



To: Financial Regulation Standards and Accreditation (F) Committee
From: Financial Analysis (E) Working Group (FAWG)
Date: April 5, 2019
Re: Recommendation for Updated Part B.3 Procedures for Troubled Companies

On February 27, 2019, the Financial Analysis (E) Working Group (FAWG) adopted revisions to the *Troubled Insurance Company Handbook*, a regulator only publication. Specifically, the revisions included updated guidance for timely and effective communication between the domiciliary and non-domiciliary state departments of insurance of necessary information on troubled or potentially troubled insurance companies that may impact other jurisdictions. A cooperative communication system between states' insurance departments promotes coordinated efforts in identifying troubled company situations and coordinating regulatory actions.

Part B.3 Procedures for Troubled Companies states that departments should generally follow and observe procedures set forth in the *Troubled Insurance Company Handbook*. To align the Part B.3 guidelines with the recently adopted revisions to the Handbook, the FAWG recommends the attached revisions which define more specifically which states should be included in the communication of troubled or potentially troubled insurance companies.

If you have any questions regarding his referral, please contact NAIC staff (Jane Koenigsman, jkoenigsman@naic.org).

NAIC FINANCIAL REGULATION STANDARDS AND ACCREDITATION PROGRAM

REVIEW TEAM GUIDELINES

Part B3: Department Procedures and Oversight

b. Procedures for Troubled Companies

Standard: The department should generally follow and observe procedures set forth in the NAIC *Troubled Insurance Company Handbook*. Appropriate variations in application of procedures and regulatory requirements should be commensurate with the identified financial concerns and operational problems of the insurer.

Results-Oriented Guidelines:

1. The department should demonstrate that application of procedures and regulatory requirements are commensurate with the identified financial concerns and operational problems of the insurer. When assessing compliance with this guideline, consideration should be given to the following:
 - Whether identified concerns are adequately addressed.
 - Appropriate consideration and execution of more frequent examinations, including appropriateness of the scope of the examination.
 - Timing, quality and reasonableness of communication with other states where the insurance company is licensed, has a significant amount of written, assumed or ceded insurance business, has a significant market share, or has an impacted affiliate domiciled in that state, has pooled companies, or utilizes fronting entities, or where the domestic state is aware the company is either seeking to write business or is seeking a license.

Process-Oriented Guidelines:

1. Once the department has identified an insurance company as troubled or potentially troubled, the department should take steps, such as those set forth in the NAIC *Troubled Insurance Company Handbook*, to address the identified concerns. This shall apply from the point the department identifies the insurance company as troubled, or potentially troubled, to the point the company has been placed into receivership.
2. The department should examine those insurance companies that the department has identified as troubled or potentially troubled more frequently than once every five years as outlined in the NAIC *Model Law on Examinations* (#390) or provide rationale for not conducting more frequent examinations. Limited scope examinations are acceptable in meeting this guideline; however, the department is still required to complete a full-scope examination in compliance with statutory requirements.
3. Once the department has identified an insurance company as troubled or potentially troubled, the department should, within an appropriate time consistent with the severity of the event, make efforts to communicate proactively with other state insurance regulators where the insurance company is licensed, has a significant amount of written, assumed or ceded insurance business, has a significant market share, has an affiliate domiciled in that state, has pooled companies, or utilizes fronting entities, or where the domestic state is aware the company is either seeking to write business or is seeking a license ~~in which affiliates of the troubled company are domiciled or those states where the troubled company has significant market share~~. Department files should contain written evidence of such communication(s). To a lesser extent, oral verification may provide such evidence.