

Date: 4/18/22

Virtual Meeting

RISK RETENTION GROUP (E) TASK FORCE

Tuesday, April 19, 2022

3:00 – 4:00 p.m. ET / 2:00 – 3:00 p.m. CT / 1:00 – 2:00 p.m. MT / 12:00 – 1:00 p.m. PT

ROLL CALL

Michael S. Pieciak, Chair	Vermont	Sharon P. Clark	Kentucky
Karima M. Woods, Vice Chair	District of Columbia	Troy Downing	Montana
Jim L. Ridling	Alabama	Barbara D. Richardson	Nevada
Andrew N. Mais	Connecticut	Russell Toal	New Mexico
Trinidad Navarro	Delaware	Mike Causey	North Carolina
Colin M. Hayashida	Hawaii	Raymond G. Farmer	South Carolina
Doug Ommen	Iowa	Carter Lawrence	Tennessee

NAIC Support Staff: Becky Meyer

AGENDA

1. Consider Adoption of its Nov. 30, 2021 Meeting Minutes Attachment One
—Christine Brown (VT)

2. Consider Exposure of Proposed Preliminary Memo Attachment Two
—Christine Brown (VT)
 - Comment Letter—National Risk Retention Association Attachment Two-A

3. Discuss Task Force Recommendation on Application of Group Capital Calculation to Risk Retention Groups—*Christine Brown (VT)* Attachment Three

4. Discuss Financial Analysis Handbook Guidance on Consideration of Group Capital Calculation— *Christine Brown (VT)* Attachment Four

5. Receive Updates on Related NAIC and/or Federal Actions
 - Surplus Lines (C) Task Force Updates to the Nonadmitted Insurance Model Act (#870)—*Christine Brown (VT)*

6. Consider Training/Educational Opportunities for RRG Regulation
— Christine Brown (VT)

7. Discuss Any Other Matters Brought Before the Task Force
— Christine Brown (VT)

8. Adjournment



SharePoint/FRS-E Committee/RRGTF/RRGTF Conference Calls/2022 Apr 19/[Agenda -RRGTF4-19-22](#)

Draft Pending Adoption

Draft: 12/3/21

Risk Retention Group (E) Task Force
Virtual Meeting (*in lieu of meeting at the 2021 Fall National Meeting*)
November 30, 2021

The Risk Retention Group (E) Task Force met Nov. 30, 2021. The following Task Force members participated: Michael S. Pieciak, Chair, represented by Sandra Bigglestone (VT); Karima M. Woods, Vice Chair, represented by Sean O'Donnell (DC); Andrew N. Mais represented by Fenhua Liu (CT); Sharon P. Clark represented by Russell Coy (KY); and Russell Toal represented by Leatrice Geckler (NM). Also participating were: Steve Kinion (DE); and Christine Brown (VT).

1. Adopted its Summer National Meeting Minutes

Mr. O'Donnell made a motion, seconded by Mr. Coy, to adopt the Task Force's July 26, minutes (*see NAIC Proceedings – Summer 2021, Risk Retention Group (E) Task Force*) minutes. The motion passed unanimously.

2. Discussed a Proposed Preliminary Memorandum

Ms. Bigglestone stated that during its July 26 meeting, the Task Force discussed results of the survey conducted earlier this year and formed an initial plan to address concerns. There were two areas of focus. The first is the preparation of a template that can be completed by a domiciliary state when a new risk retention group (RRG) is formed and there is no Insurer Profile Summary (IPS) available. This template can be provided upon request to states the RRG is registering in. The second is to review the registration form and consider if additional guidance or instructions for either the state or the RRG would help reduce the delays that occur when the form is incomplete. A group of volunteers took on these tasks. They completed a template for what is now called the Preliminary Memorandum, (Attachment A). They also discussed the NAIC Uniform Registration Form (registration form), but they thought that the Preliminary Memorandum may address many of the concerns of state insurance regulators reviewing the registration form. The volunteers also discussed that there may still be questions/concerns from RRGs completing the forms, but they thought they lacked the necessary perspective to address concerns from the insurer side.

Ms. Brown provided an overview of the memorandum, stating that the volunteers believe it will be a helpful tool for sharing with non-domiciliary regulators, and it will form the basis of the IPS once the company files its annual statement.

Ms. Bigglestone and Ms. Liu agreed the memorandum would be helpful and should be considered by the Task Force.

Ms. Bigglestone stated that the memorandum will likely be exposed in spring 2022 for further consideration by the Task Force.

3. Received Updates Regarding the Proposed Accreditation Standard for the GCC

In 2020, the NAIC adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). The revisions include a requirement for all groups to submit a group capital calculation (GCC). Per the models, all groups with at least one insurer and one affiliate are subject to the filing, at least once. The Financial Regulation Standards and Accreditation (F) Committee discussed a referral recommending that the changes become an accreditation standard for all states. As a result of this discussion, the Committee voted to expose the referral for a one-year public comment period beginning Jan. 1, 2022. The exposure is subject to final approval by Plenary at the Fall National Meeting. The exposure by the Committee also altered two key items from the initial referral. First, the Committee proposes an effective date of Jan. 1, 2026, for all states. Second, and most important to the discussion at this Task Force, the Committee proposed an accreditation standard that does not include the requirement for each group to file the GCC at least once before an exemption can be granted. This means that a commissioner has discretion to grant an exemption to the filing without receiving an initial filing from the insurance group. Ms. Bigglestone noted that this is not an automatic exemption; it must specifically be granted by the commissioner. However, it does allow states more flexibility.

Ms. Bigglestone stated that per the Task Force's charges, it intends to provide a comment letter during the one-year exposure period next year regarding the application of the standard to RRGs.

Draft Pending Adoption

Mr. O'Donnell said the additional flexibility would be helpful for RRGs in a holding company group. Mr. Kinion asked for clarification regarding which groups are subject to the GCC, including whether captives were subject to the GCC. Robert Myers (National Risk Retention Association—NRRRA) also asked for clarification regarding a size threshold for groups filing the GCC. Dan Schelp (NAIC) confirmed that a group is defined as at least one insurer and at least one affiliate. There is no threshold for filing a GCC. There is a threshold in Model #450 that allows groups with less than \$1 billion in premium to request an exemption from the filing after at least one initial filing. The proposed accreditation requirement does not include the requirement to file at least once prior to a commissioner granting an exemption. Captives are generally excluded from the accreditation program. Therefore, they are not required to be subject to the holding company models and, as a result, the GCC. However, RRGs licensed as captives are subject to accreditation, and each standard must be considered for applicability to RRGs, including the GCC.

Ms. Bigglestone noted that additional guidance for considerations when granting exemptions may need to be developed if the accreditation standard is adopted as proposed.

4. Received Updates on Related NAIC and/or Federal Actions

Ms. Bigglestone noted that the Task Force continues its ongoing commitment to promote educational and communication opportunities. One such opportunity was the NRRRA conference in early November, which included a state insurance regulator panel discussing regulation of RRGs. Anyone aware of future educational opportunities or resources is encouraged to communicate with the Task Force.

Ms. Bigglestone noted that the Surplus Lines (C) Task Force is working to update the *Nonadmitted Insurance Model Act* (#870). On Nov. 23, the NRRRA sent a letter to the drafting group working on updates to Model #870, which comments on the definition of “home state” as it relates to an insured being a member of an unaffiliated group. The revisions in the NAIC model act establish the allocation of premium for affiliated groups, but they do not address unaffiliated groups. Since risk purchasing groups (RPGs) are primarily made up of unaffiliated members or insurance buyers, the current draft revisions complicate how premium tax will be collected from RPGs. The NRRRA’s letter also draws attention to previous discussions and conclusions reached by the Surplus Lines (E) Task Force with respect to RPGs that may contradict current discussions. The work of the drafting group is still ongoing.

Having no further business, the Risk Retention Group (E) Task Force adjourned.

[https://naiconline.sharepoint.com/teams/FRSECommittee/RRGTF Conference Calls/RRGTF Conference Calls/2021 Nov 30/8-2-20 RiskTFmin.docx](https://naiconline.sharepoint.com/teams/FRSECommittee/RRGTF%20Conference%20Calls/RRGTF%20Conference%20Calls/2021%20Nov%2030/8-2-20%20RiskTFmin.docx)

RRG PRELIMINARY MEMORANDUM

RRG Preliminary Memorandum

An RRG Preliminary Memorandum is developed by the domestic state for a risk retention group (RRG) upon approving the initial licensing of the RRG. The information in this document will serve as a summary of key considerations in assessing and approving the license. The information will also serve as the base for developing an Insurer Profile Summary (IPS) once the RRG begins writing business and files its annual statement. The role of the RRG Preliminary Memorandum is for both internal communication within the domestic state and for external communication with other states in which the RRG is authorized to register and has submitted a registration form. In accordance with the federal Liability Risk Retention Act (LRRRA) a non-domestic state must rely on the domestic state to approve which states the RRG may write in. The non-domestic state does not perform their own review of the application for licensing in the domestic state but relies on the information in the RRGs registration form and communication from the domestic regulator. The RRG Preliminary Memorandum is not required, however, its use can help improve transparency and communication between regulators and reduce potential delays in registration. Additional recommendations regarding transparency and communication can be found in the RRG best practices and frequently asked questions documents on the Risk Retention Group (E) Task Force website.

A template that can be used to develop the RRG Preliminary Memorandum is provided below; however, the actual form and content should be determined by each respective state.

**XX DEPARTMENT OF INSURANCE
RRG PRELIMINARY MEMORANDUM
COMPANY NAME
Date of Review**

<p>State Contact List here</p> <p>List States Where Approved to Write Business List all approved states here</p> <p>Accounting Standard GAAP, modified GAAP, SAP</p> <p>Captive Manager List name here List key contact here List phone here List email here</p> <p>Contact at Insurer List name here List phone here List email here</p>
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BUSINESS SUMMARY

Provide a brief description of the risk retention group (RRG) and a summary of the business operations of the RRG. Consider inclusion of the following.

- Purpose of the RRG and the benefits gained by creating the RRG (i.e., is it meeting a need not met in the commercial market, formed by a promoter looking for a group, etc.).
- Describe the approved coverages and comment on their compliance with the LRRRA. Include policy limits and net retention.
- Describe the ownership structure and/or key members, association, or sponsor.
- Describe the capital structure of the RRG. Include minimum capital and surplus requirements, use of letters of credit, surplus notes, ability to raise additional capital, etc.
- Comment on how the business is produced (i.e., direct writings, agent(s), managing general agent (MGA), managing general underwriter (MGU)).

GOVERNANCE

Discuss the makeup of the board of directors and other oversight considerations including compliance with governance requirements in the *Model Risk Retention Act* (#705).

Discuss if the RRG is MGA or producer controlled.

Discuss service providers used.

Confirm background checks were done.

PROFORMA FINANCIAL SNAPSHOT

Proforma financial data may be summarized in a narrative format, chart format, or a combination. Information may include key financial statement items and/or key ratios. Sample data is shown below but the format, number of years of data, line items and ratios included should be customized. Consideration should be given to what information provides the most insight for the newly formed RRG. Information related to the feasibility study, including who performed the study may also be included.

Assets and Liabilities

<u>Years Ended December 31</u>	<u>20XX</u>	<u>20XX</u>
Total Invested Assets	219	253
Other Assets	111	131
TOTAL ASSETS	330	384
LIABILITIES		
Insurance reserves, net	97	95
Other liabilities	169	193
TOTAL LIABILITIES	266	288

Capital and Surplus	64	96
TOTAL LIABILITIES AND C&S	330	384
Operations	<u>20XX</u>	<u>20XX</u>
Premiums, net	218	233
Investment income (net of gains/losses)	1	8
Other income	0	0
Total revenues	219	241
LOSSES, BENEFITS AND EXPENSES		
Incurring losses, net	177	157
Expenses	77	80
Total losses and expenses	254	237
Other	0	2
NET INCOME	(35)	2

AREAS OF INTEREST

Provide a brief summary of the following items when applicable or noteworthy.

- Reinsurance
- Investment policy
- Related Parties
- Restrictions or special requirements such as permitted practices
- Additional details for coverages that require special underwriting, discounting and tail coverages
- Other

IMPACT OF HOLDING COMPANY ON INSURER

Summarize the evaluation of the impact of the holding company system on the domestic insurer. Or state that the RRG is not part of a holding company group. The summary should include whether a disclaimer of affiliation or any other exemption or waiver related to holding company requirements has been granted, and the rationale for the determination.

KEY RISKS AND SUPERVISORY PLAN

Summarize key risks identified and/or items that require further monitoring by the analyst or specific testing by the examiner. In addition, indicate if the Company is or should be subject to any enhanced monitoring, such as monthly reporting, a targeted examination or a more frequent exam cycle. Key risks may relate to the areas of interest above or may be separate considerations. Information should be brief and include prospective considerations.

Document the date of the first expected examination and the planned examination cycle.

Analysis Follow-Up

Examination Follow-Up

Best Practices – Risk Retention Groups

The domiciliary state maintains authority and has responsibility to regulate the formation and operation of a Risk Retention Group (RRG). Therefore, when concerns arise in a non-domiciliary state about a RRG, the best resource is the domiciliary state. This includes concerns about solvency and capital levels, financial condition, or other non-compliance of an RRG as well as operational questions and concerns that should be directed to the domiciliary state.

States are encouraged to examine their RRG laws to make certain that they are consistent with (1) the federal Liability Risk Retention Act (LRRRA) and (2) the NAIC *Model Risk Retention Act* (#705).

Questions/Concerns from Non-domiciliary State

Upon initial registration of an RRG in a non-domiciliary state, it is not uncommon for questions to arise that are best directed to the domiciliary state. Attachment A outlines a sample Inquiry Template that can be used to request this information. The template may be customized as deemed appropriate by the non-domiciliary state. Domiciliary states should respond in a timely manner to such requests.

Questions about operations and financial solvency that arise following initial registration should also be addressed to the domiciliary state.

If significant concerns still exist after communication with the domiciliary state and the non-domiciliary state concludes that the RRG is not compliant with any of the specific procedures set forth in the LRRRA, the following steps may be undertaken:

- a. Refer to your own state RRG statute to ensure compliance of your prospective action;
- b. Provide written notice of any non-compliance directly to the RRG;
- c. Submit a demand for examination of the RRG to the domiciliary regulator, as provided by the LRRRA [15 U.S.C. S3902(a)(1)(E)];
- d. Institute suit in a court of competent jurisdiction.

A non-domiciliary state may request the following from the domiciliary state and similarly, the domiciliary state should be prepared to provide the following to the non-domiciliary state:

- e. Insurer Profile Summary (IPS)
- f. Inquire about the extent of biographical affidavit review and results of background checks
- g. Most recent examination report (may be obtained from I-Site)
- h. Amendments to the RRG's business plan or feasibility study
- i. Verification of domiciliary state approval to expand into non-domiciliary state

Alternatively, the following documents may be used for this request with modifications as necessary: Attachment A – Inquiry Template (when specific questions or concerns not typically addressed on the above documents arise) may be used for this request with modifications as necessary. Attachment B – RRG Preliminary Memorandum (for a new RRG in which the IPS is not yet available)

Registration Timeline

The registration process for RRGs should be shorter than the licensing process for other types of insurers as the RRG is responsible only for a complete registration form* and the related attachments. The non-domiciliary state cannot reject a complete registration* that complies with those laws of the non-domiciliary state that are not preempted under the LRRRA. In the event a non-domiciliary state has concerns with an RRG registration, such concerns should be raised with the domiciliary state, who has the authority to regulate the formation and operation of an RRG. The following guidelines take into consideration similar guidelines for ordinary insurance companies, and adherence is at the discretion of each state.

- A non-domiciliary state should review the registration form to ensure all required information is entered on the form within 10 business days of its receipt of the form and notify the Risk Retention Group of the need to submit any missing elements.
- Following receipt of a complete registration*, a non-domiciliary state should notify the RRG within 30 days that its registration is confirmed.
- The domiciliary state should respond to inquiries from a non-domiciliary state in a prompt manner, typically no later than 10 business days after receiving the inquiry.

*Refer to the document titled “Risk Retention Groups: Frequently Asked Questions”, 3(c) for the definition of a complete registration form.

Domiciliary State Responsibilities

When a domiciliary state identifies an RRG as troubled or potentially troubled, the State insurance regulator should make efforts to communicate proactively with other state insurance regulators in which the RRG is registered (consistent with the *Troubled Insurance Company Handbook*). Although the domiciliary regulator is responsible for taking actions involving their domiciliary RRGs, awareness by a non-domiciliary state may help them to proactively do what they can to protect their residents and respond to policyholder complaints or concerns directed to them.

General Licensing Guidance

Domiciliary states should ensure the RRG’s application for licensing, which includes the plan of operation and feasibility study, includes the following, at a minimum:

- information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations;
- information sufficient to verify that the liability insurance coverage to be provided by the Risk Retention Group will only cover the members of the Risk Retention Group;
- for each state in which it intends to operate, information regarding the liability insurance coverages, deductibles, coverage limits, rates and/or rating/underwriting methodology for each line of commercial liability insurance the group intends to offer;

- historical and expected loss experience of proposed members and national experience of similar exposures to the extent that this experience is reasonably available;
- appropriate opinions/feasibility work by a qualified independent casualty actuary, including a determination of minimum premium participation levels required to commence operation and to prevent a hazardous financial condition;
- pro forma financial statements and projections, including assumptions, on an expected and adverse basis;
- identification of Board of Directors, including independence determination;
- biographical affidavits for all BOD members;
- evidence of compliance with corporate governance standards, including draft policies;
- underwriting and claim procedures;
- marketing methods and materials if available;
- draft insurance policies;
- names of reinsurers and reinsurance agreements, if available;
- investment policies;
- identification of each state in which the RRG intends to write business/register;
- identification of service providers, including fee structure and relationships to members; and
- subsequent material revisions to the plan of operation or feasibility study.

Attachment A – Inquiry Template

The above-subject company has applied for Registration as a Risk Retention Group (“RRG”) in the State of _____ to write _____ liability coverage to its members who are in the business of _____. As you can appreciate, due to the provisions of the Liability Risk Retention Act of 1986 the (state) has limited authority to regulate RRGs and therefore to a large extent, the (state) relies on the RRGs’ domiciliary state to exercise general oversight and responsibility in the areas of licensing, solvency, rates and marketing. As part of our due diligence, we would appreciate any information your office can share with us regarding the company with respect to the following items, some of which may be satisfied by providing the Insurer Profile Summary:

1. Any significant concerns the State of [domicile] has regarding the company.
2. Any issues that may have a significant impact on the company going forward.
3. Any issues regarding the number of consumer complaints the company has in [state of domicile] or other states that may have been brought to your attention.
4. Comments and/or concerns about the financial condition of the company.
5. Comments and/or concerns about the management or performance of the company.
6. Results of any financial analysis and/or market conduct findings.
7. The company’s priority level within the Financial Analysis Division.
8. Any conditions imposed by your Department upon the company’s license.
9. Any significant non-compliance issues with the State of [domicile] regulatory authority including filing requirements and corrective action, if any.
10. Comments regarding the company’s application for registration in the State of [state registering].
11. Approval from State of [domicile] for the RRG to register in the State of [state registering].



VIA ELECTRONIC MAIL ONLY

April 15, 2022

Michael S. Pieciak
Chair, NAIC Risk Retention Group (E) Task Force
1100 Walnut Street
Suite 1500
Kansas City, MO 64106-2197

Attention: Becky Meyer (bmeyer@naic.org)
Sandy Bigglestone (sandy.bigglestone@vermont.gov)
Christine Brown (christine.brown@vermont.gov)

**Re: Risk Retention Group (E) Task Force
RRG Preliminary Memorandum and Best Practices Update**

Dear Commissioner Pieciak:

We appreciate the opportunity to submit our comments for consideration by the Task Force with respect to its latest deliberations bearing on the initial registration of risk retention groups (RRGs) in non-chartering jurisdictions. At present, the Task Force is contemplating a revision to the “RRG Best Practices” to include a new “RRG Preliminary Memorandum” to be completed by domiciliary regulators for any new RRG for which an Insurer Profile Summary (IPS) is not yet available to non-domiciliary regulators.

The guidance for state insurance regulators previously promulgated by the Task Force and adopted December 7, 2019, the NAIC’s Risk Retention Groups: Frequently Asked Questions (“FAQs”) and Best Practices – Risk Retention Groups (“Best Practices”), was an excellent effort on the part of the Task Force in addressing the delays, issues and over-reaching on registration issues frequently faced by RRGs in the initial registration process. The National Risk Retention Association (“NRRA”) applauds the work of the Task Force in this critical concern for RRGs and deeply appreciates the Task Force’s invitation for input by NRRA in drafting this important guidance.

While we broadly commend the intention of the Task Force to continue in its efforts to alleviate the difficulties encountered by RRGs in many non-chartering jurisdictions in securing prompt registration consistent with the Liability Risk Retention Act (“LRRRA”), 15 U.S.C. Sec. 3901 et seq., we do have some concerns that the further proposals for a Best Practices Update and RRG Preliminary Memorandum could potentially lead to the unintended and entirely opposite result of further slowing rather than easing the initial registration process for RRGs.

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Michael S. Pieciak, Chair

Re: RRGTF - RRG Preliminary Memorandum and Best Practices Update

April 15, 2022

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The present guidance promulgated for state regulators properly sets forth that the registration of an RRG which has submitted a complete registration consistent with the LRRRA may not be unreasonably delayed, and further provides that such registration should be confirmed by a non-domiciliary state within 30 days of submission. A non-domiciliary state regulator may reach out to the domiciliary regulator if it desires additional information or has any concerns, but the FAQs make clear that any such requests to the domiciliary regulator should not impact the prompt issuance of confirmation of registration of an RRG that has submitted a complete registration.

In the event that a non-domiciliary regulator has any specific concerns or questions it wishes to direct to the domiciliary regulator of the RRG requesting registration, the Best Practices currently includes an “Inquiry Template” with 11 enumerated inquiries that a non-domiciliary regulator may use in whole, in part, or as a guide. Indeed, we are aware of instances where these exact template inquiries have been submitted in exchanges between non-domiciliary and domiciliary regulators.

While there are several states that do adhere to the Best Practices guidance and issue confirmation of registration of some RRGs within or close to the recommended time frame, the experience reported to us by many of our members is that, unfortunately, many other states still do not, in fact, follow this protocol. Despite the Best Practices guidance, several state regulators continue to insist that the registration of a non-domiciliary RRG must be subjected to the same or similar review process that applies in the case of an application for a fully licensed, traditional insurer. In these cases, the review process of a new RRG registration submission can extend beyond days and into months. Moreover, while it was not intended that the Best Practices inquiry template should add to any delay of an RRG’s registration, NRRA is aware of reported instances where the reason cited for delay in confirming registration of an RRG is that the state regulator is waiting on response from the domiciliary regulator to inquiries formulated based on the Best Practices inquiry template.

The current guidance for regulators in the FAQs and Best Practices properly recognizes that:

“The domiciliary state maintains authority and has responsibility to regulate the formation and operation of a Risk Retention Group (RRG)” (Page 1, RRG Best Practices).

And that:

“Following receipt of a complete registration, a non-domiciliary state should notify the RRG within 30 days that its registration is confirmed.”



Michael S. Pieciak, Chair
Re: RRGTF - RRG Preliminary Memorandum and Best Practices Update
April 15, 2022
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With the foregoing as a background, we are concerned that more non-domiciliary regulators may elect to postpone confirming registration or further extend registration delays already occurring predicated upon their alleged reliance upon their prospective receipt of the proposed Preliminary Memorandum. It would also seem that the proposed Preliminary Memorandum would impose an additional obligation on the domiciliary regulator that may be largely unnecessary and duplicative of the Insurer Profile Summary (IPS) that will ultimately be developed by that regulator and available to non-domiciliary regulators. Perhaps more importantly also, NRRA is concerned that the cited reasons for the Memorandum (that is, to share in summarized form the domiciliary regulator’s “key considerations in assessing and approving the license”) may inadvertently open the door to an expectation of entitlement on the part of non-domiciliary regulators to more information than is strictly required under the LRRRA for the purpose of initial registration of an RRG. Fostering such an expectation could conceivably result in the unintended consequence of further delays in the registration process.

Consistent with the requirements of the LRRRA, it is sufficient for registration purposes that the non-domiciliary regulator receive a copy of the plan of operation as submitted to and approved by the domiciliary regulator. Nothing further is required for registration by the plain language on of the LRRRA. For the reasons cited above, we believe the proposed RRG Preliminary Memo may ultimately prove to be counterproductive to the Task Force’s stated goal of reducing registration delays.

In conclusion, the National Risk Retention Association appreciates your consideration of our comments in this matter. Should you need any further input in this regard, please do not hesitate to contact the undersigned.

Very truly yours,

A handwritten signature in blue ink, appearing to read "J. Deems", with a stylized flourish extending to the right.

Joseph E. Deems CA SBN 64012
Executive Director
National Risk Retention Association

Cc: Nancy Gray, Jon Harkavy, Skip Myers, Mike Schroeder, Tim Herr & Heather Ross



MEMORANDUM

To: Financial Regulation Standards and Accreditation (F) Committee

From: Financial Condition (E) Committee

Date: March 8, 2021

Re: 2020 Revisions to *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450)

On Dec. 9, 2020, the NAIC Executive (EX) Committee and Plenary unanimously adopted revisions to the NAIC *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). These revisions implemented a Group Capital Calculation (GCC) for the purpose of group solvency supervision and Liquidity Stress Test (LST) for macroprudential surveillance.

Please find attached, memorandums and proposed changes to the Accreditation (E) Committee as adopted by the Financial Condition (E) Committee related to these most recent changes to #440 and #450. Each of the memorandum's summarize the basis for recommending that certain provisions of these model changes become part of the Accreditation program as well as suggested timing. With respect to timing, consistent with action taken by the Financial Regulation Standards and Accreditation (F) Committee to use an expedited process in 2019 with respect to the *Credit for Reinsurance Model Law* (#785) and the *Credit for Reinsurance Model Regulation* (#786) due to the "Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (Covered Agreement), we recommend a similar expedited process with respect to states who are a Group Wide Supervisor of a group with operations in the EU or UK. The attached provide further details on the specifics of such recommendations.

F Committee exposed the referral for a 1-year comment period beginning January 1, 2022 (pending approval by Plenary at the Fall National Meeting).

The exposure by F Committee differs from the original exposure in two ways:

- The proposed effective date for all states is January 1, 2026.
- The proposed significant elements for the group capital calculation were modified to allow commissioners to grant exemptions to groups meeting the qualifications set forth in Model #450 Section 21A and Section 21B without the requirement to file at least once.

Note: In conjunction with the motion, the F Committee strongly encourages all states with a group impacted by the Covered Agreement to adopt the group capital calculation revisions to Model #440 and Model #450 for those groups effective Nov. 7, 2022. The Committee also strongly encourages states with a group impacted by the liquidity stress test to adopt the relevant revisions to Model #440 as soon as possible.

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MEMORANDUM

To: Financial Condition (E) Committee

From: Group Capital Calculation (E) Working Group

Date: February 25, 2021

Re: 2020 Revisions to *Insurance Holding Company System Regulatory Model Act (#440)* and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450)*

Executive Summary

On Dec. 9, 2020, the NAIC Executive (EX) Committee and Plenary unanimously adopted revisions to the NAIC *Insurance Holding Company System Regulatory Act (#440)* and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450)*. These revisions implemented a Group Capital Calculation (GCC) for the purpose of group solvency supervision and Liquidity Stress Test (LST) for macroprudential surveillance. This memorandum makes recommendations with respect to the accreditation standards that this Working Group believes is appropriate with respect to only the GCC and expect the Financial Stability (EX) Task Force to make separate recommendations to the Committee with respect to the LST.

The GCC was developed as a result of discussions which began in 2015. The GCC is a natural extension of work state insurance regulators had begun, in part by lessons learned from the most recent financial crisis, to better understand an insurance group's financial risk profile for the purpose of enhancing policyholder protections. While state insurance regulators currently have the authority to obtain information regarding the capital positions of non-insurance affiliates, they do not have a consistent analytical framework for evaluating such information. The GCC is designed to address this shortcoming and will serve as an additional financial metric that will assist state insurance regulators in identifying risks that may emanate from a holding company system. The GCC, and related financial reporting, will provide comprehensive transparency to state insurance regulators, making risks more easily identifiable and quantifiable. For these reasons, the Working Group recommends adoption of #440 and #450 as accreditation standards for all states with the normal accreditation timeline, which would result in an effective date of January 1, 2026.

In addition, the GCC is intended to comply with the requirements under the "Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (Covered Agreement), which was signed on Sept. 22, 2017. On Dec. 18, 2018, a similar Covered Agreement was signed with the United Kingdom (UK). The GCC is intended to meet the requirement that the states have a "worldwide group capital calculation" in place by Nov. 7, 2022 in order to avoid the EU from imposing a group capital assessment or requirement at the level of the worldwide parent undertaking. Failure of any state to do so for any U.S. group operating in such jurisdiction raises the potential for any supervisor in the EU or UK to impose its own group capital calculation (e.g., Solvency II capital requirements) on that group and therefore all of the U.S. insurers within that group. Due to this agreement, the Working Group recommends that the accreditation standard become effective Nov. 7, 2022 for those states who are the Group Wide Supervisor of a group with operations in the EU or UK.

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A statement and explanation of how the potential standard is directly related to solvency surveillance and why the proposal should be included in the standards:

The current *Insurance Holding Company Systems* accreditation standard requires that state law shall contain the significant elements from Model #440 and Model #450. These models have provided state insurance departments the framework for insurance group supervision since the early 1970s. Following the 2008 financial crisis, state regulators identified group supervision as an area where improvements could be made to the U.S. system. In December 2010, the NAIC adopted changes to the models enhancing the domestic legal structure under which holding companies are supervised. In December 2014, the NAIC adopted revisions to clarify legal authority and powers to act as a group-wide supervisor for internationally active insurance groups. These changes are newly required elements of the NAIC Accreditation Program and have been satisfactorily adopted by nearly all accredited U.S. jurisdictions. As discussed in the preceding paragraphs, the GCC was designed to enhance these same standards that were previously included as accreditation standards.

A statement as to why ultimate adoption by every jurisdiction may be desirable:

The Group Capital Calculation (E) Working Group believes that all states that are the lead state for a group subject to the GCC should be required to adopt the model revisions. The GCC is a tool intended to help protect the policyholders in all states from the risk that can emanate from outside the domestic insurer and will be an input into the Group Profile Summary (GPS). After an initial filing by all insurance groups, the GCC is required for all U.S. insurance groups with greater than \$1 billion in premium. The groups subject to the GCC are expected to have domestic insurers in most U.S. states. Therefore, it is recommended that that the new significant elements apply to all states.

A statement as to the number of jurisdictions that have adopted and implemented the proposal or a similar proposal and their experience to date:

We are not currently aware of any states that have adopted the 2020 revisions to Model #440 and Model #450, although we have been advised that many states have begun their legislative processes for adoption of these revisions.

A statement as to the provisions needed to meet the minimum requirements of the standard. That is, whether a state would be required to have “substantially similar” language or rather a regulatory framework. If it is being proposed that “substantially similar” language be required, the referring committee, task force or working group shall recommend those items that should be considered significant elements:

The current accreditation standard for Model #440 and Model #450 requires state adoption on a substantially similar basis. Therefore, the Group Capital Calculation (E) Working Group supports the attached proposed significant elements (Attachment A) be adopted by NAIC-accredited jurisdictions in a “substantially similar” manner, as that term is defined in the Accreditation Interlineations of the NAIC Financial Regulation Standards and Accreditation Program. The Financial Regulation Standards and Accreditation (F) Committee should consider a waiver of procedure as provided for in the Accreditation Program Manual and expeditiously consider adoption of this standard. The Group Capital Calculation (E) Working Group recommends that the accreditation standard become effective Nov. 7, 2022, the end of the 60-month period contemplated under the Covered Agreement, with enforcement of the standard to commence Jan. 1, 2023. However, the Working Group is also supportive of the effective date being bifurcated to allow those states that are not the Group Wide Supervisor of a group with operations in the EU or UK to be subject to a later effective date in line with the normal accreditation timeline, which would result in an effective date of January 1, 2026.

There were also revisions made to Section 8 of Model #440 regarding Confidential Treatment. The Group Capital Calculation (E) Working Group strongly supports the use of language similar to that contained in Section 8G of Model #440. This language was considered very critical to the GCC as its very important that members of the insurance industry (or regulators) not be allowed to make the results of the GCC public in any way as they are designed as regulatory-only tools. Unlike RBC that has regulatory trigger points, the GCC does not, and the regulators of these groups believed it would be detrimental if these tools were used by insurers as a means to advertise their relative solvency strength.

An estimate of the cost for insurance companies to comply with the proposal and the impact on state insurance departments to enforce it, if reasonably quantifiable:

The NAIC has not performed a cost/benefit analysis with respect to the 2020 revisions to Model #440 and Model #450, nor do we believe that the specific costs for insurance companies to comply with the proposal and the impact on state insurance departments to enforce it are reasonably quantifiable. However, the possible exemptions allowed under Model #450 are specifically designed to consider the cost to complete the GCC by the insurance company and the benefits of the GCC to the lead-state commissioner. More specifically, all insurers are required to submit the GCC at least once, after which time the expectation is that the lead state commissioner will evaluate the added insight brought to the state from GCC; then, provided the group has premium less than \$1 billion, no international business, no risky non-regulated entities and no banks or similar capital regulated entities in the group, the lead state commissioner can exempt the group from filing in the future.

In addition, the construction of the GCC also considers cost of completion and specifically provides a principle-based approach where the insurance company can exclude non-risky affiliates from the calculation and also provides the insurance company to group the information of multiple non-insurance/non-regulated affiliates as a means to further reduce the burden of completion. In short, the GCC is only as complex as the insurance group has structured itself, and therefore the GCC already inherently considers the cost to comply.

6. Insurance Holding Company Systems

State law should contain the NAIC *Insurance Holding Company System Regulatory Act* (#440), or an act substantially similar, and the department should have adopted the NAIC *Insurance Holding Company System Model Regulation* (#450).

Insurance Holding Company Systems – continued

Changes to Existing

k. Filing requirements for the enterprise risk filing similar to those specified in Section 4L(1) of the Model #440?

New

- l. Filing requirements for the group capital calculation filing similar to those specified in Section 4L(2) of Model #440?
- i. The ultimate controlling person of every insurer subject to registration shall annually file a group capital calculation completed in accordance with the NAIC Group Capital Calculation Instructions as directed by the lead state commissioner similar to section 4L(2)?
 - ii. Provision for exempting an insurance holding company system that has only one insurer within its holding company structure, that only writes business [and is only licensed] in its domestic state and assumes no business from any other insurer, similar to 4L(2)(a)?
 - iii. Provision for exempting an insurance holding company system that is required to perform a group capital calculation specified by the U.S. Federal Reserve? If the Federal Reserve Board cannot share the calculation with the lead state commissioner, the insurance holding company system is not exempt from the GCC, similar to 4L(2)(b)?
 - iv. Provision for exempting an insurance holding company system whose non-U.S. group-wide supervisor is located within a Reciprocal Jurisdiction that recognizes the U.S. state regulatory approach to group supervision and group capital, similar to 4L(2)(c)?
 - v. Provision for exempting an insurance holding company system that provides information to the lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program and whose non-U.S. group-wide supervisor that is not in a Reciprocal Jurisdiction recognizes and accepts the GCC as the world-wide group capital assessment for U.S. insurance groups who operate in that jurisdiction, similar to 4L(2)(d)?
 - vi. Provision that gives the lead state the authority to require the GCC for U.S. operations of any non-U.S. based insurance holding company system where after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes, similar to 4L(2)(e)?

Changes to Existing

cc. Provisions for protecting confidential information submitted to the commissioner, including provisions maintaining confidentiality for information shared with state, federal and international regulators similar to Section 8? If sharing confidential information with the NAIC and third-party consultants is permitted, appropriate confidentiality protections should be included.

New

- m. Provision prohibiting the making, publishing, disseminating, circulating or placing before the public in any way the group capital calculation and resulting group capital ratio under Section 4L(2) and/or the liquidity stress test along with its results and supporting disclosures required under Section 4L(3), by any insurer, broker, or other person engaged in any manner of the insurance business, except if the sole purpose of the announcement is to rebut a materially false statement, similar to Section 8G of Model #440?
- n. Filing requirements for the group capital calculation filing similar to those specified in Section 21 of Model #450?
- i. Provision that gives the lead state the authority to exempt the filing of the group capital calculation provided the criteria are similar to those allowed under Section 21A of Model #450?

The significant elements exposed by F Committee on Aug. 14, 2021 include a modification to element n.i and n.ii. Please see separate document containing the modified significant elements.

- ii. Provision that gives the lead state the authority to accept a limited group capital filing provided the criteria are similar to those allowed under Section 21B of Model #450? *See above comment regarding modifications.*
- iii. Provision that gives the lead state the authority to require the group capital calculation of any group that previously met an exemption or submitted a limited filing if any insurer in the holding company system either triggers an RBC action level event, is deemed in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer, similar to those allowed under Section 21C of Model #450?
- iv. Provision that sets forth the criteria for a jurisdiction to be included on the NAIC listing that “recognize and accept the group capital calculation” similar to that required under Section 21D and Section 21E of Model #450?



MEMORANDUM

To: Financial Condition (E) Committee

From: Financial Stability (E) Task Force

Date: February 22, 2021

Re: 2020 Revisions to *Insurance Holding Company System Regulatory Act* (#440)

Executive Summary

On Dec. 9, 2020, the NAIC Executive (EX) Committee and Plenary unanimously adopted revisions to the NAIC *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). These revisions implemented a Group Capital Calculation (GCC) for the purpose of group solvency supervision and Liquidity Stress Test (LST) for macroprudential surveillance. This memorandum makes recommendations with respect to the accreditation standards that this Task Force believes is appropriate with respect to only the LST and expect the Group Capital Calculation (E) Working Group to make separate recommendations to the Committee with respect to the GCC.

Post-financial crisis, regulators from all financial sectors across the globe recognized the need for macroprudential surveillance and tools to address macroprudential risks. While the solvency framework established and managed by the Financial Condition (E) Committee thoroughly addresses legal entity insurers and insurance groups, there was no group with a macroprudential scope. This Task Force was created to fill this gap, and in 2017 was charged to “analyze existing post-financial crisis regulatory reforms for their application in identifying macroprudential trends, including identifying possible areas of improvement or gaps, and propose . . . enhancements and/or additions to further improve the ability of state insurance regulators and industry to address macroprudential impacts.” The Task Force created the NAIC Macroprudential Initiative (MPI) to focus its efforts in four key areas: liquidity risk, recovery and resolution, capital stress testing, and exposure concentrations. Liquidity risk was consistently recognized as a key macroprudential risk by federal and international regulatory agencies, and there were several attempts to assess potential market impacts emanating from a liquidity stress in the insurance sector. Many of these analyses relied heavily on anecdotal assumptions and observations from behaviors of other financial sectors.

In order to provide more evidence-based analyses, the Task Force decided to develop a LST for large life insurers that would aim to capture the impact on the broader financial markets of aggregate asset sales under a liquidity stress event. Unlike capital adequacy, which has risk-based capital as a standardized legal entity capital assessment tool and the newly created Group Capital Calculation to provide a capital analysis tool at the group level, there is no regulatory liquidity assessment or stress tool. The Task Force focused on large life insurers due to the long-term cash buildup involved in many life insurance contracts and the potential for large scale liquidation of assets, not because liquidity risk does not exist in other insurance segments. Thus, the primary goal of the LST is to provide quantitative as well as qualitative insights for macroprudential surveillance, such as identifying the amount of asset sales that could occur during a specific stress scenario; but it will also aid micro prudential regulation as well. Because this stress testing is complex and resource-intensive, a set of scope criteria were developed to identify life insurers with large balances of activities assumed to be highly correlated with liquidity risk; thus, many life insurers will not be subject to the LST.

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A statement and explanation of how the potential standard is directly related to solvency surveillance and why the proposal should be included in the standards:

The current *Insurance Holding Company Systems* accreditation standard requires that state law shall contain the significant elements from Model #440 and Model #450. These models have provided state insurance departments the framework for insurance group supervision since the early 1970s. Following the 2008 financial crisis, state regulators identified group supervision as an area where improvements could be made to the U.S. system. In December 2010, the NAIC adopted changes to the models enhancing the domestic legal structure under which holding companies are supervised. In December 2014, the NAIC adopted revisions to clarify legal authority and powers to act as a group-wide supervisor for internationally active insurance groups. These changes are newly required elements of the NAIC Accreditation Program and have been satisfactorily adopted by nearly all accredited U.S. jurisdictions. As discussed in the preceding paragraphs, the LST was designed to enhance these same standards that were previously included as accreditation standards.

Macroprudential risks can directly impact regulated legal entity insurers and groups, and/or can emanate from or be amplified by these insurers and transmitted externally. The NAIC solvency surveillance framework must address macroprudential risks to ensure that the companies states regulate remain financially strong for the protection of policyholders, while serving as a stabilizing force to contribute to financial stability, including in stressed financial markets. The LST is the first new tool developed for the macroprudential program within the financial solvency framework.

A statement as to why ultimate adoption by every jurisdiction may be desirable:

The Financial Stability Task Force believes that all states that are the lead state for a group subject to the LST should be required to adopt the model revisions. The LST is a tool intended to help assess the impacts the life insurance industry can have on the broader financial markets in a time of stress. Ideally, the tool would have been required of all life insurance groups, but this was not possible due to the complexity and resources required to accomplish such liquidity stress testing. Thus, the LST uses a set of scope criteria to identify those life insurers with significant amounts in activities assumed to have high liquidity risk, thus representing the larger portion of the life insurance industry in terms of liquidity risk rather than representing the entire life insurance industry. If a scoped-in life insurance group was not subject to the LST because a state did not adopt the model revisions, this would significantly reduce the ability of the NAIC to represent the results as truly macroprudential and reflective of the majority of risks of the life insurance sector. Additionally, the LST results will be helpful to the lead states in their group supervision efforts as well.

Though not every state will be the lead state of a scoped-in group, the Task Force still believes the model revisions for the LST should be adopted in every state. It is fairly common for legal entity insurers to move from one group to another, impacting the group dynamics including the lead state determination, and each state should have the LST in their statutes to ensure they will be prepared for any future appointment as lead state. Also, even without legal entities changing groups, business acquisition and operational changes within existing groups might subject a previously excluded group to the LST. Therefore, it is recommended that the new significant elements apply to all states.

A statement as to the number of jurisdictions that have adopted and implemented the proposal or a similar proposal and their experience to date:

We are not currently aware of any states that have adopted the 2020 revisions to Model #440, although we have been advised that many states have begun their legislative processes for adoption of these revisions.

A statement as to the provisions needed to meet the minimum requirements of the standard. That is, whether a state would be required to have “substantially similar” language or rather a regulatory framework. If it is being proposed that “substantially similar” language be required, the referring committee, task force or working group shall recommend those items that should be considered significant elements:

The current accreditation standard for Model #440 and Model #450 requires state adoption on a substantially similar basis. Therefore, the Financial Stability (E) Task Force supports the attached proposed significant elements (Attached) be adopted by NAIC-accredited jurisdictions in a “substantially similar” manner, as that term is defined in the Accreditation Interlineations of the NAIC Financial Regulation Standards and Accreditation Program. The Financial Regulation Standards and Accreditation (F) Committee should consider a waiver of procedure as provided for in the Accreditation Program Manual and expeditiously consider adoption of this standard. The Financial Stability (E) Task Force recommends that the accreditation standard become effective Nov. 7, 2022, concurrent with the Group Capital Calculation revisions to the model, with enforcement of the standard to commence Jan. 1, 2023.

There were also revisions made to Section 8 of Model #440 regarding Confidential Treatment. The Financial Stability (E) Task Force strongly supports the use of language similar to that contained in Section 8G of Model #440. This language was considered very critical to the LST as its very important that members of the insurance industry (or regulators) not be allowed to make the results of the LST public in any way as they are designed as regulatory-only tools using complex assumptions for potential future stress events and the results could easily be misinterpreted and misrepresented by other users, causing true financial harm to the insurers.

An estimate of the cost for insurance companies to comply with the proposal and the impact on state insurance departments to enforce it, if reasonably quantifiable:

The NAIC has not performed a cost/benefit analysis with respect to the 2020 revisions to Model #440, nor do we believe that the specific costs for insurance companies to comply with the proposal and the impact on state insurance departments to enforce it are reasonably quantifiable. However, the LST scope criteria selects the larger, more complex life insurers, and all of these already perform some form of internal liquidity stress tests. While there are regulatory requirements for inputs and outputs, truly significant costs are avoided by using their existing internal stress testing systems instead of specifying a regulatory model.

6. Insurance Holding Company Systems

State law should contain the NAIC *Insurance Holding Company System Regulatory Act* (#440), or an act substantially similar.

Insurance Holding Company Systems – continued

Changes to Existing

- k. Additions to the filing requirements for the enterprise risk filing specified in Section 4L(1) of the Model #440 (see next item).

New

- c. Define “NAIC Liquidity Stress Test Framework” similar to that in Section 1K?
- d. Define “Scope Criteria” similar to that in Section 1M?
- l. Filing requirements for the liquidity stress test filing similar to those specified in Section 4L(3) of Model #440:
- i. The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC Liquidity Stress Test Framework shall file the results of a specific year’s Liquidity Stress Test to the lead state insurance commissioner of the insurance holding company system as determined by the procedures within the *Financial Analysis Handbook* similar to Section 4L(3)?
 - ii. Insurers meeting at least one threshold of the Scope Criteria for a specific data year are scoped into that year’s NAIC Liquidity Stress Test Framework unless the lead state, after consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should not be scoped into the Framework for that data year similar to Section 4L(3)(a)? Insurers that do not trigger at least one threshold of the Scope Criteria are considered scoped out of the NAIC Liquidity Stress Test Framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should be scoped into the Framework for that data year?
 - iii. Provision requiring compliance with the NAIC Liquidity Stress Test Framework’s instructions and reporting templates for the specific data year and any lead state insurance commissioner determinations in consultation with the Financial Stability Task Force or its successor, provided within the Framework similar to Section 4L(3)(b)?

Changes to Existing

- cc. Provisions for protecting confidential information submitted to the commissioner, including provisions maintaining confidentiality for information shared with state, federal and international regulators similar to Section 8? If sharing confidential information with the NAIC and third-party consultants is permitted, appropriate confidentiality protections should be included.
- m. Provision prohibiting the making, publishing, disseminating, circulating or placing before the public in any way the group capital calculation and resulting group capital ratio under Section 4L(2) and/or the liquidity stress test along with its results and supporting disclosures required under Section 4L(3), by any insurer, broker, or other person engaged in any manner of the insurance business, except if the sole purpose of the announcement is to rebut a materially false statement, similar to Section 8G of Model #440?

The following significant elements were modified from the initial March 8, 2021 E Committee referral and exposed by the F Committee on Aug. 14, 2021 for a 1-year exposure beginning January 1, 2022 (pending approval by Plenary at the Fall National Meeting). The modifications to n(i) and n(ii) allow Commissioners to grant exemptions to the group capital calculation to groups meeting the standards set forth in Model Regulation #450 Section 21A and Section 21B without the requirement to file at least once.

The significant elements are separated into those that incorporate the group capital calculation and those that incorporate the liquidity stress test.

6. Insurance Holding Company Systems (Group Capital Calculation)

State law should contain the NAIC *Insurance Holding Company System Regulatory Act* (#440), or an act substantially similar, and the department should have adopted the NAIC *Insurance Holding Company System Model Regulation* (#450).

Insurance Holding Company Systems – continued

Changes to Existing

k. Filing requirements for the enterprise risk filing similar to those specified in Section 4L(1) of the Model #440?

New

- l. Filing requirements for the group capital calculation filing similar to those specified in Section 4L(2) of Model #440?
 - i. The ultimate controlling person of every insurer subject to registration shall annually file a group capital calculation completed in accordance with the NAIC Group Capital Calculation Instructions as directed by the lead state commissioner similar to section 4L(2)?
 - ii. Provision for exempting an insurance holding company system that has only one insurer within its holding company structure, that only writes business [and is only licensed] in its domestic state and assumes no business from any other insurer, similar to 4L(2)(a)?
 - iii. Provision for exempting an insurance holding company system that is required to perform a group capital calculation specified by the U.S. Federal Reserve? If the Federal Reserve Board cannot share the calculation with the lead state commissioner, the insurance holding company system is not exempt from the GCC, similar to 4L(2)(b)?
 - iv. Provision for exempting an insurance holding company system whose non-U.S. group-wide supervisor is located within a Reciprocal Jurisdiction that recognizes the U.S. state regulatory approach to group supervision and group capital, similar to 4L(2)(c)?
 - v. Provision for exempting an insurance holding company system that provides information to the lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program and whose non-U.S. group-wide supervisor that is not in a Reciprocal Jurisdiction recognizes and accepts the GCC as the world-wide group capital assessment for U.S. insurance groups who operate in that jurisdiction, similar to 4L(2)(d)?
 - vi. Provision that gives the lead state the authority to require the GCC for U.S. operations of any non-U.S. based insurance holding company system where after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes, similar to 4L(2)(e)?

Changes to Existing

- cc. Provisions for protecting confidential information submitted to the commissioner, including provisions maintaining confidentiality for information shared with state, federal and international regulators similar to Section 8? If sharing confidential information with the NAIC and third-party consultants is permitted, appropriate confidentiality protections should be included.

New

- m. Provision prohibiting the making, publishing, disseminating, circulating or placing before the public in any way the group capital calculation and resulting group capital ratio under Section 4L(2) and/or the liquidity stress test along with its results and supporting disclosures required under Section 4L(3), by any insurer, broker, or other person engaged in any manner of the insurance business, except if the sole purpose of the announcement is to rebut a materially false statement, similar to Section 8G of Model #440?
- n. Filing requirements for the group capital calculation filing similar to those specified in Section 21 of Model #450?
 - i. Provision that gives the lead state the authority to exempt the filing of the group capital calculation provided the criteria are similar to those allowed under Section 21A of Model #450?
 - o Although not required for accreditation, in order to grant an exemption, is the filing required at least once?
 - ii. Provision that gives the lead state the authority to accept a limited group capital filing provided the criteria are similar to those allowed under Section 21B of Model #450?
 - o Although not required for accreditation, in order to grant an exemption, is the filing required at least once?
 - iii. Provision that gives the lead state the authority to require the group capital calculation of any group that previously met an exemption or submitted a limited filing if any insurer in the holding company system either triggers an RBC action level event, is deemed in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer, similar to those allowed under Section 21C of Model #450?
 - iv. Provision that sets forth the criteria for a jurisdiction to be included on the NAIC listing that “recognize and accept the group capital calculation” similar to that required under Section 21D and Section 21E of Model #450?

6. Insurance Holding Company Systems (Liquidity Stress Test)

State law should contain the NAIC *Insurance Holding Company System Regulatory Act* (#440), or an act substantially similar.

Insurance Holding Company Systems – continued

Changes to Existing

- o. Additions to the filing requirements for the enterprise risk filing specified in Section 4L(1) of the Model #440 (see next item).

New

- c. Define “NAIC Liquidity Stress Test Framework” similar to that in Section 1K?
- d. Define “Scope Criteria” similar to that in Section 1M?
- p. Filing requirements for the liquidity stress test filing similar to those specified in Section 4L(3) of Model #440:
 - vii. The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC Liquidity Stress Test Framework shall file the results of a specific year’s Liquidity Stress Test to the lead state insurance commissioner of the insurance holding company system as determined by the procedures within the *Financial Analysis Handbook* similar to Section 4L(3)?
 - viii. Insurers meeting at least one threshold of the Scope Criteria for a specific data year are scoped into that year’s NAIC Liquidity Stress Test Framework unless the lead state, after consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should not be scoped into the Framework for that data year similar to Section 4L(3)(a)? Insurers that do not trigger at least one threshold of the Scope Criteria are considered scoped out of the NAIC Liquidity Stress Test Framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should be scoped into the Framework for that data year?

- ix. Provision requiring compliance with the NAIC Liquidity Stress Test Framework's instructions and reporting templates for the specific data year and any lead state insurance commissioner determinations in consultation with the Financial Stability Task Force or its successor, provided within the Framework similar to Section 4L(3)(b)?

Changes to Existing

- cc. Provisions for protecting confidential information submitted to the commissioner, including provisions maintaining confidentiality for information shared with state, federal and international regulators similar to Section 8? If sharing confidential information with the NAIC and third-party consultants is permitted, appropriate confidentiality protections should be included.
- q. Provision prohibiting the making, publishing, disseminating, circulating or placing before the public in any way the group capital calculation and resulting group capital ratio under Section 4L(2) and/or the liquidity stress test along with its results and supporting disclosures required under Section 4L(3), by any insurer, broker, or other person engaged in any manner of the insurance business, except if the sole purpose of the announcement is to rebut a materially false statement, similar to Section 8G of Model #440?

VI.H. Group-Wide Supervision – Group Capital Calculation (Lead State) – Analyst Reference Guide

Considerations When Exempting Groups

As stated elsewhere within this guidance, the GCC and its related provisions in the NAICs Model Holding Company Act and corresponding regulation are not designed or otherwise intended for regulators to take regulatory action based on the reported level of a group's GCC. Rather, the GCC is intended to be a tool to better understand the risks of the group, mostly through the trending of the financial information in the "Input 4-Analytics" tab. However, specific to the provisions of the NAICs Model Holding Company Act and corresponding regulation, the Group Capital Calculation (E) Working Group did believe that the GCC might be more helpful for some groups and not as much for others when it developed criteria within the Act and the regulation for exemptions. On this point, the Working Group believed that in general the GCC would be more helpful for those groups that had 1) non-U.S. insurers within the group; 2) a bank within the group, or 3) a more material degree of non-insurers. Specific to the point regarding non-U.S. insurers or banks, the GCC is based upon the premise that the most relevant measure of capital is the actual legal entity requirements of capital from the applicable regulator. On this point, the required capital, as well as the trending of information on these particular legal entities might be the most valuable, particularly if the relative operations and assets of these entities compared to the U.S. RBC filers is material. Similarly, while the calculated capital on the non-insurance entities may not be as relevant as required capital on regulated insurers or banks, if the operations and assets of non-insurers relative to those of US RBC filers are material, the GCC may provide greater value to such types of groups.

To these points, the NAICs Model Holding Company Act and corresponding regulation contain possible exemptions for groups that have less than \$1 billion in premium and that do not possess any of the three characteristics just described. The possible exemptions exist after the GCC has been filed once, because without seeing the completed GCC at least once for a group, it may be difficult for the lead-state to determine if the GCC has value. However, it should also be understood that these three criteria of non-U.S. insurer, bank, or non-material non-insurers are not the only situations where the GCC would be valuable to the lead-state. As a reminder, all states are required to assess the sufficiency of capital within the holding company structure; prior to the GCC, this was done using various methods (e.g., debt to equity ratios, interest coverage ratios, existing RBC ratios and relative size of insurance). The GCC is expected to enhance a state's ability to make this assessment more easily. Therefore, in deciding if a group should be exempted, the lead-state will need to consider a number of factors, including how easily it can make this assessment without the GCC. For small groups where the U.S. RBC operations and assets are much larger than the non-insurance operations, it is likely the GCC would provide a smaller degree of value and exempting from the GCC may be appropriate. However, the analyst should also consider the fact that the simpler the holding company structure, the more easily the GCC can be completed. Specifically, given all of the data included in the GCC is existing data and therefore readily available to the company, a smaller and simple structured group should be able to accumulate into the GCC template in a short period of time. Also worth considering is that if such operations are contained within a number of different U.S. insurers where it is difficult to determine the degree of double counting of capital, the GCC may provide more value. To be clear, these are not the only situations where the GCC might be helpful even with a relatively small group. This is because the value may come from figures the GCC requires that the state may have otherwise not been aware of. Specifically, the GCC may identify non-RBC filers who may be experiencing some level of financial difficulties. This possible identification of information the lead-state was not otherwise aware of is the primary reason the Working Group suggested the GCC be filed once before deciding on whether a group should be exempted. While the NAIC Accreditation program may not require a state to have such authority to have the GCC filed once before exempting, this background information provided herein is intended to encourage the state to consider such possibilities before deciding on exempting a group, particularly since it may be difficult to stop an exemption in a given year once it's provided. In summary, as with everything else described in this documentation, the GCC requires judgement on behalf of the analyst and the lead-state which is based upon multiple factors including the lead-state's existing knowledge of the group. The same applies when considering whether a group should be exempt.