NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Date: 5/21/21

Virtual Meeting

RISK RETENTION GROUP (E) TASK FORCE
Tuesday, May 25, 2021
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	Barbara D. Richardson	Nevada
Karima M. Woods, Vice Chair	District of Columbia	Marlene Caride	New Jersey
Andrew Mais	Connecticut	Russell Toal	New Mexico
Sharon P. Clark	Kentucky	Raymond G. Farmer	South Carolina
Troy Downing	Montana		

NAIC Support Staff: Becky Meyer/Sara Franson

AGENDA

1. Consider Adoption of its Feb. 24 Minutes—*Sandra Bigglestone (VT)* — Attachment One

2. Discuss 2021 RRG Survey Results and Consider Next Steps —*Sandra Bigglestone (VT)* — Attachment Two

3. Discuss Applicability of the 2020 Revisions to the *Insurance Holding Company Systems Regulatory Act* (#440) and the *Insurance Holding Company Systems Model Regulation* (#450) Related to the Group Capital Calculation as an Update to the Accreditation Standards for Risk Retention Groups—*Sandra Bigglestone (VT)* — Attachment Three

4. Receive Updates on Related NAIC and/or Federal Actions—*Sandra Bigglestone (VT)*
   - Quarterly Analysis of Non-Troubled RRGs Referral — Attachment Four

5. Discuss Any Other Matters Brought Before the Task Force—*Sandra Bigglestone (VT)*
   - 2021 NAIC Insurance Summit: Risk Retention Groups – For Domiciliary and Non-Domiciliary Regulators: June 16, 2021 10:00 – 10:50 a.m. CT (Virtual Format)

6. Adjournment

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Draft: 3/8/21

Risk Retention Group (E) Task Force
Virtual Meeting
February 24, 2021

The Risk Retention Group (E) Task Force met Feb. 24, 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); Sharon P. Clark represented by Jeff Gaither (KY); Troy Downing represented by Steve Matthews (MT); and Raymond G. Farmer represented by Daniel Morris (SC).

1. Adopted its Feb. 5, 2021, and 2020 Fall National Meeting Minutes

The Task Force conducted an e-vote that concluded Feb. 5, 2021, to approve the distribution of a survey to state insurance regulators with the purpose to provide the Task Force with insight into future improvements and priorities in the areas of risk retention group (RRG) regulation, registration and training.

Mr. O'Donnell made a motion, seconded by Mr. Matthews, to adopt the Task Force's Feb. 5, 2021 (Attachment One) and Nov. 18, 2020 *(see NAIC Proceedings – Fall 2020, Risk Retention Group (E) Task Force)* minutes. The motion passed unanimously.

2. Discussed the Applicability of Revisions to Model #440 and Model #450 Related to the GCC as an Accreditation Standard for RRGs

Ms. Bigglestone stated that in 2020, the NAIC adopted revisions to the *Insurance Holding Company Systems Regulatory Act* (#440) and the *Insurance Holding Company Systems Model Regulation* (#450). The changes relate to applying a group capital calculation (GCC) to groups with at least one insurer and one affiliate. She also stated there were revisions related to liquidity stress testing. However, she said these sections only apply to life insurers and, therefore, are not applicable to RRGs, which can only write property/casualty (P/C) business.

Ms. Bigglestone noted that the Task Force typically considers applicability of accreditation standards to RRGs after a recommended change to the standards is referred to the Financial Regulation Standards and Accreditation (F) Committee and the recommendation is exposed. At the time of this meeting, the referral still resides with the Group Capital Calculation (E) Working Group. However, the current referral suggests accelerating the timeline for adoption of the revisions and an accelerated effective date for accreditation. Therefore, today's Task Force discussion will not result in a decision, but rather will help provide a foundation for future considerations on applicability to RRGs in the event adoption of the revised accreditation standard moves quickly.

Dan Daveline (NAIC) said that the initial instructions given to the Group Capital Calculation (E) Working Group, tasked with the development of a GCC, were to develop an aggregation method for group capital that builds on risk-based-capital (RBC). The aggregation method developed is essentially a miniature consolidation using eliminations to avoid double counting. With this methodology, the calculation is only as complex as the group itself, and even if there are a lot of affiliates, there are options to combine multiple entities into a single line of reporting. The GCC is intended to be a valuable tool for group oversight that will be incorporated into the Group Profile Summary (GPS). The combination of value and simplicity allows broad application, and the intention is that the GCC applies to all insurance holding company groups. Mr. Daveline noted, however, that it is not uncommon for RRGs to file a disclaimer of affiliation and in those instances when an insurer is not part of a group subject to other holding company filings, the GCC filing would also not apply. The only complete exemption from the GCC (or similar federal or international capital standard) set forth in Model #440 is for groups with only one insurer, which writes only in the state of domicile. There was some discussion about exempting groups under a certain dollar threshold, but the decision was made to subject all groups to the GCC, with the option to seek a waiver after the first year.

Mr. Daveline stated that the GCC has strong confidentiality provisions. The filing is to go to the lead state and only the lead state. In regard to public availability of the GCC, the revisions to Model #440 prevent the insurer from making the calculation public in any way. The calculation is intended as a regulatory tool, not a standard for public comparison of groups.

Becky Meyer (NAIC) provided a summary of the typical adoption process for a new or revised Part A: Laws and Regulations accreditation standard as outlined in the *Accreditation Program Manual*. If adopted through the normal timeline, the effective date for accreditation would be Jan. 1, 2026. However, the referral suggests obtaining a waiver and implementing an effective

date as early as Nov. 7, 2022. Ms. Meyer stated that one potential outcome of the waiver and related bifurcation of effective dates suggested in the referral is expedited adoption of the standard, but an effective date that provides adequate time for adoption by all states. The Financial Regulation Standards and Accreditation (F) Committee is expected to receive a referral from the Group Capital Calculation (E) Working Group at the Spring National Meeting and begin discussion of the topic upon receipt.

Ms. Bigglestone stated that the Task Force expects to consider the issue further when the standard is exposed by the Financial Regulation Standards and Accreditation (F) Committee. States are encouraged to begin considering the potential implications on their domestic RRGs, including any concerns in applying the GCC, as well as potential benefits of obtaining the GCC for ongoing analysis.

3. Discussed the Financial Analysis Non-Troubled Insurer Procedures

Ms. Bigglestone stated that revisions to the NAIC *Financial Analysis Handbook* (Handbook) were adopted in 2020 to better incorporate RRG-specific procedures within the risk assessment worksheet and to remove outdated guidance that RBC is not applicable for RRGs. Following these changes, further review of the Handbook identified the Quarterly Quantitative Assessment of Non-Troubled Insurers as another area to consider updates related to RRGs. These procedures generate a set of indicators for any company not considered troubled by the domestic regulator. The results of these indicators help the analyst determine the depth of procedures necessary to perform in the first, second and third quarters. Two indicators, prior year RBC less than 250% and prior year triggered the RBC Trend Test, exclude RRGs from use of these indicators. However, since RBC is calculated for RRGs, this exclusion is likely not necessary. Ms. Bigglestone stated that insurance regulators of RRGs have certain flexibility in applying actions related to RBC. However, she said RBC is still calculated and is a useful indicator when looking at the overall financial position of an RRG. She also noted that the indicators in the non-troubled worksheet are used as a tool for analysts to help determine the extent of analysis necessary. If they are not triggered, the analyst can choose not to perform additional review in that quarter. If they are triggered, the analyst can choose between performing a full quarterly review or providing an explanation of what caused the trigger and why a full quarterly review is not considered necessary. Therefore, the impact of removing the RRG exception appears to provide additional information without unwarranted additional work and aligns with current regulatory practices.

Mr. O'Donnell and Mr. Matthews stated they did not have concerns and agreed the update aligns with current regulatory practices. Ms. Bigglestone asked NAIC staff to draft a referral to the Financial Analysis Solvency Tools (E) Working Group for the Task Force to consider during its next meeting.

4. Discussed the RRG Survey

Ms. Bigglestone stated that last fall, the Task Force drafted and exposed survey questions that are intended to help inform the future direction of the Task Force. Minor edits were incorporated as a result of the exposure period, and the survey was sent to state insurance regulators in February. The survey is currently outstanding with a due date of March 1. Ms. Bigglestone stated that the results of the survey will be aggregated, with the details or state-identifying information kept confidential. The Task Force will then consider the aggregated results to help determine next steps.

5. Discussed Training Initiatives

Ms. Bigglestone stated that one element of the Task Force's charges is to consider educational opportunities that relate to RRG resources for both domiciliary and non-domiciliary states. One way the Task Force is pursuing to satisfy this element of the charges is to conduct a training session during the NAIC's Insurance Summit. She recommended both domiciliary and non-domiciliary state insurance regulators be alert to the schedule when it is announced and register if they are able.

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

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NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

MEMORANDUM

TO: Risk Retention Group (E) Task Force

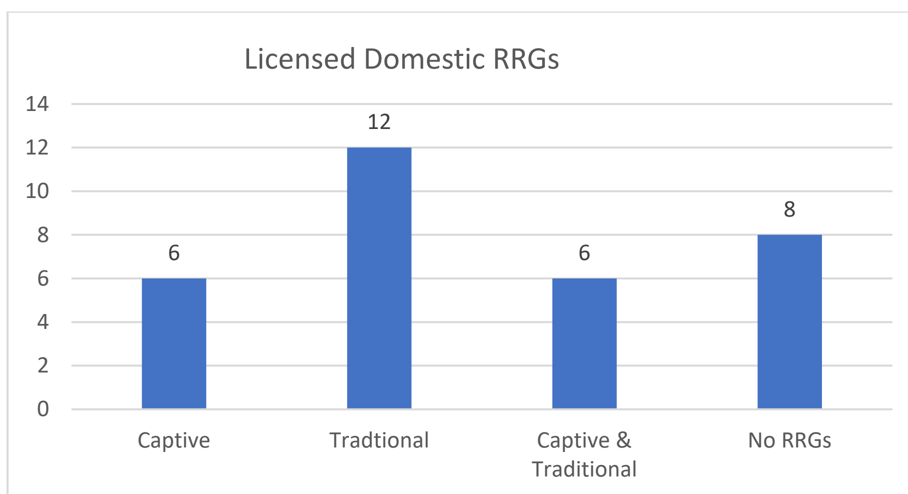
FROM: NAIC Staff

DATE: May 17, 2021

RE: 2021 Risk Retention Group Survey Results

In February 2021, the Risk Retention Group (E) Task Force conducted a survey to Identify what is working well and what areas the Task Force can improve related to both non-domiciliary and domiciliary regulation of risk retention groups. 32 states responded to the survey.

1) Does your state license domestic risk retention groups?



Many states commented that while they have the structure to license an RRG as a traditional insurer, they do not currently have any RRGs licensed in their state.

2) Has your state implemented and provided access to the Best Practices and FAQs for Risk Retention Groups to: 1) - employees in your state responsible for registering or licensing RRGs; 2) - RRGs licensed or registered in your state; 3) - the general public? (referenced documents can be found on the RRGTF webpage under Related Documents https://content.naic.org/cmte_e_risk_retention_group_tf.htm)

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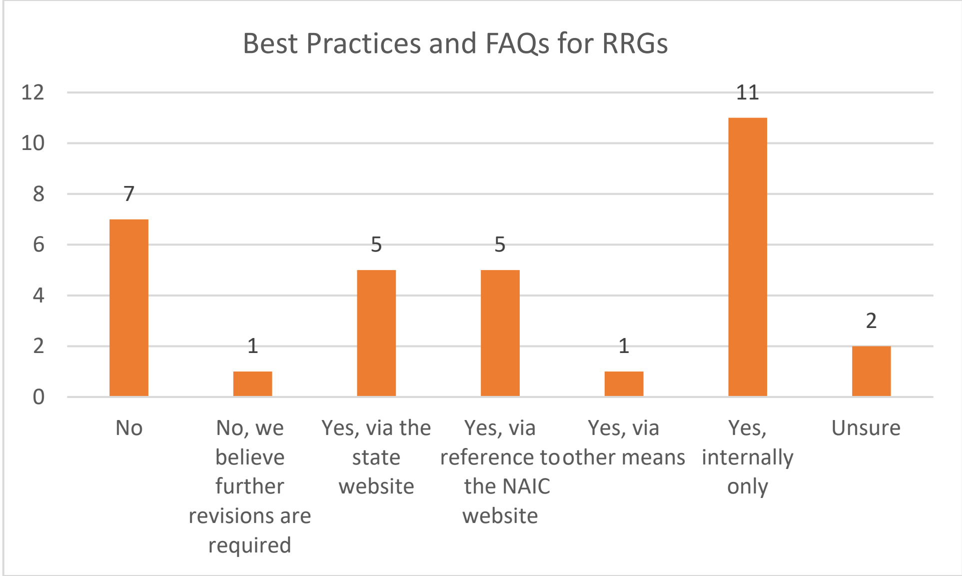
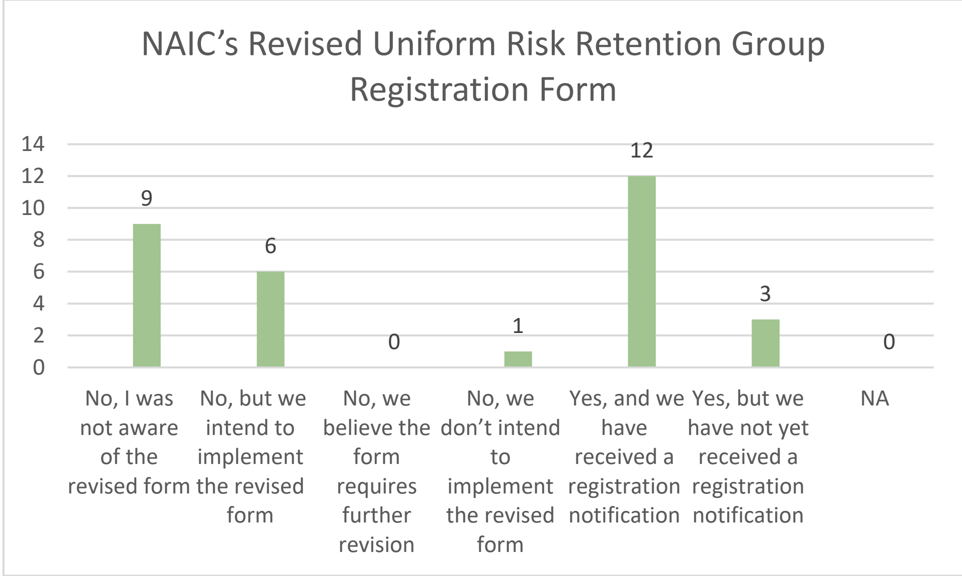


Further revisions were in reference to the DOI website, without specific mention of revisions to the Best Practices or FAQ.

3) (Non-Domiciliary Regulators) Has your state implemented the NAIC's revised Uniform Risk Retention Group Registration Form adopted in 2020 by the C Committee?



Generally, those that don't intend to implement the updated form indicated they will incorporate the revisions into their state-specific registration forms.

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4) (Non-Domiciliary Regulators) Describe your state's requirements and procedures/processes for the registration of a non-domiciliary RRG in your state.

Most responses referenced the state's registration form (see question #3 regarding how many states implemented the revised NAIC registration form). Another common theme in the states' processes was to reach out to the domestic state if needed.

5) (Non-Domiciliary Regulators) As a result of the NAIC's revised Uniform Risk Retention Group Registration Form, and the Best Practices and FAQ documents, has your state implemented new or additional means of communicating/making inquiries with RRG domiciliary regulators as part of the registration process or annual review process?

Yes	9
No	23
N/A	0

Many no answers commented that they already had procedures to reach out to the domiciliary regulator as needed. One noted they will consider incorporating this communication in the future.

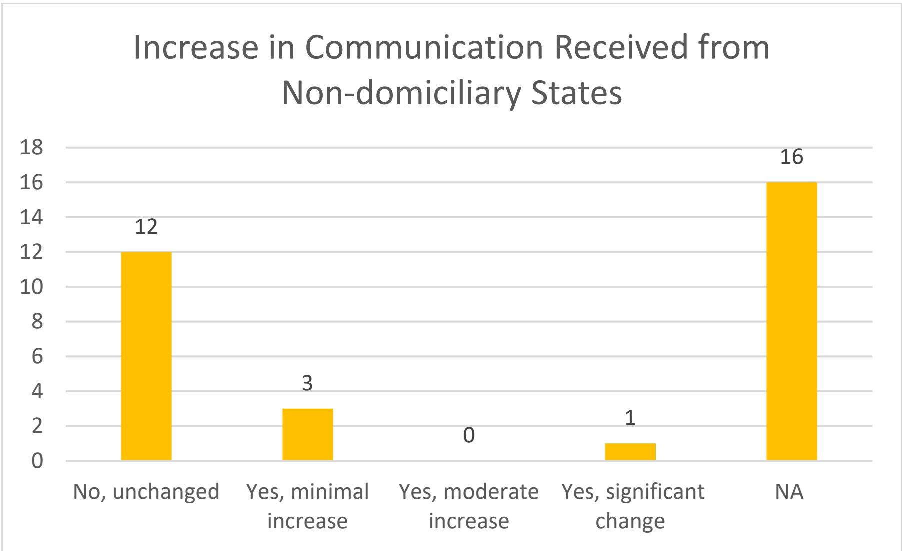
6) (Non-Domiciliary Regulators) Do you believe RRGs applying for registration in your state are properly completing the registration form and providing all required information?

Yes	25
No	4
NA	3

States answering "no" generally indicated the forms were complete, but lacked supporting documentation, particularly the plan of operations or feasibility study.

7) (Non-Domiciliary Regulators) When communicating with a domiciliary regulator, did you receive timely responses and were the responses satisfactory?

8) (Domiciliary Regulators) Have you seen an increase in communication received from non-domiciliary states regarding RRGs?



Respondents who reported communication was unchanged generally noted they already received communication and that communication continues.

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9) (Domiciliary Regulators) If an RRG becomes troubled or potentially troubled do you notify the states it is registered in?

Yes	12
No	0
Unsure	0
NA	20

RRGs are subject to the same accreditation requirements as traditional insurers regarding troubled companies. This includes a requirement to notify other states of a troubled or potentially troubled company.

10) (Domiciliary Regulators) If an RRG is no longer eligible to write in other states (voluntary or involuntary liquidation, regulatory action, etc.) do you notify the states it is registered in?

Yes	11
No	0
Unsure	1
NA	20

All domiciliary RRG states noted that they do provide communication for an involuntary action, although communications are often informal. The unsure response specified a voluntary withdrawal may not prompt communication, but involuntary action will always prompt communication.

11) What areas of the updated tools (NAIC's revised Uniform Risk Retention Group Registration Form, and the Best Practices and FAQ documents) do you find most beneficial in your regulatory role (what is working well)?

There was an overall positive response to the new tools including improved communication (better understanding of non-domiciliary vs domiciliary role), comments that the new registration form is more useful, and comments about improved accessibility of the information that the new tools provide.

12) What parts of the registration process for non-domestic RRGs do you feel need further clarification, improvement, expanded guidance (what is not working well)?

Following is a summary of the suggestions regarding the registration of non-domiciliary RRGs.

- *Consider a format for electronic signatures.*
- *Consider asking what other states the RRG is registered in and if there are any issues.*
- *Improve awareness as it seems some non-domestic states still require approval prior to conducting business similar to the UCAA application and contrary to the Liability Risk Retention Act (LRRA).*
- *Continue improving communication, including resolving Issues receiving initial capitalization information from domestic regulator.*

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- *RRGs controlled by MGAs are known to be especially risky; consider additional safeguards for these types of RRGs.*
- *One challenge is that newly formed RRGs often don't have financial information available when registering (including not having an Insurer Profile Summary—IPS) and the projections or business plan often do not address all regulatory concerns in the depth an IPS would.*
- *Response times from domiciliary states should be timely.*
- *Registration forms, even if complete, can lack clarity in certain areas such as commonality of risk among members, who owns the RRG, identity of members of corporate subsidiaries or corporate entities (as members of the RRG).*

13) Do you have suggestions for the NAIC RRG Task Force to consider focusing on to keep moving forward with improvements or additional tools and resources (for example – communication considerations, common problem areas, information gaps with other states or the industry, etc.)?

    Following is a summary of suggested next steps:
    - *Increased communication via webinars, education sessions, panel discussions, etc.*
    - *Increased education on LRRA – especially to non-domiciliary states.*
    - *Communicate licensure stipulations and requirements of the RRG to registered states – include licensure stipulations, capital requirements, etc. on the registration form to reduce need to reach out to domiciliary state.*
    - *Consider best practices to reduce differences in regulatory response when an RRG is having financial difficulty.*

14) What other topics should the NAIC RRG Task Force focus on to further improve and bring more uniformity to the licensing and registration processes, improve the ongoing regulation of RRGs, and/or further improve the understanding of RRGs?

    Responses often focused on more education, including in the area of licensing and a need to reach not only domiciliary states, but also non-domiciliary states. In addition to education, there were comments about how to provide better financial information to non-domiciliary states when registering as a new company or a company with very little history, reviewing the Model Risk Retention Act (#705) to ensure consistency with LRRA, and the ability to electronically file a registration statement with multiple states.

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15) Would individuals from your state participate if a webinar or other training is offered covering RRG registration, licensing or other RRG hot topics?

The comments indicated some awareness of the current NAIC online RRG course, but noted they would take advantage of other training as well. One area of training that is currently lacking is training on risks specific to RRGs for both examiners and analysts responsible for domiciliary state oversight.

16) What suggestions do you have to best disseminate information on RRG regulation to state regulators (both domiciliary and non-domiciliary)?

The most common recommendations were:

- *Email notifications*
- *Webinars*

Other suggestions include:

- *Maintain state contact list (note this is already included in the RRPG Handbook, but this recommendation demonstrates it may not be widely known)*
- *NAIC newsletter updates to regulators*
- *Ensure inclusion of product regulation staff*
- *Encourage at least one rep from each state to follow the RRGTF (or at least be on the distribution list)*
- *Education efforts should include outreach and topics specific to non-domiciliary regulators*
- *In addition to notification by the domestic state when an RRG is troubled or potentially troubled, encourage conference calls with the states where the RRG is registered*
- *Create something similar to the UCAA specific to RRG primary licensing*

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17) Do you utilize the NAIC Risk Retention and Purchasing Group Handbook?

Yes	23
No	9

18) Do you have suggestions for updating and improving the NAIC Risk Retention and Purchasing Group Handbook?

Improvement suggestions include:

- *more guidance on RRG's ownership structures, corporate structures and the different ways an RRG can define members or structure their membership*
- *include the FAQ and Best Practices documents (or reference to these documents)*
- *discuss the impact of cyber risk on the utilization of service providers*
- *more guidance on entrepreneurial RRGs including case studies/steps to evaluate holding companies and/or influence of non-owner parties in these types of RRGs*

19) (Domiciliary Regulators) Do you utilize the UCAA for licensing new Risk Retention Groups?

Yes	8
No	6
NA	18

20) (Domiciliary Regulators) If you use a process other than UCAA for licensing new Risk Retention Groups, please check all the following elements that are part of the process to charter/license a new RRG.

Background checks and use of biographical affidavit forms	5
Use of a consulting actuary to review the plan of operation, feasibility analysis and financial projections	5
Review and evaluation of management personnel	6
Review of related parties, MGUs and service providers	6
Review of corporate documents	6
Review of corporate governance procedures and guidelines	6
Review of plan of operation, including risks to be insured, limits and maximum retained risk	6
Review of feasibility study, including financial projections	6
Require the RRG to list the states the RRG proposes to register in	6
Require the RRG to include a description of any permitted practice requests	5
Review of the reinsurance program and creditworthiness of proposed reinsurers	6
Review of the investment policy and custodial arrangement/agreement	6
Review of the capital structure, and if applicable, form of surplus note or letter of credit	6

Review of ownership (including financial information of owners/members) and form of shareholder/subscriber agreements	6
Review of rates, policy forms and underwriting guidelines, and if applicable, comparison of rates in states proposed to operate in	6
Review of risk mitigation and loss prevention measures	5
Review of prospective risks	5
Review for compliance with the Federal Liability Risk Retention Act	6
Review for compliance with holding company regulations	6
Review of marketing materials	4

Practices appear generally consistent across all states that do not utilize the UCAA. Of the few deviations, one state indicated formal background checks are not currently required (but they would consider doing them if needed), but they do require and review biographical affidavits for all proposed directors and officers. Another deviation noted that they require a feasibility study by a credentialed actuary, but not a review.

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 30-day comment period ending May 13, 2021.

The exposure motion by F Committee is as follows, which alters the effective date recommended in the referral.

•Motion to expose the March 8 referral from E Committee regarding the Group Capital Calculation and the Liquidity Stress Test as additions to the accreditation standard for 30 days with the expectation that the normal timeline for adoption of a Part A accreditation standard will be followed, and the effective date for all states will be January 1, 2026.

•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 and #450 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.

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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.

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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

<u>Changes to Existing</u>
k. Filing requirements for the enterprise risk filing similar to those specified in Section 4L<u>(1)</u> of the <u>M</u>odel <u>#440</u>?

<u>New</u>
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)?

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

<u>New</u>
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?

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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?

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?

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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 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.

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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.

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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?

MEMORANDUM

TO: Financial Analysis Solvency Tools (E) Working Group

FROM: Risk Retention Group (E) Task Force

DATE: May 24, 2021

RE: Quarterly Quantitative Assessment of Non-Troubled Insurers

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Revisions to the NAIC *Financial Analysis Handbook* (the Handbook) were adopted in 2020 to better incorporate RRG-specific procedures within the risk assessment worksheet and to remove outdated guidance that risk-based capital (RBC) is not applicable for risk retention groups (RRGs). Following these changes, further review of the Handbook identified the Quarterly Quantitative Assessment of Non-Troubled Insurers as another area to consider updates related to RRGs. This section of the Handbook, which contains indicators to assist regulators in determining the need and extent of quarterly procedures, excludes RRGs from two indicators within the overall assessment. The two indicators are (a) prior year risk-based capital (RBC) less than 250% and (b) prior year triggered the RBC Trend Test.

Because RBC is calculated for RRGs and can be a useful indicator when looking at the financial position of an RRG, the Task Force recommends that this exclusion is no longer necessary and should be removed for both indicators. The Task Force further observed that removing the exclusion aligns with current regulatory practices for RRGs, which take RBC into consideration in the ongoing analysis process.

The Task Force requests that the Working Group consider the proposed revisions shown tracked on the attached excerpt from the Analysis Handbook to remove the exclusion for RRGs from the applicable indicators.

If there are any questions regarding the recommendation, please feel free to contact Sandy Bigglestone, Chair of the Risk Retention Group (E) Task Force, or NAIC staff support (Becky Meyer) for clarification. Thank you for your consideration.

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Quantitative Risk Assessment

A. Non-troubled insurers will receive the following automated review each quarter. Troubled insurers will receive a full risk assessment analysis each quarter.

Each quarter, non-troubled insurers should be assessed based on the results of the following automated system. Based on the results of the automated system, you may need to proceed with a full risk assessment analysis. **Also consider any other information that may not be reflected in the quarterly statement but may be known or noted in the analysis file or Insurer Profile Summary (IPS), which could impact the company on a prospective basis prior to relying solely on an automated review.**

B. If any of the following criteria is met, the insurer may be assigned a full quarterly risk assessment analysis:

1. The insurer is a troubled insurer
2. Prior year risk-based capital (RBC) is less than 250% *(excluding title insurers~~ and risk retention groups [RRGs]~~)* (ST)
3. Prior year triggered the RBC Trend Test *(excluding title insurers~~ and RRGs~~)* (ST)
4. Scoring System result greater than or equal to (excluding title insurers):
    - 450 for property/casualty (P/C) insurers
    - 350 for life or fraternal insurers
    - 300 for accidental and health (A&H) insurers
    - 325 for health entities

C. Based on the results of the automated system calculations, a full quarterly risk assessment analysis may be completed if the insurer has the following number of "yes" responses from the automated calculations:

1. Four or more for P/C insurers, title insurers and health entities or
2. Three or more for life/A&H/fraternal insurers

Special Notes: Any automated results in D where the denominator is 0 return a "yes" response.

A default "no" response will be returned for insurers with no net retention for automated results #8 and #9.

For companies that have not filed a prior year-end or quarterly statement (e.g., either a new start-up insurer or exempt from filing), all responses in section D will default to a "yes." In this scenario, it is recommended the analyst perform a full quarterly risk assessment analysis.

D. Automated system calculations:

1. Are unassigned funds negative? (ST)
2. Has surplus/capital and surplus (based on business type) increased ≥ 12.5% (for first quarter), 25% (for second quarter), or 37.5% (for third quarter)? (ST)
3. Has surplus/capital and surplus (based on business type) decreased ≥ 5% (for first quarter), 10% (for second quarter), or 15% (for third quarter)? (ST)
4. Has any individual asset category that is greater than 5% of surplus/capital and surplus (based on business type) changed by more than +/- 10% from the prior year-end? (CR, MK, LQ)
5. Has any individual liability category that is greater than 5% of surplus/capital and surplus (based on business type) changed by more than +/-10% from the prior year-end? (RV, OP, ST)
6. Are affiliated investments greater than or equal to 75% of surplus/capital and surplus (based on

business type), OR unrealized capital loss more than -15% of prior year-end surplus/capital and surplus (based on business type)? (CR, LQ)

7. Does the net loss exceed 20% of surplus/capital and surplus (based on business type)? (OP)
8. For property/casualty insurers, title insurers and health entities, is the combined ratio greater than or equal to 100%? (PR/UW, OP)
9. Has net premiums written changed by more than +/- 5% (for first quarter), +/- 10% (for second quarter), or +/- 15% (for third quarter) from the prior year-to-date? (PR/UW)

Follow-up Analysis

If any of the following supplemental filings, information or analyses are received during the quarter, review and assess any risks, and document material risks in the IPS.

- Management Discussion & Analysis (MD&A)
- Audited Financial Statement Report
- Impact of the group on the domestic insurer from the analysis of the Holding Company Analysis (as completed by or received from the lead state)
- Risks related to the insurer from the analysis of the ORSA Summary Report Analysis (as completed by or received form the lead state)
- Business Plan and Projections
- Communications from the insurer, other departments or other regulators

Recommendation for Further Analysis

Does the automated system indicate a full quarterly risk assessment analysis should be performed?

- If "yes," complete a full risk assessment analysis, or if a full risk assessment analysis was not completed, justify and document the reason(s) on the Quarterly Procedures for Non-Troubled Insurers.
- If "no," no further actions are required.

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