC and ACL from the five-year historical page would be good because if Model #312 says it is a regulatory tool, providing it to

the public doesn't make sense, as it then is used as a comparison tool. Drutz said he has heard from companies that rating agencies want the company's RBC ratio at a certain level for a certain rating. Toy said he has had several conversations with different rating agencies on that point, and they say that is an interesting area of miscommunication, because the rating agencies do not put that much emphasis on the NAIC RBC ratio because they have their own capital models. The only time they focus on the NAIC RBC ratio is when it's close to an action level, and there's potential that a regulator could act. He said it is not because the ratio is low but because of the potential that a regulator could act.

Sells said that when developing RBC, the intent was for it to be confidential. Toward the end of its development, right before it was adopted, there were arguments for result indicators. He said at the last minute, even though the entire filing was to be confidential, because of the politics at the time and arguments from the industry, they agreed to make TAC and ACL public so that the TAC could be compared to the ACL. He said that you can figure out the other levels from that one level. He said there was conversation about not including a calculation of a ratio, but the discussion was mainly about comparing TAC to ACL, and how a percentage calculation is not done. He said there was concern that if a calculated ratio was published, it would be easier for people to use that ratio as a ranking mechanism or for comparison rather than just using TAC and ACL. He said that because RBC is a regulatory requirement, and if a company is weakly capitalized, that is an indicator people should know, which is why it was included in the five-year historical page. Yeung said that the TAC and ACL was placed in the five-year historical page because of the potentially weakly capitalized companies; however, over 98% of companies are above a 200% RBC ratio. She asked if those companies should also be disclosed. Sells said that scenario was not contemplated, and he has had to explain that an RBC ratio cannot be used to indicate that one company is better than another company in terms of risk. RBC was designed to identify potentially weakly capitalized companies only, not to rank companies when they are over target levels.

Hemphill said there may be a second phase to see if there is anything the group can do better for the RBC metrics.

Risk-Based Capital Purposes & Guidelines Ad Hoc Subgroup**Oct 10, 2023**

Participating in the meeting were: Ali Zaker-Shahrak (CA), Wanchin Chou (CT), Kevin Clark (IA), Rachel Hemphill and Matt Richard (TX), Ray Nelson (America's Health Insurance Plans—AHIP), Rebecca Freitag (Merlinos & Associates), Jim Braue (UnitedHealth Group—UHG), Crystal Brown (NAIC), Maggie Chang (NAIC), and Eva Yeung (NAIC).

Hemphill said that she discussed the preamble with Ed Toy (Risk & Regulatory Consulting), and there are more edits, and the purpose of this meeting is a continuation of last month's meeting to walk through the proposed edits. According to Hemphill, the edits are to re-emphasize certain pre-existing concepts in the preamble, e.g., purpose of risk-based capital (RBC). Hemphill introduced some strengthening language in paragraph 14 to illustrate the point that comparisons of amounts exceeding the threshold standards do not provide a reliable assessment of their relative financial strength. She proposed that this sentence be added to the preamble: "A Company with an RBC ratio of 600% is not necessarily financially stronger than a company with an RBC ratio of 400%."

The most substantial change proposed is Section F—Limited Use of Risk-Based Capital. Paragraph 22 was drafted with Toy's input, and it emphasizes that just like RBC ratios, RBC factors should not be used out of context of the RBC framework. RBC factors are not appropriate to evaluate the relative risk of investments outside of the RBC framework. Hemphill inquired whether paragraph 22 should be made broader in scope to cover not just assets (investments) but also non-assets elements. She also asked the member for feedback on any other edits that should be made.

Hemphill said she envisions that the next step would include drafting a one-pager, FAQs, or another similar document to supplement the current publications, which Brown seconded. Zaker-Shahrak inquired whether there is a clear statement that spells out the purpose of RBC. Hemphill responded that Section B of the preamble describes "Purpose of Risk-Based Capital" to define action levels. Zaker-Shahrak also challenged the addition of "A Company with an RBC ratio of 600% is not necessarily financially stronger than a company with an RBC ratio of 400%."

Hemphill said the statement is true, and there was an example (in paragraph 19 regarding reserving practices) added to illustrate this point, but she was open to expand on examples. Clark pointed out some ancillary uses of RBC ratios. For example, in statutory accounting guidance, admittance of goodwill and deferred taxes are predicated on RBC levels of the insurers, and reserving also hinges on RBC. Clark wondered whether these uses would be perceived as "violations" of RBC purposes. Hemphill said she did not believe so. She said those ancillary uses, including the current interim guidance of negative interest maintenance reserve (IMR) admittance, are consistent with the purposes of RBC, which is to aid identification of potentially weekly capitalized companies. Both agreed that edits to the preamble are warranted to acknowledge these ancillary uses.

Brown drew a parallel between the use of RBC as a guardrail for the admittance of "soft" assets and the practice of trending RBC ratios. Both are preventative and conducted prior to solvency issues surfacing. Hemphill wondered whether the recommendation to remove asset concentration limits (ACL) and total adjusted capital (TAC) from the five-year historical page would hinder the trending analysis. Brown confirmed that trending can still be performed using profiles and financial accounting standards (FAS)

tools, which are the preferable sources of data for trending. (For instance, insurers who updated their RBC filing might not necessarily update TAC and ACL in their annual statements' five-year historical page.)

Hemphill discussed two instances in the valuation manuals (e.g., VM-20 and VM-21) that reference RBC that she would propose to remove. These removals will help align with the purposes of RBC discussed so far.

Freitag said she views TAC and ACL in the five-year historical page as valuable resources in her role as an appointed actuary and examining actuary. She elaborated that as an appointed actuary, when she is evaluating material adverse deviation to reserves, it is crucial for her to evaluate how a change in liability by a certain amount would trigger what kind of change in RBC. She acknowledged that she can access RBC information and asked if it should be kept confidential and removed from annual statements. She said she finds the current five-year historical disclosure a convenient way to look up RBC information for prior years. As an examining actuary, RBC is one of the key metrics for planning the exam. She used an example of a company that had an RBC ratio on the verge of action level (e.g., 220%). This RBC ratio would suggest the company has heightened incentive to understate reserves, and this expectation would guide her examination effort. However, she agreed with the discussion within the call that an RBC ratio of 400% versus 600% may not have any meaningful indication of the insurers' relative strength.

Hemphill said she appreciated the feedback and said that maybe the pass/fail indicator is not sufficient enough. In Freitag's example, she would need information more than pass/fail. Chou appreciated the importance of the TAC and ACL information during the financial exam and financial analysis. He said another important use is the trending aspect. Significant changes in an RBC ratio year over year can provide an early warning signal. Zaker-Shahrak inquired about the company action levels. Brown walked through the various action levels:

Company Action Level (CAL): When an RBC ratio is between 150% and 200%, CAL is triggered and according to the *Risk-Based Capital (RBC) Model Act* (Model #312), the insurer needs to file an RBC plan with its state insurance commissioner.

Regulatory Action Level (RAC): When an RBC ratio is between 100% and 150%, RAC is triggered.

Authorized Control Level: When an RBC ratio is between 70% and 100%, authorized control level is triggered. Once this happens, besides the need to file an RBC plan and to perform an exam/analysis, the state insurance commissioner is authorized to take regulatory control of the insurance company, if deemed to be in the best interests of the policyholders and creditors.

Mandatory Control Level (MCL): When an RBC ratio is 70% or below, MCL is triggered, and the state insurance commissioner is required to take regulatory control of the company.

Zaker-Shahrak said that one cannot use ratios alone to judge or rank insurance companies. Brown described her prior experience on the NAIC financial analysis team and said that her reviews included facts and circumstances and did not use RBC ratios alone.

Hemphill mentioned that Tom Botsko's (OH) intern is working on a project to see if information in RBC filings is useful in predicting insolvency. However, the project is still in its early stages, and there are no reportable items just yet. However, Hemphill asked the members if there are any aspects or components of the RBC filings that serve well to predict insolvency. Chou and Brown discussed the workstream at the

Health Risk-Based Capital (E) Working Group, which is looking into excessive growth charge. Brown acknowledged that RBC components alone are not enough to shed light on risk, and the Working Group has been analyzing annual statement data as well. The group said that there is need to review Own Risk and Solvency Assessment (ORSA) filings as well. Hemphill said that in conclusion, the use of RBC components alone to pinpoint excessive growth risk is not sufficient.

Hemphill and Brown asked the group members to perform a detailed review of the proposed revisions to preamble and provide feedback prior to next meeting.

Hemphill said she also reviewed the Framework for Regulation of Insurer Investment, which is a holistic review document exposed by the Financial Condition (E) Committee. She attempted to evaluate if there are any inconsistencies between the proposed framework and the proposed changes to the preamble. She discerned no inconsistencies but asked for feedback from the members. Brown announced that comments to the framework have just been posted and asked members to review both the framework and the comment letters. Clark said he is closely involved in the framework, and his personal view is that there is no contradiction between the framework and the discussions within this Ad Hoc Subgroup.

RBC Purposes and Guidelines Ad Hoc

December 12, 2023

Hemphill kicked off the meeting and stated that the purpose of the meeting is to discuss comments received on the proposed edits to preamble (as discussed in Oct 2023 meeting). Brown summarized the comments in Attachment I (also incorporated herein) and was invited to verbally walk through the comments received.

Brown responded to Freitag's question below and Brown said she will need to investigate more but her initial reaction was that since companies at mandatory control level (MCL) are meant to be taken over by state and therefore appear to be the reason why MCL is not included in paragraph C.12.

Paragraph C.12 – it seems that all RBC levels are noted except for the Mandatory Control Level. Was that intentional?

Brown said the comments received are incorporated into the revised draft preamble, to the extent possible. (Attachment II)

Hemphill gave members opportunities to speak to their comments.

(Paragraph 11) Broadie said ACPI's comment was contributed by a member of ACPI. Hemphill noted that the edit was not meant to be limiting and thought it was a good edit. Botsko concurred.

(Paragraph 12) Hemphill said she herself doesn't know the reason why MCL is left off and she asked for Botsko's input. Botsko was not aware of a specific reason but is open to addition if the group feels like the addition is warranted. Nelson can see why it was left off as it is "mandatory" control level, and there is no "anticipation" required. Brown suggested, if need be, she can incorporate the reference in model law to describe the "required" actions. Broadie explained the importance of highlighting the word "required". The intent was to substantiate the Commissioner's action if the rehabilitation or liquidation were to take to the court, the Commissioner can point to the model law and state it was a requirement. With that, Hemphill agreed to enhance the preamble and add a sentence explaining required actions at MCL (as described in model law). There was no objection.

(Paragraph 14) Nelson suggested to add the words "For example" in front of the added example "A company with an RBC ratio of 600% is not necessarily financially stronger than a company with an RBC ratio of 400%."

(Paragraph 18) Hemphill said the purpose of this paragraph is to make it very clear that ancillary uses of RBC should all serve the same purpose: to aid in identifying potentially weakly capitalized companies. Nelson suggested the addition of the word "potentially" before the phrase "weakly capitalized" in this paragraph to ensure consistency within the preamble.

(Paragraph 19) Botsko suggested replacing the word "would" with "does" in the following sentence. No objection.

RBC would not provide a complete, clear, or meaningful ranking of insurers.

(Paragraph 20) Hemphill explained that the original paragraph 20 drafted with assistance from Toy was originally targeted for assets. The Subgroup would like to broaden the scope beyond assets therefore

debuted the revised paragraph 20. Toy said he did not object to broadening the scope but suggested the possibility of making it clear what the other examples this paragraph applies. Both Hemphill and Broadie can think of other non-asset factors (reserves, premium etc.) that are derived from historical experience. Clark preferred to be generic and not to spell out all the risk areas as risk evolves over time. Hemphill seconded. Mujala questioned whether this paragraph also applies to C3 phase 1 (model based) calculation or just limited to factor-based components. Clark suggested to change the language of “RBC factors” to “RBC requirements” to accommodate both type of calculations (factor-based vs. model-based). Hemphill agreed.

(Paragraph 21) No comment or further discussion.

Hemphill then discussed the next step. She believed after revisions (as discussed above) are made, the revised draft preamble is ready to be discussed at the Parent Ad Hoc Group level and thereafter the Capital Adequacy Task Force. Botsko concurred. Tipton brought up that the word “insurers” and “companies” are used interchangeably. Hemphill checked the rest of the preamble and saw this interchangeable use is prevalent in the document. No objection to Hemphill proposal to elevate the preamble to the parent ad hoc group.

Next, Hemphill polled the group and asked if anyone thinks the public disclosure of TAC and ACL in the 5-year historical page is inconsistent with the preamble the group discussed thus far. Drutz found it inconsistent himself. Botsko had recollection that the disclosure of TAC and ACL in the 5-year historical page is for the convenience of regulators. He said if that is true, should the group decided to remove the TAC and ACL disclosure in annual statements, the group may need to consider incorporating the historical data in RBC confidential filing for regulators’ use. Hemphill concurred. Brown reminded the members that historical RBC data is currently available to regulators through the format of Profile report, and it even breaks down to RBC component level.

Botsko asked whether the industry representatives in the group had comments. Broadie said while he had not discussed it with his members (ACPIA), he was pretty sure rating agencies and investors alike are using the data in the past decades. He also cautioned the group to be clear to the public what is the motive of “removing” the disclosure as it could be construed as “hiding” something (e.g., “is the industry in bad shape?”). Chou agreed with the commenters that there are ancillary uses of RBC data. He asked what the benefit of removing the data, apart from holding onto “confidentiality” principle of RBC. Hemphill gave some examples of her current effort to remove references of RBC in VM to avoid perceived inconsistencies. She said since the group just finished discussing the potential “limited use” of RBC as described in preamble paragraph 18, it became the group’s responsibility to evaluate potential unintended use of RBC data. She believes the public disclosure of TAC and ACL in the 5-year historical page might potentially encourage misuse. Mujala wondered if there is benefit there to disclose publicly the potentially weakly capitalized companies and if so, how and where to draw a line. Drutz viewed RBC as a pure regulator tool. He said all the company actions (responses, RBC plan etc.) are all confidential. He thought the unintended use of RBCs could be just as disruptive as not having RBC for public use. He said there are other tools and metrics out there to indicate the strength of insurers and RBC is not designed to serve that purpose. Broadie expressed concern about disruption to publication of industry-level aggregate RBC statistics. Hemphill and Yueng reassured that there is no plan to change the current publication and it will continue to be available to the public no matter what. Hemphill also thought the aggregate statistics would be a good tool to dispel doubt about “health” of the insurance industry should the removal of TAC

and ACL data be proposed. Sells offered historical perspective as to why TAC and ACL are disclosed in 5-Year Historical. The legacy fixed capital RBC framework was transparent and reperformable. As such it led the working group at the time of transition from fixed to risk-based framework to provide more transparency. Tipton inferred Sell suggest removing ACL only but leave TAC in the 5-year historical statement. Sells said it is up to the working group to decide.

Participating in the call: Rachel Hemphill (TX), Matt Richard (TX), Wanchin Chou (CT), Kevin Clark (IA), Tom Botsko (OH), Steve Drutz (WA), Steve Broadie (ACPIA) Ray Nelson (AHIP), Frank Huang (Merlinos & Associates), Ed Toy (RRC), Tip Tipton (Thrivent), Maambo Mujala (NYL), Ron Wilkins (Academy), Crystal Brown (NAIC), Maggie Chang (NAIC), Eva Yeung (NAIC), Todd Sells (NAIC).

Attachment I

Summary of Comments

ACPI – Matt Vece and Steve Broadie:

We have one suggestion: adding the red text, copied below, to paragraph 11 of the preamble. Thanks again and let us know if you have any questions.

11. Comparison of an insurer's TAC to any RBC level is a regulatory tool that may indicate the need for **possible** corrective action with respect to the insurer and is **not intended or appropriate as a means to rank insurers generally**. Therefore—except as otherwise required under the provisions of *Risk-Based Capital (RBC) for Insurers Model Act* (#312) or the *Risk-Based Capital (RBC) for Health Organizations Model Act* (#315)—the making, publishing, disseminating, circulation or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated or place before the public, in a newspaper, magazine or other publication, or in a form of a notice, or in any other way, an advertisement, announcement or statement (including but not limited to press releases, earnings releases, webcast materials, or any other earnings presentations or webcasts) containing an assertion, representation or statement with regard to the RBC levels of any insurer or of any component derived in the calculation by any insurer is prohibited.

Iowa DOI - Kevin Clark:

Edits incorporated into paragraph's 18 and 20.

Davies – Rebecca Freitag:

Comments on Preamble (and my apologies if any of these comments were raised before I began attending the meetings):

1. Paragraph C.12 – it seems that all RBC levels are noted except for the Mandatory Control Level. Was that intentional? (If I'm behind the times and the Mandatory Control Level has been eliminated, please feel free to let me know).
2. Paragraph D.14 – I think the addition of the sentence shown in Track Changes is good, but I note that it may not be entirely necessary given the greater detail provided in new section E. I'm definitely not opposed to it, though.

Comments on Discussion of TAC/ACL in Five-Year History: I was responding to the idea that perhaps the company's RBC amount should not appear at all in the publicly available Annual Statements (or perhaps should just appear as a "pass/fail.") I have a number of concerns about this:

1. From my perspective, as an examining actuary, it is very helpful to know how close a company is to any kind of action level right from the outset. If I'm examining a company and I see that it has an RBC ratio of 250%, I know that there were likely strong operating incentives to make sure the reserves were not "too high" (and whether "too high" really means "conservative" or just "more conservative than we can absorb" depends on the company).
2. As an Appointed Actuary, in determining the materiality standard that I use for my Opinion, I need to know how close a Company is to any kind of RBC level. And I might want to understand how close they have been in the past, and whether this might have impacted any operational decisions. I acknowledge that I could obtain this information from the company confidentially, along with other confidential data that they provide, but it is certainly convenient to have it as part of the Annual Statement.

3. From a public perspective, I believe that this is the type of information that can be put to appropriate use. I understand, based on the discussions in the committee, that it has sometimes been put to erroneous use. But if we believe that an RBC ratio of 200% says something important about a company to the regulators, I think the public has an interest in being able to see the ratio, and getting a feeling as to whether or not it is close to 200% (or any other RBC level). I imagine arguments could be made that other sections of the Annual Statement should be confidential. But it appears to me that for the most part, the Annual Statements are public so that any interested entity can learn important information about the companies that they are working with. Although I understand and appreciate that the inputs to the underlying formula for calculating the company's risk based capital are confidential, I think that it is in the public's interest to be able to calculate the actual ratio, and to see it over time, as is currently the case in the Five Year History Exhibit (P&C blank).

New York Life – Maambo Mujala:

We think the changes to the preamble are really good and emphasize the purpose of RBC. We believe it is important to emphasize the limitations of RBC and to avoid the misuse for other purposes.

Attachment II

Risk-Based Capital Preamble

History of Risk-Based Capital by the NAIC

A. Background

1. The NAIC, through its committees and working groups, facilitated many projects of importance to state insurance regulators, the industry and users of statutory financial information in the early 1990s. That was evidenced by the original mission statement and charges given to the Capital Adequacy (E) Task Force (CADTF) of the Financial Condition (E) Committee.
2. From the inception of insurance regulation in the mid-1800s, the limitation of insurance company insolvency risk has been a major goal of the regulatory process. The requirement of adequate capital has been a major tool in limiting insolvency costs throughout the history of insurance regulation. Initially, the states enacted statutes requiring a specified minimum amount of capital and surplus for an insurance company to enter the business or to remain in business.
3. Fixed minimum capital requirements were largely based on the judgment of the drafters of the statutes and varied widely among the states. Those fixed minimum capital and surplus requirements have served to protect the public reasonably well for more than a century. However, they fail to recognize variations in risk between broad categories of key elements of insurance, nor do they recognize differences in the amount of capital appropriate for the size of various insurers.
4. In 1992, the NAIC adopted the life risk-based capital (RBC) formula with an implementation date of year-end 1993. The formula was developed for specific regulatory needs. Four major categories were identified for the life formula: asset risk; insurance risk; interest rate risk; and all other business risk. The property/casualty and health formulas were implemented in 1994 and 1998, respectively. The focus of these two formulas is: asset risk; underwriting risk; credit risk; and business risk (health).
5. The total RBC needed by an insurer to avoid being taken into conservatorship is the Authorized Control Level RBC, which is 50% of the sum of the RBC for the categories, adjusted for covariance. The covariance adjustment is meant to take into account that problems in all risk categories are not likely to occur at the same time.
6. The mission of the CADTF was to determine the amount of capital an insurer should be required to hold to avoid triggering various specific regulatory actions. The RBC formula largely consists of a series of risk factors that are applied to selected assets, liabilities or other specific company financial data to establish the threshold levels generally needed to bear the risk arising from that item.

7. To carry out its mission, the CADTF was charged with carrying out the following initiatives:
 - Evaluate emerging “risk” issues for referral to the RBC working groups/subgroups for certain issues involving more than one RBC formula.
 - Monitor emerging and existing risks relative to their consistent or divergent treatment in the three RBC formulas.
 - Review and evaluate company submissions for the schedule and corresponding adjustment to total adjusted capital (TAC).
 - Monitor changes in accounting and reporting requirements resulting from the adoption and continuing maintenance of the *Accounting Practices and Procedures Manual* and the *Valuation Manual* to ensure that model laws, publications, formulas, analysis tools, etc., supported by the CADTF continue to meet regulatory objectives
8. The RBC forecasting and instructions were developed and are now maintained in accordance with the mission of the CADTF as a method of measuring the threshold amount of capital appropriate for an insurance company to avoid capital specific regulatory requirements based on its size and risk profile.

B. Purpose of Risk-Based Capital

9. The purpose of RBC is to identify potentially weakly capitalized companies in order to facilitate regulatory actions designed to, in most cases, ensure policyholders will receive the benefits promised without relying on a guaranty association or taxpayer funds. Consequently, the RBC formula calculates capital level trigger points that enable regulatory intervention in the operation of such companies.
10. RBC instructions, RBC reports and adjusted report(s) are intended solely for use by the commissioner/state in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers and are considered confidential. All domestic insurers are required to file an RBC report unless exempt by the commissioner. There are no state permitted practices to modify the RBC formula and all insurers are required to abide by the RBC instructions.
11. Comparison of an insurer’s TAC to any RBC level is a regulatory tool that may indicate the need for **possible** corrective action with respect to the insurer and is **not intended or appropriate as a means to rank insurers generally**. Therefore—except as otherwise required under the provisions of *Risk-Based Capital (RBC) for Insurers Model Act* (#312) or the *Risk-Based Capital (RBC) for Health Organizations Model Act* (#315)—the making, publishing, disseminating, circulation or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated or place before the public, in a newspaper, magazine or other publication, or in a form of a notice, or in any other way, an advertisement, announcement or statement (including but not limited to press releases, earnings releases, webcast materials, or any other earnings presentations or webcasts) containing an assertion, representation or statement with regard to the RBC levels of any insurer or of any component derived in the calculation by any insurer is prohibited.

C. Objectives of Risk-Based Capital Reports

12. The primary responsibility of each state insurance department is to regulate insurance companies in accordance with state laws, with an emphasis on solvency for the protection of policyholders. The ultimate objective of solvency regulation is to ensure that policyholder, contract holder and other legal obligations are met when they come due and that companies maintain capital and surplus at all times and in such forms as required by statute.

To support this role, the RBC reports identify potentially weakly capitalized companies in that each insurer must report situations where the actual TAC is below a threshold amount for any of the several RBC levels. This is known as an “RBC event” and reporting is mandatory. The state regulatory response is likely to be unique to each insurer, as each insurer’s risk profile will have some differences from the average risk profile used to develop the RBC formula factors and calculations.

There are several RBC levels with different levels of anticipated additional regulatory oversight following the reporting of an RBC event. Company Action Level (CAL) has the least amount of additional regulatory oversight, as it envisions the company providing to its regulator a plan of action to increase capital or reduce risk or otherwise satisfy the regulator of the adequacy of its capital. Regulatory Action Level (RAL) is the next higher level, where the regulator is more directly involved in the development of the plan of action. Authorized Control Level (ACL) anticipates an even higher amount of regulatory action in implementing the plan of action.

D. Critical Concepts of Risk-Based Capital

13. Over the years, various financial models have been developed to try to measure the “right” amount of capital that an insurance company should hold.¹ “No single formula or ratio can give a complete picture of a company’s operations, let alone the operation of an entire industry. However, a properly designed formula will help in the early identification of companies with inadequate capital levels and allow corrective action to begin sooner. This should ultimately lower the number of company failures and reduce the cost of any failures that may occur.”
14. Because the NAIC formula develops threshold levels of capitalization rather than a target level, it is neither useful nor appropriate to use the RBC formula to compare the RBC ratio developed by one insurance company to the RBC ratio developed by another. Comparisons of amounts that exceed the threshold standards do not provide a reliable assessment of their relative financial strength. A company with an RBC ratio of 600% is not necessarily financially stronger than a company with an RBC ratio of 400%. For this reason, Model #312 and Model #315 prohibit insurance companies, their agents and others involved in the business of insurance using the company’s RBC results to compare competitors.
15. The principal focus of solvency measurement is the determination of financial condition through an analysis of the financial statements and RBC. However, protection of the policyholders can only be maintained through continued monitoring of the financial condition of the insurance enterprise. Operating performance is another indicator of an enterprise’s ability to maintain itself as a going concern.
16. The CADTF and its RBC working groups are charged with evaluating refinements to the existing NAIC RBC formula and considering improvements and revisions to the various RBC blanks to: 1) conform the RBC blanks to changes made in other areas of the NAIC to promote uniformity (when it is determined to be necessary); and 2) oversee the development of additional reporting formats within the existing RBC blanks as needs are identified.

¹ Report of the Industry Advisory Committee to the Life Risk-Based Capital (E) Working Group, p. 6; Nov. 17, 1991.

17. The CADTF and its RBC working groups will monitor and evaluate changes to the annual financial statement blanks and the *Purposes and Procedure Manual of the NAIC Investment Analysis Office* to determine if assets or, specifically, investments evaluated by the NAIC Securities Valuation Office are relevant to the RBC formula in determining the threshold capital and surplus for all insurance companies or whether reporting available to the regulator is a more appropriate means to addressing the risk. The CADTF will consider different methods of determining whether a particular risk should be added as a new risk to be studied and selected for a change to the applicable RBC formula, but due consideration will be given to the materiality of the risk to the industry, as well as the very specific purpose of the RBC formulas to develop regulatory threshold capital levels.

E. Limited use of Risk-Based Capital

18. Use of RBC is limited to identifying potentially weakly capitalized companies to facilitate regulatory action and oversight. Any other application of RBC would be inappropriate, to the detriment of policyholders, companies, and investors. While RBC may be used in other components of the regulatory framework, such uses should be in the context of identifying weakly capitalized companies. For example, statutory accounting may leverage RBC in determining the admissibility of certain types of assets, when the benefits of those assets may not be readily available to the policyholders of a troubled company.
19. RBC would not provide a complete, clear, or meaningful ranking of insurers. For example, an insurer voluntarily strengthening assumptions used for reserving would generally reduce an insurer's RBC ratio, but does not indicate a weaker position than a similarly situated insurer who did not elect to strengthen assumptions used for reserving. Regulators are able to consider a complete picture of the insurer's financial situation to appropriately follow up on RBC action levels. Using RBC beyond its intended purpose could create perverse incentives for companies that are not at risk of triggering an action level.
20. RBC factors for particular risk categories were developed based on specific regulatory guidelines and following agreed upon procedures and methodologies. The RBC factors were developed with regulatory needs in mind. They were not developed or intended for any other use. As such, except where prescribed, RBC factors would not be appropriate to rely on in other contexts such as reserve setting or risk management, or evaluating the risk of investments. While the development of RBC factors often rely on historical data points, the data used extend over a substantial period of years and the actuarial modeling extends out over a long time horizon. They do not reflect risk at any one point in time. Moreover the granularity of an analysis for RBC purposes likely differs from the granularity appropriate for other applications. Therefore, RBC factors are not appropriate to evaluate the relative or absolute level of risk outside of the context of a regulatory framework for identifying potentially weakly capitalized companies.
21. Because RBC is a broad tool to facilitate regulatory oversight, an insurer's RBC can fluctuate without indicating a corresponding change in the insurer's financial strength.

RBC Purposes & Guidelines Ad Hoc**January 9, 2024**

Participating in the meeting were: Wanchin Chou (CT), Kevin Clark (IA), Tom Botsko (OH), Rachel Hemphill and Matt Richard (TX), Steve Drutz (WA), Steve Broadie and Matt Vece (American Property Casualty Insurance Association—APCIA), Frank Huang (Merlinos & Associates), Todd Moltumyr (America's Health Insurance Plans—AHIP), Maambo Mujala (New York Life Insurance Company), Jeremy Rosenbaum (Guggenheim Partners), Tip Tipton (Thrivent), Ed Toy (Risk & Regulatory Consulting), Ron Wilkins (American Academy of Actuaries—Academy), Crystal Brown (NAIC), Maggie Chang (NAIC), Julie Gann (NAIC), Holly Weatherford (NAIC), and Eva Yeung (NAIC).

Hemphill kicked off the meeting by recapping key discussions from the Dec 12, 2023, meeting. She indicated that the key agenda item for this meeting is to discuss the removal of total adjusted capital (TAC) and asset concentration limits (ACL) in the five-year historical table in the annual statements.

Rosenbaum was against this proposed removal. He stated that he is from the industry and believes risk-based capital (RBC) data provides useful information to indicate the “health” of companies for regulators and investors alike. He quoted instances where RBC ratios are used in covenants of bilateral agreements in the marketplace. He said RBC ratios are not used as standalone indicators but as “part of the broader fabric” upon which the market assesses insurance companies. He was also aware of certain states that impose certain minimum RBC thresholds when approving transactions.

Toy said that based on his interaction with rating agencies, he is aware of the use of RBC as part of the holistic review of an insurer. The rating agencies have a particular focus on the possibility of regulatory action. Toy provided an example where derivative counterparties would terminate insurers' derivative agreements if their RBC ratios went below 200%. Toy said he views these uses of RBC ratio as absolute triggers to be detrimental to regulators. Brown pointed out that RBC is a snapshot view of capitalization and won't reflect, for example, capital contributions, corrective action, etc., that happen after year end. She also disagreed with Rosenbaum's belief that RBC is an indicator for “health” of insurers.

Tipton sought clarification on which piece of information is proposed to be removed—ACL, TAC, or both. Hemphill said she believes, based on the read of the preamble, the most reasonable approach is to remove both. Tipton said he thought that ACL is harder than TAC to derive from other existing disclosures.

Chou suggested performing a cost-benefit analysis. He would like to see an inventory of how and where ACL and TAC data are currently used, as this could help guide the group in thinking about what practitioners are impacted by the proposal. Hemphill concurred. She said she envisioned there will be a lot of analysis, but they are not going to be performed at this group level.

Botsko stated that the Academy was made aware of this discussion and showed interest in the topic. He said he believes that additional input from the industry and the Academy at the formal group level would be helpful to perform cost-benefit and unintended consequences analysis. He was also curious about the NAIC's opinion on the subject. Weatherford said the NAIC legal counsel has started looking into the *Risk-Based Capital (RBC) Model Act* (Model #312) and agreed with the proposal. She said the NAIC is ready to perform further analysis, and she will be monitoring the evolving discussions. Weatherford declined to

share her opinion. Brown said that ultimately this is up to regulators, and the NAIC legal counsel will be engaged to ensure compliance with Model #312. Hemphill said that she consulted with the Texas Department of Insurance's (TDI's) legal counsel, which generally agreed with the direction of the proposal based on how Model #312 and the preamble are worded. Based on that discussion, Hemphill said she believed regulators have authority to proceed with the proposal, and it is more of a policy question than legal. Hemphill sought agreement from other regulators on the proposal, which is to remove TAC and ACL from the five-year historical page. Connecticut, Iowa, and Washington supported moving the proposal to the parent ad hoc group.

Hemphill asked Rosenbaum what additional information RBC ratios provide that is deemed as incremental to the rating agencies' strength indicators/ranking. Rosenbaum responded that most asset managers have internal credit analysis departments that gather as much information as they can possibly find to evaluate an investment prior to making a decision. It's a mosaic approach, and no one indicator is suffice. He added that public disclosure of ACL and TAC also forces companies to explain their year-over-year trends. Clark disagreed and stated the use of RBC ratios in investment decisions is exactly what regulators would like to discourage. It deviates from the original intent of RBC. Hemphill said the means may not justify the end to provide transparency for decision making, just as there are other confidential filings with regulators that, despite being useful, are not meant to be disclosed.

Botsko inquired about the historical perspective of disclosing TAC and ACL, and Brown provided a recap of what had been discussed during the Dec. 12, 2023, meeting. Botsko said that the disclosure was meant to be temporary based on Brown's recap. He said that he thought there were concerns expressed by consumer groups.