

2. Capital and Surplus Requirement

The department should have the ability to require that insurers have and maintain a minimum level of capital and surplus to transact business. The department should have the authority to require additional capital and surplus based upon the type, volume, and nature of insurance business transacted. The Risk-Based Capital for Insurers Model Act or provisions substantially similar should be included in state laws or regulations.

Reference

- a. Require insurers to maintain minimum capital and surplus? Applicable to captive RRGs

- b. Authority to require additional capital and surplus based on the type, volume, and nature of business transacted? Applicable to captive RRGs

Reference

Risk-Based Capital for Insurers Model Act

- c. Definitions similar to those in Section 1?

~~Not currently a~~Applicable to captive RRGs. The Task Force has identified the following for inclusion in the Task Force's final report:

Many RRGs report on an accounting basis other than SAP. GAAP is often utilized and letters of credit may support surplus amounts. Some of the primary differences between SAP and GAAP include: capitalization of deferred policy acquisition costs, admission of certain prepaid assets, discounting of loss reserves, valuation of investments and capitalization of deferred taxes.

The Task Force ~~agrees-acknowledges~~ that utilization of a basis of accounting in the RBC formula that differs significantly from SAP ~~may-will~~ produce different RBC amounts ~~that differ dramatically~~ had SAP been used. The Task Force formed the Capital Adequacy for RRGs (E) Technical Subgroup (the Subgroup) to study the impact of GAAP on the RBC results. Based on detailed discussions and analysis done by the Subgroup, it was determined that if GAAP-related items (including letters of credit) are included in the RBC calculation, overall the GAAP-related assets and liabilities would not unreasonably alter the RBC conclusions for most RRGs, although careful consideration must be given to those GAAP-basis RBC results. As such, the Task Force recognizes that the current RBC formulas may not be the best tool to utilize for RRGs. Although there are differences in opinion on how this should be done, the Task Force generally agrees that there should be some sort of consistent formula to assess the capital levels given the assumed level of risk for RRGs. Consideration of such is beyond the charge of this Task Force. The Task Force recommends that the Financial Condition (E) Committee consider whether consideration of such should be referred to the Capital Adequacy (E) Task Force requiring applicability of RBC for GAAP basis financial statements as modified by the information contained in the "Applicability of RBC to Captive RRGs" guidelines, which are included in the Accreditation Interlineations.

- d. Provisions to RBC Reports similar to Section 2?

~~See significant element (e)~~Applicable to captive RRGs.

- e. Definitions of Company Action Level Event and processes regarding such similar to Section 3 although state law may exempt those insurers who meet the criteria in Section II of the “Applicability of RBC to Captive RRGs” guidelines included in the Accreditation Interlineations? See significant element (e)Applicable to captive RRGs
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- f. Definitions of Regulatory Action Level Event and processes regarding such similar to Section 4 although state law may exempt those insurers who meet the criteria in Section II of the “Applicability of RBC to Captive RRGs” guidelines included in the Accreditation Interlineations? See significant element (e)Applicable to captive RRGs
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- g. Definitions of Authorized Control Level Event and processes regarding such similar to Section 5 although state law may exempt those insurers who meet the criteria in Section II of the “Applicability of RBC to Captive RRGs” guidelines included in the Accreditation Interlineations? See significant element (e)Applicable to captive RRGs
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- h. Definitions of Mandatory Control Level Event and processes regarding such similar to Section 6 although state law may exempt those insurers who meet the criteria in Section II of the “Applicability of RBC to Captive RRGs” guidelines included in the Accreditation Interlineations? See significant element (e)Applicable to captive RRGs
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- i. Provisions for Hearings similar to those in Section 7? See significant element (e)Applicable to captive RRGs
- j. Confidentiality and Prohibition on Announcement provisions similar to those in Section 8? See significant element (e)Applicable to captive RRGs
- k. Supplemental provisions similar to Section 9? See significant element (e)Applicable to captive RRGs

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| | l. Provisions for foreign insurers similar to Section 10? | <u>See significant element (e)Applicable to captive RRGs</u> |
| | m. Severability provisions similar to Section 12? | <u>See significant element (e)Applicable to captive RRGs</u> |
| | n. Notice provisions similar to Section 13? | <u>See significant element (e)Applicable to captive RRGs</u> |

Complete the following if this is an Interim Annual Review:

YES

NO

Have there been any changes to your Capital and Surplus or Risk-Based Capital requirements since last year's review? If no, please do **NOT** attach copies of your statutes or regulations. If yes, please attach a copy of your statutes or regulations and ensure that they are clearly marked for the changes that have been made.
