Date: 7/14/22

2022 Summer National Meeting
Portland, Oregon

FINANCIAL REGULATION STANDARDS AND ACCREDITATION (F) COMMITTEE
Wednesday, August 10, 2022
12:00 – 1:00 p.m. ET / 11:00 a.m. – 12:00 p.m. CT / 10:00 – 11:00 a.m. MT / 9:00 – 10:00 a.m. PT

ROLL CALL

Lori K. Wing-Heier, Chair
Vicki Schmidt, Co-Vice Chair
Sharon P. Clark, Co-Vice Chair
Alan McClain
Andrew N. Mais
Timothy N. Schott
Gary D. Anderson
Eric Dunning

Alaska        Kansas         Mike Causey        North Carolina
Kentucky      Arkansas       Andrew R. Stolfi   Oregon
Connecticut   Maine          Elizabeth Kelleher Dwyer Rhode Island
Massachusetts Jeff Rude        Virginia
Nebraska

Sharon P. Clark, Co-Vice Chair
Andrew N. Mais
Timothy N. Schott
Gary D. Anderson
Eric Dunning

Arkansas      Connecticut

Mike Causey
Andrew R. Stolfi
Elizabeth Kelleher Dwyer
Michael Wise
Larry D. Deiter
Scott A. White
Jeff Rude

South Carolina
South Dakota
Virginia
Wyoming

NAIC Support Staff: Becky Meyer/Sara Franson/Dan Schelp

AGENDA

1. Consider Adoption of its Spring National Meeting Minutes
   —Director Lori K. Wing-Heier (AK)

2. Consider Adoption of Revisions to the Examination Coordination Accreditation Guidelines
   —Director Lori K. Wing-Heier (AK)

3. Consider Adoption of a Referral from the Receivership and Insolvency (E) Task Force Regarding Receivership Updates to Holding Company Models
   —Director Lori K. Wing-Heier (AK)

4. Consider Adoption of a Recommendation from the Financial Condition (E) Committee Regarding Variable Annuity Captives
   —Director Lori K. Wing-Heier (AK)

5. Receive Updates on the Status of Model Laws for Accreditation
   —Director Lori K. Wing-Heier (AK)

6. Discuss Any Other Matters Brought Before the Committee
   —Director Lori K. Wing-Heier (AK)

7. Adjournment
The Financial Regulation Standards and Accreditation (F) Committee met April 5, 2022. The following Committee members participated: Lori K. Wing-Heier, Chair (AK); Vicki Schmidt, Co-Vice Chair (KS); Sharon P. Clark, Co-Vice Chair (KY); Alan McClain (AR); Andrew N. Mais (CT); Gary D. Anderson (MA); Timothy N. Schott (ME); Mike Causey represented by Jackie Obusek (NC); Eric Dunning (NE); Andrew R. Stolfi (OR); Elizabeth Kelleher Dwyer (RI); Raymond G. Farmer (SC); Larry D. Deiter (SD); Scott A. White (VA); and Jeff Rude (WY). Also participating was: James J. Donelon (LA).

1. **Adopted its 2021 Summer National Meeting Minutes**

Commissioner McClain made a motion, seconded by Director Farmer, to adopt the Committee’s Aug. 14, 2021, minutes (see NAIC Proceedings – Summer 2021, Financial Regulation Standards and Accreditation (F) Committee). The motion passed unanimously.

Director Wing-Heier said the Committee met April 4 in regulator-to-regulator session, pursuant to paragraph 7 (consideration of individual state insurance department’s compliance with NAIC financial regulation standards) of the NAIC Policy Statement on Open Meetings. During this meeting, the Committee voted to award continued accreditation to Alabama, Mississippi, and North Carolina.

2. **Adopted Revisions to the 2021 NAIC Publications Referenced in the Accreditation Standards**

   a. **Adopted Revisions Deemed Insignificant**

Director Wing-Heier said there are several NAIC publications currently included in the accreditation standards by reference. At each Spring National Meeting, the Committee is to review revisions made to these publications in the prior year. Each of the applicable groups that developed revisions to the publications in 2021 have provided the Committee with a memorandum discussing the revisions, and they indicated whether the revisions should be considered significant or insignificant for accreditation purposes. This included the following publications: the Accounting Practices and Procedures Manual (AP&P Manual) (Attachment One); the Annual and Quarterly Statement Blanks and Instructions (Attachment Two); Risk-Based Capital (RBC) Formulas and Instructions for Life and Property/Casualty (P/C) Insurers (Attachment Three); the Financial Condition Examiners Handbook (Handbook) (Attachment Four); the Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual) (Attachment Five); and the Valuation Manual (Attachment Six). The working group or task force responsible for each of these publications has deemed their 2021 changes as insignificant to the accreditation process, except for the item specifically identified as “significant” by the Financial Examiners Handbook (E) Technical Group.

Director Farmer made a motion, seconded by Commissioner Stolfi, to adopt the revisions deemed insignificant to each of the publications immediately by reference to the accreditation standards. The motion passed unanimously.

   b. **Exposed Revisions Deemed Significant**

Director Wing-Heier summarized the Financial Examiners Handbook (E) Technical Group’s memorandum and discussed the items deemed significant for accreditation purposes. The Technical Group identified an
Draft Pending Adoption

inconsistency between guidance in the Handbook and the accreditation guideline regarding exam coordination. Specifically, the Handbook guidance requires coordination efforts for examinations of holding company groups with insurers domiciled in multiple states; whereas, the accreditation guidance requires the same documentation for holding company groups with multiple insurers. Since the coordination guidance is intended to facilitate work between states, the recommendation is to align the accreditation guideline with the Handbook guidance as outlined in the memorandum.

Director Farmer made a motion, seconded by Commissioner McClain, to expose the Financial Examiners Handbook (E) Technical Group’s memorandum for a 30-day public comment period. The motion passed unanimously.

3. Exposed Receivership Updates to Model #440 and Model #450

Director Wing-Heier stated that at the 2021 Summer National Meeting, the Receivership and Insolvency (E) Task Force adopted revisions to the Insurance Holding Company System Regulatory Act (#440) and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450). Because both models are part of the accreditation standards, the Committee needs to consider the impact of any changes. The Task Force has provided its recommendation (Attachment Seven).

Commissioner Donelon, chair of the Task Force, stated that the Executive (EX) Committee and Plenary adopted revisions to Model #440 and Model #450 at the 2021 Summer National Meeting. The revisions help ensure efficient coordination with affiliates and enforce the continuation of essential services by an affiliate to an insurer in the event of insolvency. The Task Force adopted the referral at its Nov. 30, 2021, meeting, which recommends that the receivership revision be considered “acceptable but not required” rather than identifying “substantially similar” provisions that would be required. Commissioner Donelon pointed out that this recommendation is limited to the receivership revisions to these models. It does not include revisions that were adopted by the NAIC in 2020 for group capital or stress testing. While the Task Force does not recommend an accreditation requirement to adopt these revisions, it strongly encourages states to consider them as they are amending their holding company statutes based on the benefits these revisions add to state regulation; the goal is to improve efficiencies in receivership and reduce costs to a receivership estate.

Director Farmer made a motion, seconded by Commissioner Clark, to expose the recommendation from the Receivership and Insolvency (E) Task Force that the 2021 revisions to Model #440 and Model #450 be acceptable for accreditation, but not required, for a 30-day public comment period. The motion passed unanimously.

4. Exposed a Preamble Update for Variable Annuity Captives

Director Wing-Heier stated that captives are generally excluded from the accreditation standards, except for the following: 1) captive risk retention groups (RRGs); 2) captives that reinsure term and universal life with secondary guarantees (ULSGs); 3) captives that reinsure variable annuity business; or 4) captives that reinsure long-term care (LTC) business. Currently, variable annuities and LTC captives have “to be determined” effective dates, as work was ongoing in these areas. Last spring, the Financial Regulation Standards and Accreditation (F) Committee sent a request to the Financial Condition (E) Committee for more information on the extent that variable annuities and LTC captives are used, any relevant trends, and updates on related work. The second paragraph of the Financial Condition (E) Committee response (Attachment Eight) discusses updates to the Valuation Manual to alleviate concerns regarding captives that reinsure variable annuity business. The memorandum recommends replacing the “to be determined” effective date with a reference to VM-21: Requirements for Principle-Based Reserves for Variable Annuities. The recommended change to the Accreditation Preamble is on the second page of the recommendation. Since the Valuation Manual is already required for accreditation, the proposed revision does not represent a new requirement. Rather, it serves as a reference for how this item is addressed in the

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accreditation standards. This means there is no proposed requirement that would apply directly to captives. Rather, the issue is being addressed through the standards for traditional insurers. If future trends indicate a concern, the Financial Regulation Standards and Accreditation (F) Committee may reconsider this at that time.

Director Farmer made a motion, seconded by Commissioner White, to expose the proposed updates to the Preamble to reference VM-21 regarding variable annuity business for a 30-day public comment period. The motion passed unanimously.

Having no further business, the Financial Regulation Standards and Accreditation (F) Committee adjourned.

https://naiconline.sharepoint.com/sites/NAICSupportStaffHub/Member Meetings/2022 NAIC Meetings/Spring National Meeting/Committee Meetings/FRS and ACCREDITATION (F) COMMITTEE/Minutes/April 5 F Cmte Minutes.docx
MEMORANDUM

TO: Financial Regulation Standards and Accreditation (F) Committee

FROM: Susan Bernard (CA), Chair, Financial Examiners Handbook (E) Technical Group
John Litweiler (WI), Vice-Chair, Financial Examiners Handbook (E) Technical Group

DATE: Feb. 9, 2022

RE: Consideration for Financial Accreditation Standards
2022 Financial Condition Examiners Handbook

The Accreditation Program Manual (Manual) includes Review Team Guidelines to be used for financial examinations performed using the risk-focused surveillance approach that is found in the NAIC Financial Condition Examiners Handbook (Handbook). This memorandum is to update the Financial Regulation Standards and Accreditation (F) Committee on changes the Financial Examiners Handbook (E) Technical Group has made to the Handbook in 2021.

Modifications are made to the Handbook each year, and a new edition is printed annually. This process allows for an efficient way to update the Handbook and ensures that users have the latest version. The Technical Group made several changes to the Handbook in 2021, the majority of which it considers non-significant; i.e., having no impact on accreditation guidance.

The Technical Group noted an opportunity to better align the guidance in the Handbook and the Manual as it relates to exam coordination. This change should be considered “significant” for accreditation purposes, which the Technical Group defines as a change that may immediately warrant a change to at least one accreditation standard or the Review Team Guideline(s) for said standard. Although this change is categorized as “significant” by the Technical Group, this is not meant to suggest the modifications are synonymous with the term “significant” within the accreditation context.

During 2021, the Technical Group made the following changes:

**Significant Changes to the Handbook Affecting Accreditation Standards and/or Review Team Guidelines:**

- Revisions to the Coordination Framework to clarify the roles and responsibilities of each state that has a company in a holding company group.

When reviewing the guidance contained in the Coordination Framework, the Technical Group noted that Handbook guidance requires the use of Exhibit Z – Exam Coordination when documenting coordination efforts for examinations of holding company groups with insurers domiciled in multiple states. This is...
inconsistent with the guidance in the Manual, which requires the use of Exhibit Z for examinations of holding company groups with multiple insurers.

To ensure a consistent approach to documenting coordination efforts, the Technical Group advises the Committee to consider revising the guidance pertaining to Accreditation Standard B2(e): General Examination Procedures and Accreditation Standard B2(g): Scheduling of Examinations, as well as the related questions on the Accreditation SEG/IAR Form regarding the use of Exhibit Z. The Technical Group suggests incorporating the tracked revisions below to reflect this change in the Manual:

**Accreditation Standard B2(e): Use of Appropriate Guidelines and Procedures, Results-Oriented Guideline 1:**

The examiner should utilize a risk-focused approach and prepare examination documentation in sufficient detail to provide a clear understanding of the work performed. The content and organization of the documentation should support conclusions reached and effective execution of the risk-focused approach. When assessing compliance with this guideline, consideration should be given to the following:

- Utilization of a risk-focused approach in establishing priority of accounts or operational areas.
- The clarity and accuracy of the documentation used to support examination conclusions.
- Extent of involvement with contract examiners if utilized.
- Utilization of audit work when relied upon to support an identified risk.
- Fulfillment of coordination efforts as determined by the state in Exhibit Z – Examination Coordination, and consistent with their role as described in the Examiners Handbook, for companies that are part of a holding company group with insurers domiciled in multiple states that includes more than one insurer.

**Accreditation Standard B2(e): Use of Appropriate Guidelines and Procedures, Process-Oriented Guideline 3:**

If the company being examined is part of a holding company group with multiple insurers domiciled in multiple states, the state should complete the appropriate section of Exhibit Z, Part Two (or similar document) as follows:

- If the state is the exam facilitator conducting a fully coordinated group examination, Exhibit Z, Part Two, Section B (or similar document) should be completed.
- If the state is a participating state in a fully coordinated group examination, the state should complete Exhibit Z, Part Two, Section C (or similar document).
- If the state did not participate in a coordinated group examination or utilized existing work outside of a fully coordinated group examination, the state should complete Exhibit Z, Part Two, Section D (or similar document).

**Accreditation Standard B2(g): Use of Appropriate Guidelines and Procedures, Process-Oriented Guideline 3:**

The department should document the attempt to coordinate examination efforts with departments of other states consistent with the coordinated exam approach prescribed in the Examiners Handbook. Each company that is part of a holding company group that includes more than one insurer with insurers...
**domiciled in multiple states** should include a copy of the coordination plan, documented in Section A of Exhibit Z, Part Two (or similar document), in its examination file.

**Accreditation SEG/IAR Form, Standard B2(e), Question 5:**

For examinations of companies that are part of a holding company group **with insurers domiciled in multiple states** that includes more than one insurer, does the department complete the applicable section of Exhibit Z – Examination Coordination based on its role in the examination?

**Non-Significant Changes to the Handbook:**

- Revisions to the Reserves Repositories (Life, Health and Property/Casualty [P/C]), as well as the Underwriting Repository, to provide additional possible completeness and accuracy procedures for examination teams to consider that align with the testing approach used by external auditors. Additionally, procedures were added to enhance collaboration with the actuary to determine significant lines of business/data elements to focus on for testing purposes.
- Revised guidance related to information technology (IT) in the following areas:
  - Additional guidance for evaluating the accessibility and transferability of policyholder data was incorporated into the following sections of the Handbook: 1) Section 1-3 narrative guidance; 2) Exhibit C, Part Two – IT Planning Questionnaire (ITPQ); and 3) Exhibit C, Part Two – IT Work Program and Instructional Notes.
  - Ransomware guidance was incorporated into the following sections of the Handbook: 1) Section 1-3 narrative guidance; and 2) Exhibit C, Part Two – IT Work Program.

If there are any questions regarding the proposed recommendations, please contact either me or NAIC staff (Bailey Henning at bhenning@naic.org) for clarification. Thank you for your consideration.
On August 17, 2021, 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). The revisions help ensure efficient coordination with affiliates and to enforce the continuation of essential services by an affiliate to an insurer in the event of insolvency.

These revisions were drafted by the Receivership Law (E) Working Group under charges assigned by the Receivership and Insolvency (E) Task Force. These revisions, referred to as the “receivership revisions” do not include recent revisions to Models #440 and #450 for group capital calculation or liquidity stress test. The receivership revisions address the continuation of essential services through affiliated intercompany agreements with an insurer that is placed into receivership by: 1) bringing affiliate service providers deemed “integral” or “essential” to an insurer’s operations under the jurisdiction of a rehabilitator, conservator, or liquidator for purposes of interpreting, enforcing, and overseeing the affiliate’s obligations under the service agreement and give the commissioner authority to require that “integral” or “essential” affiliate service providers consent to such jurisdiction; 2) further clarifying the ownership of data and records of the insurer that are held by the affiliate; and 3) clarifying that premiums of the insurer held by the affiliate are the property of the insurer and rights of offset are determined by receivership law.

See attachment A for a copy of the amendments.

The recommendation for Part A Accreditation Standards is that these receivership revisions be considered acceptable, but not required to be adopted by states. However, the revisions are considered important and all states are encouraged to adopt them. States may consider adoption of the changes in conjunction with opening their holding company laws to consider adoption of the Group Capital Calculation and Liquidity Stress Test revisions.

The Task Force will continue to encourage states to adopt these revisions based on the benefits these revisions add to state regulation, and to the goal of improving efficiencies in receivership and reducing costs to a receivership estate.
MEMORANDUM

TO: Superintendent Elizabeth Kelleher Dwyer, Chair of the Financial Regulation Standards and Accreditation (F) Committee

FROM: Commissioner Scott A. White, Chair of the Financial Condition (E) Committee

DATE: Nov. 19, 2021

RE: Use of Captives to Reinsure Variable Annuity and Long-Term Care Business

I received your April 14 memo requesting information on the extent the referenced captives are used, any trends on the use of the captives, reasons for such trends, and any relevant updates on work done in the areas of variable annuities and long-term care insurance (LTCI). Upon receiving your memo, I referred your request to the Financial Analysis (E) Working Group. Since the Working Group ultimately collected the information on the use of captives by surveying domestic states using the states’ confidentiality standards, the Working Group’s response memo will be submitted to the Financial Regulation Standards and Accreditation (F) Committee as a separate regulator-only document. However, for the purposes of this memo, I would note that one of the key takeaways from the Working Group is that the current impact to the risk-based capital (RBC) of the domestic insurers utilizing these captives is minimal.

I would also like to provide you with updates on work done on variable annuities and LTCI. In 2018, the Financial Condition (E) Committee adopted a revised framework for variable annuities, which became effective Jan. 1, 2020. The changes were specifically designed to remove the non-economic volatility within the previous framework, therefore removing the major reason for the use of captives for variable annuities. The Committee believes it is an appropriate time to remove the to be determined (TBD) effective date in the Accreditation Preamble and replace it with a reference to VM-21, Requirements for Principle-Based Reserves for Variable Annuities.

For LTCI, the Financial Condition (E) Committee has not developed any new standards that could be used to justify the removal of the TBD status. Although the impact of the use of captives for LTCI still appears to be minimal, the Committee recommends that this aspect of the Accreditation Preamble be retained and that the Financial Regulation Standards and Accreditation (F) Committee continue to monitor the use of captives for LTCI.

In summary, the Financial Condition (E) Committee recommends a replacement of the TBD in the Accreditation Preamble for variable annuities with VM-21 and retaining the TBD for LTCI.
Captive Reinsurers

The following Part A standards apply to the regulation of a state’s domestic insurers licensed and/or organized under its captive or special purpose vehicle statutes or any other similar statutory construct (captive insurer) that reinsure business covering risks residing in at least two states, but only with respect to the following lines of business:

1) Term and universal life with secondary guarantee policies that are applicable under Section 3 of the Term and Universal Life Insurance Reserve Financing Model Regulation (#787) (commonly referred to as XXX/AXXX policies). The application of this provision is intended to have a prospective-only effect, so that regulation of captive insurers, special purpose vehicles and any other entities that reinsure these types of policies will not be subject to the Part A standards if the policies assumed were both (1) issued prior to Jan. 1, 2015, and (2) ceded so that they were part of a reinsurance arrangement as of Dec. 31, 2014. [Drafting Note: This paragraph of the Preamble became effective Jan. 1, 2016]

2) Variable annuities valued under Actuarial Guideline XLIII—CARVM for Variable Annuities (AG 43) or VM-21: Requirements for Principle-Based Reserves for Variable Annuities. [Drafting Note: This paragraph of the Preamble is not yet effective. Effective date for compliance to be determined.] This paragraph of the Preamble was addressed through revisions to VM-21 of the Valuation Manual.

3) Long term care insurance valued under the Health Insurance Reserves Model Regulation (Model #10). [Drafting Note: This paragraph of the Preamble is not yet effective. Effective date for compliance to be determined.]

With regard to a captive insurer, special purpose vehicle, or any other entity assuming XXX/AXXX business, regulation of the entity is deemed to satisfy the Part A accreditation requirements if the applicable reinsurance transaction complies with Model #787.

[Drafting Note: The Part A standards with respect to entities assuming variable annuities and long term care reinsurance business are intended to be effective with respect to both currently in-force and future business. However, the effective dates for variable annuities and long term care insurance are not yet determined, and their application to in-force business need further discussion].