

Article - Insurance

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§4-306.

(a) A regulatory action level event occurs when:

(1) an insurer files an RBC report that indicates that the insurer has total adjusted capital that is:

- (i) greater than or equal to its authorized control level RBC; and
- (ii) less than its regulatory action level RBC;

(2) the Commissioner notifies an insurer of an adjusted RBC report that indicates an event under item (1) of this subsection;

(3) if an insurer requests a hearing to challenge an adjusted RBC report that indicates an event under item (1) of this subsection, the Commissioner notifies the insurer that the Commissioner, after a hearing, has rejected the insurer's challenge;

(4) an insurer fails to file an RBC report by the filing date, unless the insurer has:

- (i) provided the Commissioner with a satisfactory explanation for the failure; and
- (ii) cured the failure within 10 days after the filing date;

(5) an insurer fails to submit an RBC plan to the Commissioner within the time period specified in § 4-305(c) of this subtitle;

(6) the Commissioner notifies an insurer that:

- (i) the RBC plan or revised RBC plan submitted by the insurer is, in the judgment of the Commissioner, unsatisfactory; and
- (ii) the notification constitutes a regulatory action level event with respect to the insurer;

(7) the Commissioner notifies an insurer that the insurer has failed to adhere to its RBC plan or revised RBC plan, but only if:

- (i) the insurer's failure to adhere to the RBC plan or revised RBC plan has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its RBC plan or revised RBC plan; and
- (ii) the Commissioner has stated in the notification that the insurer's

failure to adhere to the RBC plan or revised RBC plan has a substantial adverse effect on the ability of the insurer to eliminate the company action level event; or

(8) if an insurer requests a hearing to challenge a determination made by the Commissioner under item (6) or (7) of this subsection, the Commissioner notifies the insurer that the Commissioner, after a hearing, has rejected the insurer's challenge.

(b) In the event of a regulatory action level event, the Commissioner shall:

(1) require the insurer to prepare and submit an RBC plan or, if applicable, a revised RBC plan;

(2) perform any examination or analysis that the Commissioner considers necessary of the assets, liabilities, and operations of the insurer, including a review of the insurer's RBC plan or revised RBC plan; and

(3) after any examination or analysis performed under this subsection, issue a corrective order.

(c) In determining the type of corrective action to be taken by the insurer, the Commissioner may take into account all factors that the Commissioner considers relevant with respect to the insurer based on the Commissioner's examination or analysis of the assets, liabilities, and operation of the insurer, including the results of any sensitivity test undertaken pursuant to the RBC instructions.

(d) The insurer shall submit the RBC plan or revised RBC plan to the Commissioner:

(1) within 45 days after the date of the regulatory action level event; or

(2) if an insurer has requested a hearing to challenge an adjusted RBC report or revised RBC plan, within 45 days after notification to the insurer that the Commissioner, after a hearing, has rejected the insurer's challenge.

(e) (1) The Commissioner may retain actuaries, investment experts, and other consultants as necessary in the judgment of the Commissioner to:

(i) review an insurer's RBC plan or revised RBC plan;

(ii) examine or analyze the assets, liabilities, and operation of the insurer; and

(iii) formulate the corrective order to be imposed on the insurer.

(2) The fees, costs, and expenses that relate to any actuaries, investment experts, or other consultants retained under this subsection shall be borne by the affected insurer as directed by the Commissioner.

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