

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Enrolled

Senate Bill 8

(Chair, Finance Committee)(By Request - Departmental -
Maryland Insurance Administration)

Finance

Economic Matters

Insurance - Risk Management and Own Risk and Solvency Assessment Act

This departmental bill adopts the Risk Management and Own Risk and Solvency Assessment (ORSA) Model Act (#505) that was developed by the National Association of Insurance Commissioners (NAIC). Among other things, the bill (1) requires carriers and insurance groups to maintain a risk management framework, complete an ORSA at least once each year, and submit an ORSA summary report to the Insurance Commissioner; (2) sets the requirements for filing an ORSA summary report with the Commissioner; and (3) establishes the confidentiality of an ORSA, ORSA summary report, and other ORSA-related information. The Commissioner may adopt regulations consistent with the bill.

The bill takes effect January 1, 2018.

Fiscal Summary

State Effect: The Maryland Insurance Administration (MIA) can handle the bill's requirements using existing budgeted resources. Revenues are not materially affected.

Local Effect: The bill does not affect local governmental operations or finances.

Small Business Effect: MIA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Risk Management Framework and Own Risk and Solvency Assessment Requirements

The bill defines “carrier” to mean an insurer, a nonprofit health service plan, a health maintenance organization, or a dental plan organization. Unless exempt or granted a waiver by the Insurance Commissioner, each carrier domiciled in the State must (1) maintain a risk management framework to identify, assess, monitor, manage, and report its material and relevant risks and (2) complete an ORSA consistent with the process outlined in the ORSA Guidance Manual (the most recent version adopted by NAIC) and submit an ORSA summary report to the Commissioner. A carrier’s framework requirement may be met if the carrier’s insurance group maintains a framework that applies to the operations of the carrier. Similarly, a carrier’s ORSA requirement may be met through membership in an insurance group that completes and reports an ORSA that includes information about the carrier.

An ORSA is a confidential internal assessment, appropriate to the nature, scale, and complexity of a carrier or insurance group, that the carrier or insurance group conducts, of the material and relevant risks associated with the carrier’s or insurance group’s current business plan and the sufficiency of capital resources to support those risks. A carrier or insurance group’s ORSA must be conducted (1) regularly, but at least once each year, and (2) at any time when there is a significant change to the carrier’s or insurance group’s risk profile.

Submission and Review of the Own Risk and Solvency Assessment Summary Report

When requested to do so by the Commissioner, but not more than once each year, a carrier must submit an ORSA summary report (or a combination of reports) that contains the applicable information described in the ORSA Guidance Manual. The ORSA summary report must be prepared, submitted, and reviewed by the Commissioner in a specified manner. Information submitted in the ORSA summary report is generally confidential, but it may be disclosed under specified circumstances. A carrier that does not file its ORSA summary report in a timely manner is subject to a penalty of \$200 for each day the violation continues, up to a maximum of \$25,000. The Commissioner may reduce the penalty if a carrier demonstrates that paying would constitute a financial hardship. This penalty provision does not limit the authority of the Commissioner to take any other authorized action.

A carrier must determine the best date for its filing based on its internal planning process and notify the Commissioner of that filing date. A carrier or insurance group’s chief risk

officer or other executive that oversees the risk management process must sign the report and attest that (1) the carrier applies the process described in the ORSA summary report and (2) a copy of the report has been provided to the carrier's board of directors or other appropriate committee. A carrier may meet this requirement by submitting the most recent and substantially similar report, in a specified manner, that was submitted to the insurance commissioner of another state or to the regulator of a foreign jurisdiction; however, any such report that is in a language other than English must include a copy that is translated to English.

Exemptions and Waivers

A carrier or insurance group is exempt from the bill's ORSA and framework requirements if its annual direct written and unaffiliated assumed premiums, including international premiums but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, are less than (1) \$500.0 million for a carrier or (2) \$1.0 billion for an insurance group. An ORSA summary report is still required, in a specified manner, in the event that either the carrier or corresponding insurance group is exempt. If a carrier loses its exemption due to changes in premiums, the carrier is granted one year following the year the threshold is exceeded to comply with the ORSA and framework requirements.

A carrier that does not qualify for an exemption may request a waiver from the bill from the Commissioner. In deciding whether to grant a waiver, the Commissioner may consider (1) the type and volume of business written; (2) ownership and organizational structure; and (3) any other relevant factor. If a carrier is part of an insurance group with carriers domiciled in more than one state, the Commissioner must also contact the lead state commissioner and other domiciliary commissioners when considering whether to grant a waiver.

Even if a carrier or insurance group qualifies for an exemption, the Commissioner may require the entity to maintain a risk management framework, conduct an ORSA, and file an ORSA summary report based on unique circumstances such as the type and volume of business written, federal agency requests, ownership and organizational structure, and international supervisor requests. The Commissioner may also require an exempt carrier to meet the bill's requirements if the carrier (1) has risk-based capital (RBC) at a company action level event; (2) is found to be in a financially hazardous condition; or (3) exhibits the qualities of a troubled carrier.

Current Law: As the primary regulator of the insurance industry in the State, MIA performs actuarial evaluations, financial audits, financial examinations, and market conduct examinations to ensure that insurers remain financially solvent and comply with State laws. Depending on numerous factors, including the size of an insurer and the type of insurance it sells, an insurer domiciled in the State is required to maintain specified

reserves and capital assets based on the premiums it collects and its outstanding policies, contracts, annuities, and benefit agreements.

MIA is authorized to require an insurer to take certain actions when it determines that the insurer's finances are at risk. For example, when an insurer's RBC is greater than what is authorized by MIA, it is considered a company action level event. Such an insurer must submit an RBC plan to the Commissioner detailing how the insurer plans to reduce its RBC. If the issue persists, the Commissioner may require the insurer to take corrective action, instead of relying on the insurer's RBC plan. Similarly, if the Commissioner determines that an insurer is in a financially hazardous condition, it may require the insurer to take numerous corrective actions including the reduction of present and potential liability through reinsurance; the reduction, suspension, or limitation of business being accepted or renewed; or the adoption of certain governance policies. Under some circumstances, MIA is authorized to apply to the court for an order that conserves, rehabilitates, or liquidates and dissolves an insurer.

Background: MIA advises that the ORSA Model Act (#505) was developed by NAIC in response to the 2008 financial crisis and formally adopted in 2011. It is intended to afford insurance regulators an enhanced view of an insurer's ability to withstand financial stress, including the risks potentially posed to policyholders from other noninsurance entities within a holding company. Adoption of the act is a NAIC accreditation requirement for MIA to continue as a qualifying examination agency that other jurisdictions can rely on. ORSA is recognized globally as a regulatory best practice, and according to NAIC, 38 other states have fully adopted the model legislation (with another 2 adopting portions of it). At this time, MIA estimates that only one insurer in Maryland will need to file an ORSA under the bill and that the normal \$125 filing fee will not apply.

NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators in each state, the District of Columbia, and the five U.S. territories. MIA achieved accredited status with NAIC in September 1994 and has maintained its accreditation since that time. The NAIC Accreditation Program is a voluntary program among state insurance regulators that emphasizes the importance of adequate solvency laws, the use of effective and efficient financial analysis and examination procedures, and appropriate organizational and personnel practices. NAIC regularly develops model legislation concerning new and existing insurance issues and encourages its member regulators to adopt this legislation.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration; National Association of Insurance Commissioners; Department of Legislative Services

Fiscal Note History: First Reader - January 16, 2017
md/ljm Third Reader - March 22, 2017
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Insurance – Risk Management and Own Risk and Solvency Assessment Act

BILL NUMBER: SB 8

PREPARED BY:
(Dept./Agency) Maryland Insurance Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS