

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 04 INSURERS

Chapter 18 Form Filings Under Maryland Insurance Acquisitions Disclosure and Control Act

Authority: Insurance Article, §§1-101(jj), 2-109, 2-205, 2-209, and 5-901—5-917, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) – (13) (text unchanged)

(14) “Lead state commissioner” means the lead state insurance commissioner of the insurance holding company system as determined by the procedures in the NAIC Financial Analysis Handbook.

[14 – 16] (15) – (17) (text unchanged)

(18) “Troubled insurer” means an insurer that is in or moving towards a financial position that subjects its policyholders, claimants and other creditors to greater-than-normal financial risk, including the possibility that the company may not maintain compliance with statutory capital and/or surplus requirements.

[17] (19) (text unchanged)

.15 Group Capital Calculation.

A. Where an insurance holding company system has previously filed the annual group capital calculation required under Insurance Article, §7–603(i), Annotated Code of Maryland, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company system:

(1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of less than \$1,000,000,000;

(2) Does not include an insurer that is domiciled outside of the United States or one of its territories;

(3) Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and

(4) Attests that no material changes in the transactions between insurers and non-insurers in the group have occurred since the last filing of the annual group capital; and

(5) Does not include a non-insurer that poses a material financial risk to the insurer’s ability to honor policyholder obligations.

B. Where an insurance holding company system has previously filed the annual group capital calculation required under Insurance Article, §7–603(i), Annotated Code of Maryland, the lead state commissioner may accept a limited group capital filing in lieu of the group capital calculation if the insurance holding company system:

(1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of less than \$1,000,000,000;

(2) Does not include an insurer that is domiciled outside of the United States or one of its territories;

(3) Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and

(4) Attests that no material changes in the transactions between insurers and non-insurers in the group have occurred since the last filing of the annual group capital; and

(5) Does not include a non-insurer that poses a material financial risk to the insurer’s ability to honor policyholder obligations.

C. For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to §A or B of this regulation, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the group capital calculation instructions adopted by the NAIC, if:

(1) Any insurer within the insurance holding company system is in a risk-based capital action or control level event as set forth in Insurance Article, §§4-305 through 4-308, Annotated Code of Maryland, or a similar standard for a non-U.S. insurer;

(2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in Insurance Article, §9-102, Annotated Code of Maryland; or

(3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer, as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

D. A non-U.S. jurisdiction is considered to “recognize and accept” the group capital calculation, as described in Insurance Article, §7–603(i)(2)(v), Annotated Code of Maryland, if:

(1) It satisfies either of the following criteria:

(a) The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(b) Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard; and

(2) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC committee process, if the requirements of the information sharing agreements are in force.

E. A list will be published through the NAIC committee process that:

(1) Identifies non-U.S. jurisdictions that are considered to “recognize and accept” the group capital calculation, as described in Insurance Article, §7–603(i)(2)(v), Annotated Code of Maryland to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation;

(2) Clarifies those situations in which a jurisdiction is exempted from filing under Insurance Article, §7–603(i)(2)(iv)-(v), Annotated Code of Maryland; and

(3) To assist with a determination under Insurance Article, §7–603(i)(3), Annotated Code of Maryland, identify whether a jurisdiction that is exempted under Insurance Article, §7–603(i)(2)(iii)-(v), Annotated Code of Maryland requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.

F. For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of §D(1)(b) of this regulation will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC committee process.

G. If the lead state commissioner makes a determination pursuant to Insurance Article, §7–603(i)(2)(v), Annotated Code of Maryland that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

H. Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to “recognize and accept” the group capital calculation, as described in Insurance Article, §7–603(i)(2)(v), Annotated Code of Maryland, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that “recognize and accepts” the group capital calculation.