

Capital Adequacy (E) Task Force

RBC Proposal Form

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

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

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

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

DESCRIPTION/REASON OR JUSTIFICATION OF CHANGE(S)

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

Additional Staff Comments:

** This section must be completed on all forms.

Revised 2-2023

Risk-Based Capital Preamble

History of Risk-Based Capital by the NAIC

A. Background

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

Preamble

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

B. Purpose of Risk-Based Capital

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

C. Objectives of Risk-Based Capital Reports

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

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

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

D. Critical Concepts of Risk-Based Capital

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

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

Preamble

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

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

E. Limited use of Risk-Based Capital

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

Preamble

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

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



May 30, 2024

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

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

Dear Ms. French and Mr. Ommen,

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

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

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

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

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

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

Sincerely,

A handwritten signature in black ink that reads "William J. Schwegler". The signature is fluid and cursive, with the first name being the most prominent.

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

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



May 31, 2024

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

Re: Risk-Based Capital Preamble Exposure

Dear Chair Botsko,

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

The Importance of RBC Transparency

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

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

The Uses of RBC Information

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

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

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

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

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

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

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

Sincerely,

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

**Mariana Gomez-Vock**

Sr. Vice President, Prudential Issues & International

202-624-2313

MarianaGomez-Vock@acli.com

Brian Bayerle

Chief Life Actuary

202-624-2169

BrianBayerle@acli.com

Colin Masterson

Policy Analyst

202-624-2463

ColinMasterson@acli.com

May 30, 2024

Tom Botsko

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

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

Dear Chair Botsko,

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

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

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

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

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

acli.com

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

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

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

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

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

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

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

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

Section B 11.

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

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

Section D 14.

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

Section E 18.

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

Section E 20.

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

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

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

Sincerely,

Mañana Gomez *B Banerji* *Colin Masterson*

cc: Eva Yeung, NAIC