

FINANCIAL REGULATION STANDARDS AND ACCREDITATION (F) COMMITTEE

Financial Regulation Standards and Accreditation (F) Committee Dec. 5, 2009, Minutes

Proposed Revisions for the Guidance to Implement the New Part D Standards (Attachment One)

Memorandum from Julie Glaszczak (NAIC) to the Financial Regulation Standards and Accreditation (F) Committee dated Oct. 15, 2009, regarding Referral on Part B and Part C Accreditation Standards for Risk Retention Groups (Attachment Two)

Financial Regulation Standards and Accreditation (F) Committee
San Francisco, CA
December 5, 2009

The Financial Regulation Standards and Accreditation (F) Committee met in San Francisco, CA, Dec. 5, 2009. The following Committee members participated: Joseph Torti, III, Chair (RI); Leslie A. Newman, Vice Chair (TN); Linda S. Hall (AK); Thomas R. Sullivan represented by Kathryn Belfi (CT); Gennet Purcell represented by Philip Barlow (DC); Kevin M. McCarty represented by Robin Westcott (FL); Susan E. Voss represented by Jim Armstrong (IA); Ralph S. Tyler, III, represented by Lester Schott (MD); Mary Jo Hudson represented by Dale Bruggeman (OH); Kim Holland (OK); Scott H. Richardson represented by Linda Haralson (SC); Kent Michie (UT); and Alfred W. Gross (VA).

1. Discuss Proposed Company Licensing Implementation Guidance

Superintendent Torti stated that in two recent reports, the U.S. Government Accountability Office recommended that the NAIC accreditation program include standards dealing with company licensing and change in control. To address this recommendation, new standards were developed to consider applications for new insurers and Form A filings. At the Summer National Meeting, the Committee voted to adopt the Part D accreditation standards, effective Jan. 1, 2012. It will not be a scored section; therefore, a state cannot fail accreditation based solely on its lack of compliance with the company licensing standards. If deficiencies are noted, the review teams will provide management comments to the state insurance departments, similar to the current Part C standards.

At the same meeting, the Committee directed NAIC staff to begin drafting related implementation guidance for the Committee's discussion. Julie Glaszczak (NAIC) summarized the proposed revisions (Attachment One) for the guidance to implement the new Part D standards.

Ms. Belfi moved and Mr. Schott seconded the motion to release the proposed revisions for a 60-day comment period. The motion carried unanimously.

2. Discuss Referral from Risk Retention Group (E) Task Force Regarding Part B and Part C Accreditation Standards

Superintendent Torti said a referral was received from the Risk Retention Group (E) Task Force regarding the applicability of the Part B and Part C standards to risk retention groups (RRG) licensed as captives. As the technical experts on this topic, the Task Force members and interested parties spent more than a year discussing each of the current Part B and Part C standards to determine whether they should be applicable to RRGs licensed as captives.

Ms. Glaszczak provided an overview of an Oct. 15 memorandum (Attachment Two) that detailed the Task Force's discussions and conclusions regarding the applicability of each current Part B and Part C standards. There was discussion regarding one of the Task Force's recommendations that pertains to the Scheduling of Examinations standard and whether an RRG examination should be required to be called in the NAIC's Examination Tracking System for the purposes of coordinating with non-domestic state regulators.

Mr. O'Donnell stated that the federal Liability Risk Retention Act of 1986 (LRRRA) does not require an RRG insurer to invite non-domestic states to participate on an examination. The Task Force did not want to contradict the LRRRA in any way and felt it best to encourage, rather than require, the domestic regulators to cooperate and coordinate among the non-domestic states.

Director Hall moved and Mr. Garn seconded the motion to release the Task Force's recommendations for a 60-day comment period. The motion carried unanimously.

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

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NAIC FINANCIAL REGULATION STANDARDS & ACCREDITATION PROGRAM

MISSION STATEMENT

The mission of the NAIC accreditation program is to establish and maintain standards to promote sound insurance company financial solvency regulation. The accreditation program provides a process whereby solvency regulation of multi-state insurance companies can be enhanced and adequately monitored with emphasis on the following:

- 1) Adequate solvency laws and regulations in each accredited state to protect consumers and guarantee funds.
- 2) Effective and efficient financial analysis and examination processes in each accredited state.
- 3) Appropriate organizational and personnel practices in each accredited state.
- 4) Effective and efficient processes regarding the review of organization, licensing and change of control of domestic insurers in each accredited state.

The accreditation program will accomplish its mission by continually evaluating the adequacy and appropriateness of accreditation standards in accordance with the changing regulatory environment and through continued monitoring of accredited states by conducting the following accreditation reviews:

- Pre-Accreditation Reviews to occur approximately one year prior to a state's full accreditation review. This review will entail a high-level review of the financial analysis and financial examination functions to identify areas of improvement.
- Full Accreditation Reviews to occur once every five years subject to interim annual reviews. This review will entail a full review of laws and regulations, the financial analysis and financial examination functions, ~~and~~ organizational and personnel practices, and organization, licensing and change of control of domestic insurers to assist in determining a state's compliance with the accreditation standards.
- Interim Annual Reviews to occur annually to maintain accredited status between full accreditation reviews. This review will entail a review of any law and regulation changes, the financial analysis and financial examination functions, and organizational and personnel practices to ensure continued compliance with the accreditation standards and to identify areas of improvement.

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NAIC POLICY STATEMENT ON FINANCIAL REGULATION STANDARDS

Part A: Laws and Regulations

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19. Regulatory Authority

State law should provide for a regulatory framework for the organization, licensing and change of control of domestic insurers.

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Part D: Organization, Licensing and Change of Control of Domestic Insurers

Preamble

The focus of the Part D standards is on strengthening financial regulation and the prevention of unlicensed or fraudulent activities. The scope of this section only includes the licensing of new companies and Form A filings. The section applies to only traditional life/health and property/casualty companies (including risk retention groups organized under a state's property/casualty laws), and this scope is narrower than that of Part B in that it does not include entities such as health maintenance organizations, health service plans, and captive insurers (including captive risk retention groups). These standards only deal with the Department's analysis of domestic companies and do not include foreign or alien insurers. The initial company licensing process does not consider the "multi-state" concept since the company is in its initial licensing phase. The standards regarding Form A filings deal with only filings submitted related to multi-state insurers, as that term is defined in the Part B Preamble.

1. Qualified Staff and Resources

The Department should have minimum educational and experience requirements for licensing staff commensurate with the duties and responsibilities for analyzing company applications. Staff responsible for analyzing applications should have an accounting, insurance, financial analysis or actuarial background.

2. Sufficient Staff and Resources

The Department should have sufficient resources to effectively review applications for primary licensure or Form A filings in a timely manner.

3. Scope of Procedures for Primary Applications

The Department should have documented licensing procedures that include a review and/or analysis of key pieces of information included in a primary licensure application.

4. Scope of Procedures for Form A Filings

The Department should have documented procedures for the review of key pieces of information included in Form A filings.

5. Use of the Form A Database

The Department should utilize the Form A Database as a means of obtaining information on prior filings made by the applicant and informing other states of the receipt and status of Form A filings in a timely manner.

6. Documentation of Work Performed

The Department's files should include evidence that the Department's procedures were adequately performed and well documented, including a conclusion regarding whether the application or filing is approved or denied.

NAIC FINANCIAL REGULATION STANDARDS AND ACCREDITATION PROGRAM

REVIEW TEAM GUIDELINES

Preamble for Part B

The following guidelines have been developed by the Financial Regulation Standards and Accreditation (F) Committee to provide detailed guidance to the review teams regarding how compliance with the Part B: Regulatory Practices and Procedures Standards should be assessed. These guidelines can also assist states in preparing for the accreditation review of their Department.

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Preamble for Part D

The following guidelines have been developed by the Financial Regulation Standards and Accreditation (F) Committee to provide detailed guidance to the review teams regarding how compliance with the Part D: Organization, Licensing and Change of Control of Domestic Insurers Standards should be assessed. These guidelines can also assist states in preparing for the accreditation review of their Department.

D. Organization, Licensing and Change of Control of Domestic Insurers

1. Qualified Staff and Resources

The Department should have minimum educational and experience requirements for licensing staff commensurate with the duties and responsibilities for analyzing company applications. Staff responsible for analyzing applications should have an accounting, insurance, financial analysis or actuarial background.

2. Sufficient Staff and Resources

The Department should have sufficient resources to effectively review applications for primary licensure or Form A filings in a timely manner. The Department should begin its review of applications for new companies and Form A filings quickly upon receipt and observe the following timing guidelines:

- a. The application should be reviewed for completeness within 30 days of receipt. If additional or supplementary information is needed from the insurer based on the initial review for completeness, the insurer should be notified of such within 45 days of receipt of the application.
- b. The review of the primary application or Form A should be complete in accordance with the state's timing requirements as mandated by

statute or regulation. If the state's statutes or regulations do not specify timing requirements for the completion of primary applications, the review of the application should be completed in accordance with the timing goals included in the *Uniform Certification of Authority Application Manual*. For purposes of this standard, a review of an application is complete once the insurer is notified of approval or denial. If additional information not originally requested in the application is needed to finalize the review of the application, the review may take longer to complete. Once a request for information is made, the timing requirement is suspended until the information is received from the applicant.

- c. If there are extenuating circumstances and the timing guidelines above cannot be met for a particular application, such should clearly be documented in the application file.

3. Scope of Procedures for Primary Applications

The Department should have documented licensing procedures that include a review and/or analysis of at least the following:

- a. Identification and evaluation of the business and strategic plans of the applicant, including pro forma financial projections
- b. Assessment of the quality and expertise of the ultimate controlling person, proposed officers and directors, appointed actuary and appointed accountant, including use of the NAIC Form A and SAD databases
- c. Adequacy of proposed reinsurance program
- d. Adequacy of investment policy
- e. Adequacy of short-term and long-term financing arrangements:
- o Initial financing of proposed operations or transaction
 - o Maintenance of adequate capital and surplus levels
- f. Biographical affidavits
- g. Related party agreements' compliance with SSAP No. 25

4. Scope of Procedures for Form A Filings

The Department should have documented procedures for the review of Form A filings that include at least the following:

- a. The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control
- b. Fully audited financial information regarding the earnings and financial condition of the ultimate controlling person(s) for the preceding five years. If fully audited financial information is not available, substantially similar information such as compiled financial statements or tax returns, as deemed acceptable to the commissioner, may be reviewed in lieu of fully audited financial information.
- c. Unaudited financial information regarding the earnings and financial condition of the ultimate controlling person(s) as of a date not earlier than 90 days prior to the filing of each statement

5. Use of the Form A Database

The Department should utilize the Form A Database as a means of obtaining information on prior filings made by the applicant and informing other states of the receipt and status of Form A filings in a timely manner, as follows:

- a. Review the Form A Database for any prior filings made by the Form A applicant and the ultimate outcome of such filing(s)
- b. Pertinent and relevant information from the Form A filing should be manually entered into the Form A database within seven days of receipt of the Form A
- c. Any changes to the status of the filing or other data elements should be entered into the Form A database within seven days

6. Documentation of Work Performed

The Department's files should include evidence that the Department's procedures were adequately performed and well documented, including a conclusion regarding whether the application or filing is approved or denied.

NAIC FINANCIAL REGULATION STANDARDS AND ACCREDITATION PROGRAM

ACCREDITATION INTERLINEATIONS

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II. REGULATORY FRAMEWORK

The Financial Regulation Standards and Accreditation Program requires that a state have a “regulatory framework” for compliance with ~~five~~ Part A: Laws and Regulations Standards, if the state has not adopted the NAIC Model Law, or substantially similar provisions, on the standard. The ~~five~~ standards for which a “regulatory framework” is sufficient are: 1) Producer Controlled Insurer; 2) Managing General Agents; 3) Reinsurance Intermediaries; ~~and~~ 4) Guaranty Funds; and 5) Regulatory Authority.

A “regulatory framework” provides a means for a state to detect the occurrence of the solvency-related event or activity contemplated by the model law or regulation and to exercise appropriate oversight when such event or activity occurs.

For the first three standards, a “regulatory framework” can be shown through the existence of statute, rule, regulation, practice or procedure, or any combination of them, which enables a state to detect whether the potential harm addressed by the standard is identified by the state when it occurs. In addition, if the potential harm or activity occurs, a regulatory framework would have sufficient resources, including regulatory tools, vested in the Department to take appropriate action. If action must be taken by the Department, a regulatory framework would produce a regulatory result as favorable as that achieved under the model law or regulation dealing with the activity.

If the potential harm addressed by the standard is not currently occurring in the state, then the state must be able to demonstrate that it would detect and respond as above should the activity occur in the future.

A state may establish a “regulatory framework” by documenting the actions it routinely takes and the results it achieves with respect to the activity addressed by the standard.

With respect to the fourth standard (guaranty funds), a state must have a “regulatory framework” which addresses the payment of policyholder obligations when a company is deemed to be insolvent.

With respect to the fifth standard (regulatory authority), a state must have a “regulatory framework” which allows for the organization, licensing and change of control of domestic insurers.

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NAIC FINANCIAL REGULATION STANDARDS AND ACCREDITATION PROGRAM

SCORING EXPLANATION

Scoring on Part A

The state must adopt each law and regulation standard and each will be scored on a pass/fail basis by a representative of the NAIC Legal Division responsible for reviewing the state's compliance with the Part A Standards.

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Scoring on Part D

No numerical scores will be assigned to the components of Part D, which are listed below. Each component will be evaluated during the on-site review, and any deficiencies will be noted in management letter comments.

1. Qualified Staff and Resources
2. Sufficient Staff and Resources
3. Scope of Procedures for Primary Applications
4. Scope of Procedures for Form A Filings
5. Use of the Form A Database
6. Documentation of Work Performed

WORKPLAN FOR THE FULL ON-SITE ACCREDITATION REVIEW

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Site Visit:

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4. The team will also select files for review and request the state to pull supporting workpaper documentation regarding the department's procedures for the review of primary licensure applications and Form A filings during the most recent five-year period. Typically, for a full accreditation review, the team will select a total of two primary licensure applications and two Form A filings. If the Team Leader determines that a larger number of files should be reviewed, he has discretion to decide such while on-site.
54. Meet with staff from the legal and financial areas to follow-up on any concerns or questions resulting from the NAIC Legal Division's detailed review of laws and regulations.
65. Through discussions with staff from the legal and financial areas, assess their understanding of the state's authority related to the laws and regulations, and how that authority is carried out in practice.
76. Meet with financial analysts to discuss, in detail, the procedures performed to analyze the financial stability of insurers. Obtain copies of pertinent documents and reports for the workpapers.
87. Discuss the financial analysis section of the state's completed self-evaluation guide with various levels of staff in the financial analysis unit to assess that the responses per the self-evaluation guide are appropriate.
98. Consider talking briefly with staff in other areas of the department to assess the effectiveness of the intra-department communication system (e.g., market conduct, financial examination division, legal, etc.)
109. Meet with financial examiners (including the examiner-in-charge from at least one life and one property/casualty examination which is being reviewed by the team) to walk through the procedures performed (including planning, examination administration, workpaper documentation and the review and approval process) and obtain copies of pertinent documents for the workpapers.
110. Discuss the financial examination section of the state's completed self-evaluation guide with various levels of staff in the financial examinations unit to assess that the responses per the Self-Evaluation Guide are appropriate.

12. During the review of the financial examination process, emphasis should be placed specifically on review and documentation of the level of planning performed, consideration of internal and external auditors workpapers, risk assessment, materiality considerations, examination procedures development, communications with financial analysts and market conduct examiners, use of detailed time budgets and budget to actual time analyses, workpaper review, use of computers, use of specialists on an examination, etc.
13. Meet with actuaries, computer auditors, reinsurance and investment specialists, where applicable, to determine how their expertise is utilized in the financial examination process and document these discussions.
14. Perform a detailed review of examination reports and supporting workpapers for the insurers selected during the accreditation review planning process to support the information and documentation obtained in Steps ~~109~~ through ~~124~~ above.
15. As a result of the detailed review of examination reports and supporting workpapers, meet again with financial examination staff to discuss any concerns or questions.
16. The review team should be apprised of the results of the “Examination Timeliness Statistical Calculation” performed by the NAIC Observer during the planning phase. Each team member should consider the results of this calculation and other applicable factors as discussed in the Review Team Guidelines when scoring the respective standards within the Part B2: Financial Examination section.
17. Meet with appropriate department staff to discuss the organizational and personnel practices section of the standards and the department’s responses to this section of the completed self-evaluation guide. Document these discussions and obtain copies of pertinent documentation for the workpapers.
18. Meet with appropriate department staff to discuss the organization, licensing and change of control of domestic insurers section of the standards and the department’s responses to this section of the completed self-evaluation guide. Also discuss the team’s review of primary licensure applications and/or Form A filings with appropriate department staff and obtain copies of pertinent documentation for the workpapers.
19. Review any study, audit or report prepared by anyone other than the Department regarding the Department’s operations.

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Scoring:

1. At the conclusion of the review, the scoring system described below is used to score the results of the on-site review. Each team member should score the state on every Part B Standard as described in the "Scoring Explanation." The team members should also discuss comments and findings from their review to draft an outline for the Compliance Report on Parts B, ~~and C,~~ and D to FRSAC.

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6. For Part C: Organizational and Personnel Practices. No numerical scores will be assigned to the components. Any deficiencies will be noted in the Management Comment Letter.
7. For Part D: Organization, Licensing and Change of Control of Domestic Insurers. No numerical scores will be assigned to the components. Any deficiencies will be noted in the Management Comment Letter.
- 8.7. When all sections have been scored and discussion is complete, the NAIC observer calculates, records and announces the composite scores for each section. Once a composite score is determined for any section it is final and not subject to reconsideration or change by the team. The team members should sign and date their scoring sheets and return them to the NAIC observer for record keeping. The NAIC observer should remind the accreditation review team members that the scores are confidential and should not be disclosed to other parties, including the state under review and members of FRSAC.

Reports:

1. When composite scores have been determined, the team finalizes the Compliance Report on Parts B, ~~and C,~~ and D, which includes reports of the findings and conclusions of the accreditation review team, and a recommendation regarding whether the state should be accredited. Recommendations regarding follow-up or additional reviews may be discussed and prepared also.
2. A separate Management Comment Letter on Parts B, ~~and C,~~ and D should be drafted and approved by the team highlighting items noted during the review and recommendations for the department to consider enhancements to the financial regulation and solvency surveillance process. This report will be submitted to the department.
3. The team holds an exit conference with key staff personnel from the state insurance department to discuss the review team's findings, although the Part B scores are not to be shared. Copies of the Compliance Report on Parts B, ~~and C,~~ and D and Management Comment Letter on Parts B, ~~and C,~~ and D should be distributed to insurance department personnel after this meeting.

4. Copies of the final Report of the Review Team, Compliance Report on Parts B₂, ~~and C~~, and D, and the Management Comment Letter on Parts B₂, ~~and C~~, and D should be submitted to each member of the FRSAC.
5. Team members should submit documentation supporting time spent and expenses incurred during the accreditation review.

WORKPLAN FOR INTERIM ANNUAL REVIEWS

Completed

- 1. Contact the state and request submission of an updated Interim Annual Review (IAR) Guide several weeks prior to the state’s accreditation anniversary date.

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- 6. The NAIC Accreditation Staff will perform a detailed analysis of Parts B, and Part C, and D Standards of the IAR and ensure that, based on the information provided by the state, the state continues to comply with each of the accreditation standards.

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ACCREDITATION REVIEW PROCESS AND PROCEDURES

I. PREPARATION FOR AN ACCREDITATION REVIEW

1. A state requests an accreditation review by contacting the applicable NAIC staff.
2. The NAIC requests that the state submit a Self-Evaluation Guide. This Guide provides the state with the detailed requirements of the Standards including laws and regulations that must be adopted, financial analysis and examination procedures that must be in place, ~~and~~ organizational and personnel practices that must be established, and organization, licensing and change of control of domestic insurers' practices that must be established.

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II. ON-SITE ACCREDITATION REVIEWS

1. The Review Team conducts the on-site review following a general outline of procedures to be performed to allow for uniformity in the evaluation process among the states. In addition, an NAIC staff representative is an observer on each site visit to help ensure uniformity and consistency in the on-site reviews. Before the on-site review, there is an initial meeting of the team members to discuss comments and concerns from review of the Financial Regulation Standards Self-Evaluation Guide and supporting documentation.
2. The on-site review consists of the following:
 - a. Review of examination reports and supporting work papers and analytical reviews.
 - b. Inspection of financial analysis and examination files for selected companies.
 - c. Interviews with department personnel.
 - d. Review of organizational and personnel practices.
 - e. Inspection of documentation regarding primary licensure applications and Form A filings for selected companies.
 - fe. Walk-through of the department to gain an understanding of document and communication flows.
 - gf. Meetings of the Review Team to discuss comments and findings from the review.
 - g-h. Team members vote using a scoring system to determine whether a state is in compliance with the accreditation standards.

- ih. Closing conference with the state to discuss findings.
 - ji. Draft copies of the Part A Report and the Parts B, ~~and~~ C, and D Compliance Report and Management Letter comments are provided to the state.
3. As a result of the site visit, a ~~Review~~ ~~Team~~ ~~Report~~, Parts B, C and D eCompliance Report and ~~Management~~ Comment ~~Letter~~ ~~comments~~ are prepared by the Review Team and submitted to FRSAC by the Team Leader. The reports summarize the scope of the procedures performed during the site visit, document the findings on an exception basis, highlight major recommendations as a result of the review, and conclude with the Review Team's recommendation as to whether the state should be accredited by FRSAC. In addition, a Part A Report is prepared by NAIC Legal and submitted to FRSAC as well.

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GUIDANCE FOR SUSPENDED OR REVOKED STATES

FRSAC considers possible revocation or suspension on a case-by-case basis. These assessments may reveal mitigating factors that warrant further inquiry or indicate, for example, that continued accreditation should be conditioned upon implementation of a satisfactory remedial plan. Once FRSAC decides to suspend or revoke a state's accreditation, the following guidelines shall apply.

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States not in Compliance with the Part D Standards. Since the Part D: Organization, Licensing and Change of Control of Domestic Insurers Standards are not scored by the accreditation teams, any state that appears to fall from compliance with the Part D Standards shall be evaluated on a case-by-case basis to determine if a course of remediation is necessary.

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PROCEDURE FOR THE ADOPTION OF ADDITIONAL MODEL LAWS, REGULATIONS OR STANDARDS FOR ACCREDITATION

The Financial Regulation Standards represent the fundamental components of solvency oversight required for adequate state insurance regulation. The Standards are expected to evolve reflecting developments in insurance financial regulation.

Due to the desire of all states to remain in compliance with NAIC Financial Regulation Standards, any modifications to the existing Standards must be widely exposed and carefully considered prior to adoption. The purpose of the procedures set forth below is to assure input and comment from regulators, legislators, governors, consumers and the regulated industry.

Modifications in the Standards may be made in at least three ways:

- A. New models or new sections of models proposed for inclusion in the Standards and amendments to existing models or sections already included in the Standards;
- B. Addition of specific requirements to Parts B, ~~and C~~, and D of the Standards or;
- C. Indirect modifications of Standards through changes in manuals or books incorporated by reference in the Standards. For example, changes to the NAIC *Annual Statement Blank* required to be completed by all companies.

The procedures must be flexible enough to accommodate adequate exposure of all types of changes, but not so restrictive as to impede the NAIC's ability to act quickly to address immediate issues which must always be anticipated. All items above in A. and C. will be developed and adopted through the routine committee structure and do not receive review by the Financial Regulation Standards and Accreditation Committee (FRSAC) before adoption by Plenary.

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- B. Addition of specific requirements to Parts B, ~~and C~~, and D of the Standards.
 - 1. At the Spring National Meeting, upon a request of any member of the NAIC, or upon the determination of FRSAC, FRSAC shall, upon written memoranda, consider proposals for modification or expansion of the Financial Regulation Standards. The memorandum suggesting the proposal should clearly explain the nature of the proposal and the necessity for the modification. Committee and committee chairs are requested to review the previous year's work product to determine whether any item should be referred to FRSAC for consideration.
 - 2. FRSAC shall determine if the proposal should be exposed for public comment in accordance with I.A.2., above. If FRSAC votes that the proposal should be exposed for a thirty (30) day period, FRSAC shall also take comment from all interested parties during a public hearing held at the Summer National Meeting and make a recommendation to the Executive Committee prior to the Fall National Meeting.

3. At the Fall National Meeting, the Executive Committee will vote on the modification to the Standards. A 60% majority of attending members is required to adopt the proposal.
4. At the Fall National Meeting, the Plenary will vote on the report of the Executive Committee. A 60% majority of attending members is required to adopt the proposal.
5. Once adopted by Plenary, the standard will become effective two (2) years immediately following the next January 1.

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POLICY ON RELEASE OF ACCREDITATION WORKPAPERS AND REPORTS

The NAIC recognizes that states can benefit from the review of accreditation team reports and workpapers related to their state's accreditation review. In addition, the NAIC believes that states can also benefit from the review of accreditation team reports of other states. However, the NAIC also recognizes the importance of maintaining the confidentiality of accreditation materials and protecting individual states and accreditation team member rights. The procedures below outline the process for sharing accreditation team reports and workpapers.

- I. All workpapers and reports produced as a part of a state accreditation review are the confidential property of the NAIC and shall be maintained at the NAIC's Central Office.
- II. The state under review will receive a copy of each of the reports (Report of the NAIC Legal Division on Part A Standards, Report of the Review Team, Compliance Report on Parts B, ~~and C, and D~~, and Management Comment Letter on Parts B, ~~and C, and D~~) produced by the accreditation team.
- III. The state under review may receive copies of most of the accreditation team workpapers upon request if such state can demonstrate, either orally or in writing, that they can maintain the confidentiality of such workpapers. Individual review team member scores and contracts will not be shared with the state under review. A state may only review accreditation team workpapers for its reviews. The NAIC shall share the workpapers from the review of one state with representatives of another state only when the receiving persons are acting in their capacity as a member of or on behalf of FRSAC.
 - For those states with limited authority to maintain the confidentiality of accreditation team workpapers, a request will be made to return such workpapers to the NAIC Central Office within 60 days of receipt by the state.
- IV. Upon request, access to accreditation team workpapers will be made to the state under review at the NAIC Central Office if that state is unable to protect the confidentiality of such workpapers in its state or jurisdiction.
- V. All accreditation team workpapers and reports, with the exception of the Part B scores, will be made available to the members of FRSAC during its deliberation of a state's accreditation. Any workpapers requested by FRSAC shall be returned to the NAIC at the conclusion of the deliberation process.
- VI. Access to FRSAC-adopted accreditation reports will be granted to other state insurance departments if such state insurance departments can demonstrate that they can maintain the confidentiality of such reports. Access will only be granted for the Report of the NAIC Legal Division on Part A Standards (excluding the Management Comment section), Report of the Review Team, and Compliance Report on Parts B, ~~and C, and D~~.
- VII. The NAIC shall maintain the workpapers supporting the report(s) for each state's most current full accreditation review and any subsequent sub-part follow-up reviews. Workpapers maintained by the NAIC from prior accreditation reviews, pre-accreditation reviews and interim annual reviews will be destroyed.

SELF-EVALUATION GUIDE/INTERIM ANNUAL REVIEW

**FINANCIAL REGULATION STANDARDS
AND ACCREDITATION PROGRAM**

Check One:

Self-Evaluation Guide

Interim Annual Review

Jurisdiction _____

Prepared by _____ Title _____ Date _____

Commissioner's Approval _____ Date _____

A. LAWS & REGULATIONS

* * * * *

19. Regulatory Authority

State law should provide for a regulatory framework for the organization, licensing and change of control of domestic insurers.

Reference

a. Require a license from the department prior to transacting an insurance business?

b. Authority to take enforcement action for unlicensed activities?

Complete the following if this is an Interim Annual Review:

YES

NO

Have there been any changes to your regulatory authority for the organization, licensing and change of control of domestic insurers 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.

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D. ORGANIZATION, LICENSING AND CHANGE OF CONTROL OF DOMESTIC INSURERS

1. Qualified Staff and Resources

The Department should have minimum educational and experience requirements for licensing staff commensurate with the duties and responsibilities for analyzing company applications. Staff responsible for analyzing applications should have an accounting, insurance, financial analysis or actuarial background.

Yes

No

a. Does the Department have established minimum educational and experience requirements for staff positions in the company licensing area which are commensurate with the duties and responsibilities of the position?

b. In a separate attachment, provide position descriptions which identify the minimum educational and experience requirements for staff responsible for analyzing primary company applications.

c. As a separate attachment, provide a list of staff responsible for analyzing company applications which includes the following: name, title, years employed by the Department, type of college degree, including major areas of concentration, and prior regulatory or insurance experience. Indicate whether each individual is contractual or full-time with the Department.

2. Sufficient Staff and Resources

The Department should have sufficient resources to effectively review applications for primary licensure or Form A filings in a timely manner. The Department should begin its review of applications for new companies and Form A filings quickly upon receipt.

	<u>Yes</u>	<u>No</u>
a. <u>Does the Department have an adequate quantity of staff to effectively review primary licensure applications and Form A filings in a timely manner?</u>	_____	_____
b. <u>In a separate attachment, provide a listing of all primary licensure applications and Form A filings (whether approved or denied) received by the Department in the last five years. This schedule should include the analyst's name, date the filing was received, date the filing was reviewed for completeness, date(s) the Department contacted the company for additional or supplementary information (if applicable), and date the company was informed of acceptance/denial of the filing.</u>		
c. <u>If there are extenuating circumstances and the required timing guidelines cannot be met for a particular application, are such circumstances clearly documented in the application file?</u>	_____	_____
d. <u>Do the Department's statutes or regulations specify timing requirements for the completion of primary applications?</u>	_____	_____
e. <u>If the answer to d. above is yes, please attach a copy of the Department's authority discussing such requirement.</u>		
f. <u>If the answer to d. above is no, is the Department's review of such applications completed in accordance with the timing goals included in the NAIC <i>Uniform Certificate of Authority Application Manual</i>?</u>	_____	_____

3. Scope of Procedures for Primary Applications

The Department should have documented licensing procedures that include a review and/or analysis of key pieces of information included in a primary licensure application.

	<u>Yes</u>	<u>No</u>
a. <u>Does the Department have documented licensing procedures that require a review and/or analysis of the following:</u>		
• <u>Identification and evaluation of the business and strategic plans of the applicant, including pro forma financial projections?</u>	_____	_____
• <u>Assessment of the quality and expertise of the ultimate controlling person, proposed officers and directors, appointed actuary and appointed accountant, including use of the NAIC Form A and SAD databases?</u>	_____	_____
• <u>Adequacy of proposed reinsurance program?</u>	_____	_____
• <u>Adequacy of investment policy?</u>	_____	_____
• <u>Adequacy of short-term and long-term financing agreements:</u>		
➤ <u>Initial financing of proposed operations or transaction?</u>	_____	_____
➤ <u>Maintenance of adequate capital and surplus levels?</u>	_____	_____
• <u>Biographical Affidavits?</u>	_____	_____
• <u>Related party agreements' compliance with SSAP No. 25?</u>	_____	_____
b. <u>In a separate attachment, provide such procedures and discuss any additional processes developed to review/analyze a primary licensure application.</u>		

4. Scope of Procedures for Form A Filings

The Department should have documented procedures for the review of key pieces of information included in Form A filings.

	<u>Yes</u>	<u>No</u>
a. <u>Does the Department have documented procedures for the review of Form A filings that include at least the following:</u>		
<ul style="list-style-type: none"> • <u>The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control?</u> 	_____	_____
<ul style="list-style-type: none"> • <u>Fully audited financial information regarding the earnings and financial condition of the ultimate controlling person(s) for the preceding five years? (If fully audited financial information is not available, substantially similar information such as compiled financial statements or tax returns, as deemed acceptable to the commissioner, may be reviewed in lieu of fully audited financial information.)</u> 	_____	_____
<ul style="list-style-type: none"> • <u>Unaudited financial information regarding the earnings and financial condition of the ultimate controlling person(s) as of a date not earlier than 90 days prior to the filing of each statement?</u> 	_____	_____
b. <u>In a separate attachment, provide such procedures and discuss any additional processes developed for the review of Form A filings.</u>		

5. Use of the Form A Database

The Department should utilize the Form A Database as a means of obtaining information on prior filings made by an applicant and informing other states of the receipt and status of Form A filings in a timely manner.

	<u>Yes</u>	<u>No</u>
a. <u>Is it the Department's policy to utilize the Form A Database to obtain information on prior filings made by an applicant and to inform other states of the receipt and status of Form A filings?</u>	_____	_____
b. <u>If the answer to a. above is yes, do the Department's procedures for such include the following:</u>		
• <u>Review the Form A Database for any prior filings made by the Form A applicant and the ultimate outcome of such filing(s).</u>	_____	_____
• <u>Pertinent and relevant information from the Form A filing should be manually entered into the Form A database within seven days of receipt of the Form A.</u>	_____	_____
• <u>Any changes to the status of a filing or other data elements should be entered into the Form A database within seven days.</u>	_____	_____
c. <u>If the answer to a. above is no, has the Department developed alternate procedures to obtain information on prior filings made by an applicant and to inform other states of the receipt and status of Form A filings?</u>	_____	_____
d. <u>In a separate attachment, provide the Department's policy and procedures on utilizing the Form A Database or that it has developed independently to obtain information on an applicant's filings and to inform other states of the receipt and status of Form A filings in a timely manner.</u>		

6. Documentation of Work Performed

The Department's files should include evidence that the Department's procedures were adequately performed and well documented, including a conclusion regarding whether an application or filing is approved or denied.

	<u>Yes</u>	<u>No</u>
a. <u>Do the Department's files include evidence that its procedures were adequately performed and well documented?</u>	_____	_____
b. <u>Does the documentation referred to in a. include a conclusion regarding whether a primary licensure application or Form A filing was approved or denied?</u>	_____	_____

SCORING SHEET
PART A – LAWS AND REGULATIONS

Standard	Topic	Pass/Fail
1.	Model Examination Law	_____
2.	Capital & Surplus	_____
3.	NAIC Accounting Practices and Procedures	_____
4.	Corrective Action	_____
5.	Valuation of Investments	_____
6.	Holding Company Systems	_____
7.	Risk Limitation	_____
8.	Investment Regulation	_____
9.	Liabilities & Reserves	_____
10.	Reinsurance Ceded	_____
11.	CPA Audits	_____
12.	Actuarial Opinions	_____
13.	Receiverships	_____
14.	Guaranty Funds ¹	_____
15.	Filings with NAIC	_____
16.	Producer Controlled Insurers ¹	_____
17.	Managing General Agents ¹	_____
18.	Reinsurance Intermediaries ¹	_____
19.	<u>Regulatory Authority¹</u>	<u>_____</u>

State _____

NAIC Legal Division Signature _____

Date _____

Note: See the “Accreditation Interlineations” and “Scoring Explanation” sections within the NAIC Administrative Policies Manual of the Financial Regulation Standards and Accreditation Program for information regarding the scoring of Part A standards.

¹ The state can provide evidence of a “regulatory framework” to comply with this standard.

REPORT OF THE REVIEW TEAM

on
the Regulatory Program of the
[INSERT STATE] Department of Insurance

SAMPLE

Presented to the
Financial Regulation Standards and Accreditation (F) Committee
[INSERT DATE]

The Financial Regulation Standards and Accreditation (F) Committee (“Committee”), pursuant to its protocols and procedures, selected a review team (“Team”) to conduct an evaluation of the [STATE] Insurance Department’s (“Department”) compliance with Parts B, and Part C, and D of the NAIC Policy Statement on Financial Regulation Standards (“Standards”) for the purpose of determining whether the Department should retain its accreditation. The individuals who participated in the accreditation review of the Department were:

[INSERT NAMES]

The site visit to the Department took place the week of [DATE]. The Team met prior to going to the Department to discuss the review of the advance materials performed prior to the on-site visit. Based on this discussion, additional questions were noted for follow-up with Department personnel.

The Team then went to the offices of the Department of Insurance and met initially with various Department personnel, including:

[INSERT NAMES]

The Team discussed generally the procedures and objectives of the accreditation review process, and a tentative agenda for completing the review. The [STATE] representatives introduced themselves and provided a detailed overview of the Department’s organization and structure.

The Team met with [NAME] and others to discuss the Part B: Financial Analysis Section of the [STATE] Self-Evaluation Guide. The discussion detailed the procedures performed by the financial analysts to analyze the financial stability and solvency of insurers. These discussions included the Department’s utilization of the NAIC *Troubled Insurance Company Handbook* and their communication with other state insurance departments. Copies of appropriate supporting documentation were obtained by the Team and have been included in the accreditation review workpapers.

The Team met with [NAME] and others to discuss the Part B: Financial Examination and Information Sharing and Procedures for Troubled Companies Sections of the [STATE] Self-Evaluation Guide. These discussions included an explanation of the financial examination process from scheduling and calling an examination through filing of an examination report. Copies of appropriate supporting documentation were obtained by the Team and have been included in the accreditation review workpapers.

The Team met with [NAME] and others to discuss the Part C: Organizational and Personnel Practices Section of the Standards and [STATE]’s responses to this section of the Self-Evaluation Guide. The discussions addressed staff development and continuing education guidelines, established minimum educational and experience requirements, and retention of personnel. Supporting documentation in these areas was obtained from the Department and has been included in the accreditation review workpapers.

The Team met with [NAME] and others to discuss the Part D: Organization, Licensing and Change of Control of Domestic Insurers Section of the Standards and [STATE]’s responses to this section of the Self-Evaluation Guide. The discussions addressed the qualifications and sufficiency of staff, scope of procedures performed on primary company applications and Form A filings, [STATE]’s use of the Form A Database, and documentation of the work performed by assigned staff. Supporting documentation in these areas was obtained from the Department and has been included in the accreditation review workpapers.

The Team selected [NUMBER] company analysis files, including supporting source documents, and [NUMBER] examination reports, including supporting workpapers, for its review. The Team

also selected [NUMBER] primary company applications and [NUMBER] Form A filings, including supporting workpapers, for its review.

The Team met with analysts to discuss, in detail, the procedures they perform to analyze companies. The Team also reviewed supporting documentation generated by the analysts. This additional discussion and review of financial analysis workpaper documentation helped the Team assess compliance with the Standards related to financial analysis.

The Team met with examiners to discuss, in detail, the procedures performed in the examination of a company. The Team reviewed examination reports and supporting workpapers to evaluate procedures performed. Questions and concerns raised as part of this review were discussed with the examiners and/or chief examiner. The discussions and review of financial examination reports and supporting workpapers helped the Team assess compliance with the Standards related to financial examinations.

The Team reviewed supporting personnel documentation, and any questions raised as part of this review were addressed to Department personnel. This review helped the Team assess whether or not to prepare management letter comments with regards to the Organizational & Personnel Practices Standards.

The Team reviewed supporting documentation for new primary company applications and Form A filings received, and any questions raised as part of this review were addressed to appropriate Department personnel. This review helped the Team assess whether or not to prepare management letter comments with regards to the Organization, Licensing and Change of Control of Domestic Insurers Standards.

Throughout the week during the on-site review, the Team met each evening to discuss the results of the day's activities. This was also an opportunity for the Team to raise any concerns or additional questions so that they could be presented to Department personnel the following day for resolution.

The Team held an exit conference with [NAME] and other Department staff at the end of the review to summarize major findings. This gave the Department personnel an opportunity to provide further information and to discuss any issues they felt had not been addressed by the Team during the week. Nothing came to the Team's attention while reviewing financial analysis and examination files, which would indicate that the Department is not administering the Part A: Laws and Regulations Standards.

This report is intended to provide the members of the Committee with an understanding of the procedures which were performed by the Team during its review of the Department's compliance with the Parts B, ~~and Part C, and D~~ Standards, and to make a recommendation regarding accreditation based on the results of the accreditation review. The detail workpapers generated during the review, copies of documentation obtained from the Department and notes from Team members are maintained at the NAIC's Central Office and provide support for all conclusions reached by the Team as to [STATE]'s compliance with each of the Standards. In addition, a detailed Compliance Report, which summarizes compliance with each of the Parts B, ~~and Part C, and D~~ Standards and supports the Team's conclusions, is attached to this report.

A by-product of the [STATE] accreditation review was the development of a Management Comment Letter of recommendations concerning the Department's operations which were

developed by the Team during the review. This letter has been distributed to and discussed with Department personnel.

Based on the results of the procedures performed, as outlined above and documented in the accreditation review workpapers and the attached Compliance Report, and the knowledge and experience of the Team, we have formed a recommendation regarding accreditation.

We have determined that the [STATE] Insurance Department is in compliance with the requirements for accreditation pursuant to the Parts B, and Part C, and D Standards, and it is our recommendation that the Department retain its accreditation.

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To: Financial Regulation Standards and Accreditation (F) Committee
From: Julie Glaszczak, Staff Support, Risk Retention Group (E) Task Force
Date: October 15, 2009
Re: Referral on Part B and Part C Accreditation Standards for Risk Retention Groups

On Sept. 8, 2009, the Risk Retention Group (E) Task Force adopted recommendations regarding which (and to what extent) Part B and Part C accreditation standards should apply to risk retention groups (RRGs) chartered as captive insurers. Listed below are the Part B and Part C accreditation standards, the related Review Team Guidelines and the Task Force's consensus on how each individual guideline should apply to RRGs.

PART B: REGULATORY PRACTICES AND PROCEDURES

1. Financial Analysis

a. Sufficient Qualified Staff and Resources

Standard: The Department should have the resources to review effectively on a period basis the financial condition of all domestic insurers.

General Guidance: Identified personnel who have the time and experience necessary to perform this function should be assigned to the analysis tasks, and the tasks should be satisfactorily completed in a timely manner.

Review Team Guideline	Task Force Consensus
<i>Qualification Guidelines</i>	
1) The Department should have analysts or qualified contractual resources with appropriate experience levels to perform necessary tasks. Such experience should match the sophistication of the domestic industry. For example, if the domestic industry consists of reinsurers, the analysis staff should have significant experience dealing with the impact of reinsurance on financial results and trends.	Applicable to captive RRGs.
2) Although not required, credentials such as Accredited Financial Examiner (AFE), Certified Financial Examiner (CFE), Certified Public Accountant (CPA), Chartered Property Casualty Underwriter (CPCU), Fellow of the Life Management Institute (FLMI), Associate in Insurance Accounting and Finance (AIAF), Associate of Reinsurance (ARe), Member, American Academy of Actuaries (MAAA) may demonstrate expertise in insurance and/or financial analysis.	Applicable to captive RRGs.
3) Staff should have an accounting, insurance, financial analysis or actuarial background. If their background is insurance, it should be financial in nature. College degrees should focus on accounting, insurance, finance or actuarial science.	Applicable to captive RRGs.

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GOVERNMENT RELATIONS	444 N. Capitol Street, NW, Suite 701	Washington, DC 20001-1509	p 202 471 3990	f 202 471 3972
SECURITIES VALUATION OFFICE	48 Wall Street, 6th Floor	New York, NY 10005-2906	p 212 398 9000	f 212 382 4207

www.naic.org

<i>Timing Guidelines</i>	
1) The Department should begin its analysis review of priority multi-state domestics very shortly after the annual statements arrive. The Department should be essentially finished with the analysis of the annual statements (both by the primary analyst and the analyst's supervisor) and the actuarial opinions of priority, multi-state domestics by the end of April. It is acceptable if a reasonable number of reviews of companies carry over into May. The Department should be essentially finished with its analysis of the annual statements and actuarial opinions of the rest of its multi-state domestics by the end of June. Once again, it is acceptable for the analysis to carry over into July, so long as the companies carried over are the lowest priority companies. The date by which the Department should finish its analysis of the annual statements depends in part upon the size and complexity of the domestic industry. For example, if the Department has only 5 multi-state companies to analyze, it will likely finish its review of all companies (priority and non-priority) within a few weeks. But if the Department has 300 multi-state domestic companies to analyze and many of these are large, complex entities, it may take the Department several months to finish its review of domestics, even though it starts right away and progresses very diligently.	Applicable to captive RRGs.
2) Analysis of other supplemental filings (MD&A, CPA Audit, Holding Company Filings, Quarterly Financial Statements, etc.) should be completed within 60 to 90 days from receipt. Again, highest priority multi-state domestics should be analyzed well before the 60- to 90-day time frame.	Applicable to captive RRGs.

b. Communication of Relevant Information to/from Financial Analysis Staff

Standard: The Department should provide relevant information and data received by the Department which may assist in the financial analysis process to the financial analysis staff and ensure that findings of the financial analysis staff are communicated to the appropriate person(s).

Review Team Guidelines	Task Force Consensus
1) Procedures should be established such that information material to the financial analysis process is communicated to the analysts. Examples would include significant complaint data, legal actions taken against the company, material rate changes, results of market conduct and financial condition examinations, significant changes in the company's agents, MGAs or reinsurance intermediaries, and regulatory actions taken by other states. Some information may be effectively analyzed in a summary fashion (e.g. summary analysis of a complaint register including all domestic insurers). <u>Because of the organizational structure of some state insurance departments, other sections within the department might not receive or have significant information related to captive insurers, as all business related to the captive occurs within the Captive unit. To the extent that sections outside of the Captive unit have information relevant to the financial analysis process of a captive, such information should be communicated to the captive financial analyst. To the extent that upper management in the Captive unit has significant information relevant to the financial analysis process of a captive, such</u>	The Task Force noted that such interdepartmental communication might not be applicable to all Departments because relevant information regarding captive insurers is held within a Department's captive area, instead of within different sections of a Department (as is the case with traditional insurers). To address this, the Task Force developed additional language to be added to the guideline.

<u>information should be communicated to the captive financial analyst.</u>	
2) Analysts should comment in the analysis file with respect to significant information obtained from other units <u>or other individuals within the Captive unit, if applicable.</u>	Applicable to captive RRGs; however, because of various organizational structures of Departments related to captives, the Task Force agreed that additional language be added.
3) Evidence of communication (e.g., minutes of meetings, memos or notes to the file, printouts, etc.) when problems or concerns are identified should be included in the department's analysis files or binders. To a lesser extent, oral verification may provide such evidence.	Applicable to captive RRGs.
4) Financial solvency information, particularly adverse findings or significant unresolved issues, obtained as a result of the financial analysis procedures performed should be communicated to examiners, management and other Department staff as needed.	Applicable to captive RRGs.

c. Appropriate Supervisory Review

Standard: The Department's internal financial analysis process should provide for appropriate supervisory review and comment.

General Guidance: An analyst's conclusion and work files regarding the financial condition of any company should be reviewed by experienced personnel with supervisory review responsibility. Supervisory review may be conducted by the analyst's supervisor or a senior level analyst whose job functions include such review duties.

Review Team Guidelines	Task Force Consensus
1) At least one level of supervisory review should be performed on each company analysis.	Applicable to captive RRGs.
2) Evidence of such review should be documented via sign-off and dating by the reviewer.	Applicable to captive RRGs.
3) Supervisory review should be timely, usually within 2-3 weeks of completion of the original analysis.	Applicable to captive RRGs.
4) Supervisory review should include a review of all significant worksheets and evidence of the analysis performed. The supervisory review should also include at least some review of the source documents, the level of which should be based on the experience of the analysts. For very experienced analysts with a solid understanding of complex insurance issues including the accounting and reporting implications thereof, the supervisory review of the source documents may be more limited.	Applicable to captive RRGs.
5) The supervisory review should be an in-depth and challenging review of the analyst's findings. Some Departments may demonstrate in-depth and challenging supervisory review by maintaining supervisory review notes. Regardless of whether supervisory review notes are kept, however, the supervisory review shall be presumed to be sufficient if	Applicable to captive RRGs.

the analysis appears to be complete and no material matter remains unaddressed.	
6) The supervisory review should encompass any written responses received by the primary analyst from the company, which contain significant information.	Applicable to captive RRGs.

d. Priority-Based Analysis

Standard: The Department’s financial analysis procedures should be priority-based to ensure that potential problem companies are reviewed promptly. Such a prioritization scheme should utilize appropriate factors as guidelines to assist in the consistent determination of priority designations.

Review Team Guidelines	Task Force Consensus
1) General factors used to develop the priority system should be documented by the Department and consistently applied. The regulator should exercise reasonable judgment in the application of these factors to specific insurers.	Applicable to captive RRGs.
2) Domestic companies with the highest priority should be analyzed first. For example, if the Department rates companies from 1 to 4, with 1 being the highest priority, companies rated as 1's should generally be analyzed prior to analyzing lower priority companies. For states with few domestics, an informal prioritization system can be considered adequate.	Applicable to captive RRGs.
3) Justification for priority ranking and any change to the priority ranking should be included in the analysis file. For example, if a company has historically been a troubled company receiving high priority and shows signs of improvement in the current year with the analyst rating them as low priority, a proper discussion of why the rating is appropriate should accompany such rating.	Applicable to captive RRGs.
4) Any change to a priority ranking should be approved by the appropriate supervisor, and evidence of that approval should be apparent.	Applicable to captive RRGs.

e. Appropriate Depth of Review

Standard: The Department’s financial analysis procedures should ensure that domestic insurers receive an appropriate level or depth of review commensurate with their financial strength and position.

Review Team Guidelines	Task Force Consensus
1) Depth of the analysis will depend on the complexity and the financial strength of the insurer and the existing or potential issues and problems found during review of the financial statements. Those companies with the highest priority should receive the most in-depth review. For those companies with the lowest priority, a less detailed review can suffice. This review can be conducted cooperatively with other experts, such as actuaries, where necessary or indicated.	Applicable to captive RRGs.

<p>2) At a minimum, the following information should be analyzed, to at least some extent, by the Department for all domestic multi-state companies:</p> <ul style="list-style-type: none"> • Annual Statement • Actuarial Opinion • Management’s Discussion and Analysis • Annual Audited Financial Statements • Holding Company Filings • Quarterly Statements (key financial data) • Financial ratios such as IRIS, FAST or other similar ratios. <u>(Some ratios or financial analysis scoring tools may not be appropriate for captive RRGs, primarily because of the accounting method utilized. If it is found that some of the tools are not appropriate, the analyst should explain why.)</u> 	<p>The Task Force agreed that the analysis of most of this information is applicable to captive RRGs.</p> <p>However, some of the financial ratios currently utilized for traditional insurers might not be appropriate for captive RRGs. To address this, the Task Force agreed that language should be added to the last bullet.</p>
<p>3) Departments may wish to use checklists developed by the Department or obtained from the NAIC <i>Financial Analysis Handbook</i>, and these checklists may be tailored to the particular needs of the analyst and the insurer under review. When using the NAIC <i>Financial Analysis Handbook</i>, the Level 1 Procedures Checklist and significant areas included in the Annual Statement General Checklist should be completed. The remainder of the checklists may be used to the extent the complexity of the insurer’s operations warrants such use or to the extent that procedures in the checklists provide a practical learning tool for less experienced analysts. The use of the Department-developed checklists or those from the NAIC <i>Financial Analysis Handbook</i> for the supplemental filings (Actuarial Opinion, MD&A, CPA Audit, Form B Holding Company Filings, Quarterly Financial Statements) is encouraged, especially for those analysts who are less experienced.</p>	<p>Applicable to captive RRGs.</p>
<p>4) <u>For captive RRGs, the following procedures should also be performed and documented in the analysis file in conjunction with the review of the annual statement and/or the audited financial statement:</u></p> <ul style="list-style-type: none"> • <u>Review the business plan to ensure that it is unchanged from the prior year.</u> • <u>Ensure that all changes in the plan of operations have been approved.</u> • <u>Review the reconciliation in Note 1 and ensure that it appears accurate and can be relied upon by others.</u> • <u>Review question 13.1 (largest net amount insured) and ensure that the amount agrees with the approved plan of operations.</u> • <u>Ensure that the financial projections on file accurately reflect the operations as presently conducted</u> • <u>Ensure that the “Notes” relating to the operation of the company agree with the approved plan of operation.</u> 	<p>This is a new guideline developed by the Task Force that would be applicable to captive RRGs only.</p>

f. Documented Analysis Procedures

Standard: The Department should have documented financial analysis procedures and/or guidelines to provide for consistency and continuity in the process and to ensure that appropriate analysis procedures are being performed on each domestic insurer.

General Guidance: The Department should develop an analysis manual or otherwise document its analysis process to provide a reference guide and training tool for the analysts. The use of the NAIC *Financial Analysis Handbook* or sections thereof is considered acceptable.

Review Team Guidelines	Task Force Consensus
1) All analysis work performed should include initials of the preparer and the dates of completion.	Applicable to captive RRGs.
2) Worksheets designed to document the analysis process should be properly completed as set forth by the Department's procedures.	Applicable to captive RRGs.
3) Procedures and worksheets should be of sufficient detail to uncover potential concerns addressing all material areas of the financial filing being analyzed. For example, financial analysis procedures, which ignore reinsurance transactions, would not be considered sufficient.	Applicable to captive RRGs.
4) Any unusual item, fluctuation from established norms, or other issue raised during the analysis of a company, should be properly addressed and documented in the analysis file. For example, if the Department establishes a premiums to surplus ratio of 3 to 1 and the company being analyzed is writing 6 to 1, the issue should be addressed in the analysis file, as to why it is acceptable, or if not, what action the Department will require the company to take to remedy it. Also, if an analyst indicates that a fluctuation or ratio result is unusual, there should be evidence of follow-up and a conclusion as to whether the analyst considers the unusual fluctuation or ratio result to be a concern and why. <u>Some ratios or fluctuations from established norms may not be appropriate for captive RRGs, primarily because of the accounting method utilized. If this is the case, the analyst should explain why the ratio or fluctuation is not applicable.</u>	This is applicable to captive RRGs; however, some of the financial ratios currently utilized for traditional insurers may not be appropriate for captive RRGs. To address this, the Task Force agreed that language should be added to the end of the guideline, as noted.
5) Any follow-up (e.g., memo to the file, letter to the company, etc.) should be properly documented. Any letter received from a company should show proper analysis by the Department, signing off and concluding that the response is adequate. For example, if the Department discovers that a company is not filing its securities with the SVO and sends a letter to the company requesting that such filings be made, a copy of the Department's letter and a copy of the company's response, including evidence that the analyst has determined that the company's final response is adequate, should be in the analysis file.	Applicable to captive RRGs.
6) The financial analysis process should include a summary discussion of the analysis findings, including a general discussion of the company's strengths and weaknesses.	Applicable to captive RRGs.

7) Conclusions should be reached as to whether any action should be considered as a result of the analysis. For example, the worksheets could have a write-in section at the end, which would enable the analyst and supervisor to comment and make recommendations for action, monitoring and plans for follow-up.	Applicable to captive RRGs.
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g. Reporting of Material Adverse Findings

Standard: The Department’s procedures should require that all material adverse findings be promptly presented to the commissioner or an appropriate designee for determination and implementation of appropriate regulatory action.

General Guidance: A material adverse finding is defined as a finding made by a Department with respect to an event, trend, transaction or series of transactions, fluctuation, agreement, arrangement, operating results or violation of law, which either has, or reasonably could have, a significant negative impact on a company’s financial position.

Review Team Guidelines	Task Force Consensus
1) The Department should have a policy or procedure to require that all material adverse findings be promptly presented to the commissioner or an appropriate designee. This policy or procedure should be in written form and should be formally communicated to individuals capable of taking appropriate regulatory action via inclusion in the Department Handbook or through some other formal communication channel such as department bulletin, memo, etc. The policy or procedure should define a material adverse finding and to whom the finding should be communicated, as described in Guideline (3), and require findings to be promptly reported.	Applicable to captive RRGs
2) Financial analysis files should contain evidence that material findings were promptly presented to the commissioner or appropriate designee.	Applicable to captive RRGs
3) Material adverse findings should be reported to individuals who are capable of taking appropriate regulatory action. For example, if as a result of the material adverse finding the company need only be contacted to get further information on the finding, then reporting to the analyst’s immediate supervisor would be considered adequate. However, if as a result of the material adverse finding the company needs to be placed in liquidation, contact at the highest levels of the Department is expected.	Applicable to captive RRGs.

h. Action on Material Adverse Findings

Standard: Upon reporting of any material adverse findings from the financial analysis staff, the Department should take timely action in response to such findings or adequately demonstrate the determination that no action was required.

General Guidance: Material adverse finding is defined in the guidelines in g. above. The review team will accept the ultimate action of the regulator as appropriate as long as the logic of the decision is clearly documented and the decision is reasonable based upon what other regulators would commonly understand to be appropriate in that scenario and given the information available at that time.

Review Team Guidelines	Task Force Consensus
1) The Department should have a policy or procedure to take timely action in response to material adverse findings or adequately demonstrate and document that no action was required.	Applicable to captive RRGs.
2) Department files should contain evidence that timely action was taken on material adverse findings or adequately demonstrate and document that no action was required.	Applicable to captive RRGs.

2. Financial Examinations

a. Sufficient Qualified Staff and Resources

Standard: The Department should have the resources to effectively examine all domestic insurers on a periodic basis, which is commensurate with the financial strength and position of each insurer.

General Guidance: Identified personnel who have the time and experience necessary to perform this function should be assigned to the examination tasks, and the tasks should be satisfactorily completed in a timely manner.

Review Team Guidelines	Task Force Consensus
<i>Timing Guidelines</i>	
1) Conduct a full-scope examination on each domestic company in accordance with the respective state law regarding the frequency of examinations or at least once every five years, whichever is less. Companies that redomesticate should be examined by the new domestic within five years of their last examination. Rare exceptions to the requirement to examine such redomesticated companies are permitted if adequately documented and communicated to all states in which the company is licensed <u>or registered</u> , but in no case shall the examination of a redomesticated company exceed six years. Domestic companies under court-ordered supervision, rehabilitation and receivership are excluded from this examination requirement. Companies classified as under administrative supervision, supervision, dormant, in run-off, or other similar designations are not excluded. Efforts to coordinate examinations with other states are not considered an acceptable allowance for non-compliance with this examination frequency requirement. The Department should be current with its statutory examination timetable.	Applicable to captive RRGs. Note: The Task Force recommends that the phrase “or registered” be included, as noted to the left.

2) The Department should have sufficient staff to perform necessary target and limited scope exams.	Applicable to captive RRGs.
<i>Qualifications Guidelines</i>	
1) The Department should have examiners or qualified contractual resources with appropriate experience levels to perform necessary tasks. Such experience should match the sophistication of the domestic industry. For example, if the domestic industry consists of reinsurers, the examination staff should have significant experience dealing with the impact of reinsurance on financial results.	Applicable to captive RRGs.
2) Although not required, credentials such as Accredited Financial Examiner (AFE), Certified Financial Examiner (CFE), Certified Public Accountant (CPA), Chartered Property Casualty Underwriter (CPCU), Fellow of the Life Management Institute (FLMI), Associate in Insurance Accounting and Finance (AIAF), Associate of Reinsurance (ARe), Member, American Academy of Actuaries (MAAA) may demonstrate expertise in insurance and/or financial examinations.	Applicable to captive RRGs.
3) Staff should have an accounting, insurance, financial analysis, financial examination or actuarial background. If their background is insurance, it should be financial in nature. College degrees should focus on accounting, insurance, finance or actuarial science.	Applicable to captive RRGs.

b. Communication of Relevant Information to/from Examination Staff

Standard: The Department should provide relevant information and data received by the Department, which may assist in the examination process to the examination staff and ensure that findings of the examination staff are communicated to the appropriate person(s).

Review Team Guidelines	Task Force Consensus
1) Procedures should be established such that information material to the financial examination process is communicated to the examiner-in-charge (EIC). Examples would include results of the financial analysis process, significant complaints data, legal actions taken against the company, material rate and form changes, results of market conduct examinations, significant changes in the company’s agents, MGAs or reinsurance intermediaries, and regulatory actions taken by other states. <u>Because of the organizational structure of some state insurance departments, other sections within the Department may not receive or have significant information related to captive insurers as all business related to the captive occurs within the Captive unit. To the extent that sections outside of the Captive unit have information relevant to the financial analysis process of a captive, such information should be communicated to the captive financial examiner. To the extent that upper management in the Captive unit has significant information relevant to the financial examination of a captive, such information should be communicated to the captive financial examiner.</u>	The Task Force noted that such interdepartmental communication might not be applicable to all departments, because relevant information regarding captive insurers is held within a Department’s captive area, instead of within different sections of a Department (as is the case with traditional insurers). To address this, the Task Force developed additional language to be added to the guideline.

2) The EIC, or other appropriate examination staff member, should comment in the examination file with respect to significant information obtained from other units <u>or other individuals within the Captive unit, if applicable.</u>	Applicable to captive RRGs; however, because of various organizational structures of state insurance departments related to captives, the Task Force recommends adding additional language, as noted.
3) Evidence of communication (e.g. biweekly reports, memos or notes to the examination files, examination reports, etc.) when problems or concerns are identified, as part of the examination process should be included in the examination files. To a lesser extent, oral verification may provide such evidence.	Applicable to captive RRGs.
4) Financial solvency information, particularly adverse findings, obtained as a result of the financial examination procedures performed should be communicated to the EIC, chief examiner, Department management and other Department staff as needed.	Applicable to captive RRGs.

c. Use of Specialists

Standard: The Department’s examination staff should include specialists with appropriate training and/or experience or otherwise have available qualified specialists, which will permit the Department to effectively examine any insurer. These specialists should be utilized where appropriate given the complexity of the examination or identified financial concerns.

General Guidance: The Department should have on staff or be able to contract the requisite expertise to examine effectively any insurer. The requisite expertise should be determined by the character and nature of the domestic industry and may include, but is not limited to, computer audit, reinsurance, actuarial and investment expertise. The Department should demonstrate that its use of specialists is appropriate.

Review Team Guidelines	Task Force Consensus
<i>Computer Audit Expertise Guidelines</i>	
1) The Department should have access to a person with expertise to conduct computer audits.	Applicable to captive RRGs.
2) The Department should be utilizing software, such as ACL, which enables the Department to test and understand company data. For those companies where use of such software is not feasible, the Department should document proper testing “around the computer.”	Applicable to captive RRGs.
3) To determine if reliance upon an insurer’s Information Systems (IS) control system is appropriate, the Department may utilize such things as the IS Control Questionnaire from the NAIC <i>Financial Condition Examiners Handbook</i> , CPA Workpapers, etc.	Applicable to captive RRGs.
4) Determination to rely or not to rely upon an insurer’s IS controls should be made by an appropriate department representative consistent with the Department’s procedures.	Applicable to captive RRGs.
<i>Reinsurance Expertise Guidelines</i>	

<p>1) Reinsurance contracts should be reviewed to address requirements contained in state law and to determine proper accounting treatment as set forth in the NAIC <i>Accounting Practices and Procedures Manual</i>, utilizing the version effective January 1, 2001 and all subsequent revisions adopted by FRSAC and the NAIC <i>Financial Condition Examiners Handbook</i>, including, but not limited to, transfer of risk. <u>For those captive RRGs filing under GAAP, the reinsurance contracts should be reviewed to determine proper accounting treatment under GAAP.</u></p>	<p>This is applicable to captive RRGs filing under statutory accounting principles. For those captive RRGs filing under GAAP, the reinsurance contracts should be reviewed to determine proper accounting treatment under GAAP. The Task Force added a sentence to the guideline to indicate this.</p>
<p>2) Complex and sophisticated reinsurance contracts may require review by persons with greater reinsurance experience or expertise. This experience or expertise may be provided by persons on staff, under contract, or as otherwise available to the Department, e.g., through consultation with the NAIC reinsurance specialist.</p>	<p>Applicable to captive RRGs.</p>
<p><i>Actuarial Expertise Guidance</i></p>	
<p>1) Persons with appropriate experience to evaluate reserves should be involved on all examinations.</p>	<p>Applicable to captive RRGs.</p>
<p>2) Credentialed actuaries should be involved on all life and health company examinations where the company has a substantial amount of interest-sensitive business and on all property/casualty company examinations where the company has a substantial amount of long-tail lines of business. The Department may demonstrate that non-credentialed actuaries have appropriate actuarial expertise to perform an evaluation of these types of reserves.</p> <p>For purposes of the above guideline, it should be noted that long-tail property/casualty lines of business have no definitive classification system. Certain lines are generally considered to be long-tail in nature, e.g., workers' compensation, medical malpractice, commercial general liability, and some other types of liability coverage; however, due to the historic development pattern in any particular case, a line often considered to be long-tail may in such case be medium- or short-tail, or vice-versa. As one example, losses for a long-tail line of business would not generally reach 95% of the ultimate loss development until after five years from incurral date. Other relevant factors may be considered in the determination of long-tail lines of business.</p>	<p>Applicable to captive RRGs.</p>
<p>3) Coordination between examiners and actuaries should be evidenced in the examination files, especially in the planning file. For example, this would include identifying underlying data testing to be performed by the examiner and the methodologies to be used for determining reserve adequacy by the actuary.</p>	<p>Applicable to captive RRGs.</p>
<p>4) Appropriate documentation should support actuarial findings.</p>	<p>Applicable to captive RRGs.</p>
<p>5) The actuarial workpapers should be kept in the Department's files or otherwise be made available for review.</p>	<p>Applicable to captive RRGs.</p>

<i>Investment Expertise Guidelines</i>	
<p>1) Investment policies and investment holdings should be reviewed to address requirements contained in state law and to determine proper accounting treatment as set forth in the NAIC <i>Accounting Practices and Procedures Manual</i>, utilizing the version effective January 1, 2001 and all subsequent revisions adopted by FRSAC. <u>For those captive RRGs filing under GAAP or in accordance with state prescribed methods, the investment holdings should be reviewed to determine proper accounting treatment under the method utilized.</u></p>	<p>This is applicable to captive RRGs filing under statutory accounting principles. For those captive RRGs filing under GAAP or some other method, the investment holdings should be reviewed to determine proper accounting treatment under the method utilized. The Task Force added a sentence to the guideline to indicate this.</p>
<p>2) Complex and sophisticated investment policies and holdings that are material may require review by persons with appropriate investment experience or expertise. This experience or expertise may be provided by persons on staff, under contract or as otherwise available to the Department.</p> <p>For purposes of the above guideline, some examples of when an investment specialist may be necessary include: the insurer has a sophisticated derivatives program, material holdings of collateralized mortgage obligations with high flux scores, unusual real estate or limited partnership holdings, high or unusual portfolio turnover, material asset movements between related parties or unusual securities lending activities.</p> <p>If the Department does not have on staff persons with appropriate investment expertise, this investment expertise may be provided by persons associated with actuarial firms, commercial rating agencies, CPA firms, federal and state securities agencies, investment banking firms, investment brokerage firms, portfolio managers, the SVO, or other professionals experienced in analyzing investment activities.</p>	<p>Applicable to captive RRGs.</p>

d. Appropriate Supervisory Review

Standard: The Department’s procedures for examinations should provide for supervisory review of examination workpapers and reports to ensure that the examination procedures and findings are appropriate and complete and that the examination was conducted in an efficient and timely manner.

Review Team Guidelines	Task Force Consensus
<i>Guidelines for Supervisory Review of Workpapers</i>	
<p>1) All workpapers, including work performed by the EIC, should receive at least one level of supervisory review. In addition, work of specialists should be reviewed by the EIC for familiarity and understanding. The reviewer should be looking to see that the specialists’ reports and, if necessary, workpapers evidence all procedures that are expected to be performed. In addition, the workpapers should be consistent with the examiner’s conclusions and the examination report.</p>	<p>Applicable to captive RRGs.</p>

2) Supervisory review should be evidenced by sign off and dating by the reviewer. Supervisory sign-off and dates on every single workpaper is not required.	Applicable to captive RRGs.
3) Supervisory review should be timely in nature. <ul style="list-style-type: none"> • Planning should be reviewed before significant fieldwork begins. • Supervisory review of workpapers should occur within a reasonable period after completion of the item being examined (generally 2–4 weeks). 	Applicable to captive RRGs.
4) Supervisory review should ascertain whether the form of examination workpapers is consistent with Department standards.	Applicable to captive RRGs.
5) Supervisory review should be an in-depth and challenging review of the examiner’s findings. The occurrence and sufficiency of supervisory review may be verified through discussions with department staff, including but not limited to, the EICs. The Department may demonstrate in-depth and challenging review by maintaining supervisory review notes. Regardless of whether supervisory review notes are kept, however, the supervisory review shall be presumed sufficient if the examination procedures appear to be complete and no material matter remains unaddressed.	Applicable to captive RRGs.
<i>Guidelines for Supervisory Review of Examination Reports</i>	
1) The examination report should be reviewed by at least one person other than the preparer. The commissioner or the commissioner’s designee should approve the report prior to final issuance.	Applicable to captive RRGs.

e. Use of Appropriate Guidelines and Procedures

Standard: The Department’s policies and procedures for the conduct of examinations should generally follow those set forth in the NAIC *Financial Condition Examiners Handbook*. Appropriate variations in methods and scope should be commensurate with the financial strength and position of the insurer.

General Guidance: The Department should demonstrate that examinations have been generally conducted in accordance with the NAIC *Financial Condition Examiners Handbook*. Examination procedures should produce reports of examination, which provide information needed by regulatory personnel involved in the admission and regulation of companies as well as specific information needed for any disciplinary or other regulatory action.

Review Team Guidelines	Task Force Consensus
1) The Specific Risk Analysis (SRA) approach should be utilized in establishing priority of accounts or operational areas. Such approach should include completion of the SRA workpapers and internal control questionnaires. On those examinations where the SRA approach is not utilized, planning documentation should include rationale for not utilizing such approach and evidence that the cycles identified in the SRA approach have otherwise been considered and properly addressed in the exam work.	Applicable to captive RRGs.
2) A memorandum should be prepared that summarizes the examination	Applicable to captive RRGs. Note

<p>planning process. The memorandum should adequately discuss, but is not limited to, the following:</p> <ul style="list-style-type: none"> • Results of SRA or alternative analysis • Reliance on work completed by accredited states <u>(if applicable)</u> • Review of independent auditor’s workpapers and reports • Staffing and Time Budgets • Management assessment • Analytical review results • Materiality assessment 	<p>that the Task Force added “if applicable” to the second bullet for clarification purposes. The “if applicable” would apply to both RRGs and traditional insurers.</p>
<p>3) Examination work programs should be utilized to document work performed. Such work programs should encompass steps identified in the NAIC <i>Financial Condition Examiners Handbook</i>. All work performed should be properly referenced from the work program to the workpaper(s) where the examination and analysis were performed. Such workpapers should fully document work performed and should include the initials and date of the preparer. Where work of the independent auditor is used or relied upon to supplement the work of the examiners, such reliance should be documented and limited re-testing of the CPAs work should be performed where appropriate.</p>	<p>Applicable to captive RRGs.</p>
<p>4) States electing to rely on examination work completed by another state should review the planning memorandum of the testing state related to the area of planned reliance, review the related examination program prepared by the testing state, and communicate any concerns with the testing state about the examination approach. Additionally, the relying state should review the testing state’s conclusions after the examination work and a detailed review has been completed by the testing state. The relying state may also review additional working papers at the sole discretion of the relying state. For example, the relying state may choose to review working papers related to significant findings and material adjustments. A memorandum shall be included within the workpapers of the relying state describing the communication between the testing state and the relying state, information on the relying state’s actual review of the workpapers and how this review and reliance will impact the relying state’s examination. The relying state should also have a copy of the pertinent workpapers completed by the testing state within their examination file.</p> <p>a. If relying on the work of a state that was accredited at the time of the review/reliance, the accreditation review team will not review the examination workpapers completed by the accredited testing state, but will review the memorandum documenting the review and reliance to determine compliance with this accreditation guideline. If a significant portion of the examination work was completed through reliance on another state’s workpapers, the accreditation review team may choose to select another examination to supplement the overall accreditation score on examinations.</p> <p>b. If relying on the work of a state that was not accredited at the time of review/reliance, the relying state must assume ownership of the</p>	<p>Typically, RRGs are not part of coordinated examinations and non-domestic states will not have a role in examinations of RRGs. However, if work of another state is used during the examination, this guideline would be applicable. The federal Liability Risk Retention Act of 1986 (LRRRA) does allow for the coordination of examinations to avoid unjustified duplication and repetition.</p>

<p>work completed by the non-accredited testing state. This requires the relying state to conduct a review of the examination work performed by the non-accredited testing state. The relying state should use professional judgment in determining the extent of the review to be performed. However, since the relying state assumes ownership of the work, the accreditation review team will review the examination workpapers completed by the non-accredited testing state as if they had been completed by the relying state. If the relying state does not have the workpapers from the non-accredited testing state, this will result in an interpretation that the examination procedures were not completed. The accreditation review team is encouraged not to select other examination files to review if the documentation within a file in which reliance on a non-accredited testing state was lacking.</p>	
<p>5) Data supplied by the company or an outside source (such as the insurer's independent auditor) on which material reliance is placed, should be tested for both accuracy and completeness. As stated in the NAIC <i>Financial Condition Examiners Handbook</i>, such tests may be substantive and/or compliance in nature.</p>	<p>Applicable to captive RRGs.</p>
<p>6) Sampling techniques used should conform to guidance set forth in the NAIC <i>Financial Condition Examiners Handbook</i> or other appropriate authoritative guidance. These techniques should conform to the Department's policy, be clearly documented, and be consistently applied on all examinations.</p>	<p>Applicable to captive RRGs.</p>
<p>7) The Department should utilize qualified examiners-in-charge (EICs). The NAIC <i>Financial Condition Examiners Handbook</i> provides guidance on the authority, responsibilities and credentials for a qualified EIC.</p>	<p>Applicable to captive RRGs.</p>
<p>8) If a Department elects to utilize contract examiners the Department should demonstrate significant involvement of appropriate Department personnel during the course of the examination to assure that the examination is generally conducted in accordance with the NAIC <i>Financial Condition Examiners Handbook</i> and the Department's policies and procedures.</p>	<p>Applicable to captive RRGs.</p>

f. Scheduling of Examinations

In scheduling financial examinations, the Department should follow procedures such as those set forth in the NAIC *Financial Condition Examiners Handbook* that provide for the periodic examination of all domestic companies on a timely basis. This system should accord priority to companies, which exhibit adverse financial trends or otherwise demonstrate a need for examination.

Review Team Guidelines	Task Force Consensus
<p>1) The Department should prepare a flexible yearly examination schedule identifying the company being examined, priority of the company, projected period of the examination and the EIC scheduled to perform the exam.</p>	<p>Applicable to captive RRGs.</p>
<p>2) The criteria used to establish the examination schedule should encompass the criteria found in the NAIC <i>Financial Condition Examiners Handbook</i>. Any additional criteria used should be properly documented in the Department’s policies and procedures and should be consistently applied.</p>	<p>Applicable to captive RRGs.</p>
<p>3) The Department should be utilizing the NAIC Examination Tracking System for calling association examinations, <u>as directed by the NAIC <i>Financial Condition Examiners Handbook</i></u>.</p>	<p>The use of the NAIC Examination Tracking System (ETS) for calling examinations is applicable to captive RRGs if the language to the left is utilized. The following supplemental information should be noted:</p> <p>Examinations of captive RRGs are not considered “association examinations,” as the LRRRA does not specifically require other states’ participation. However, the LRRRA does allow for coordination of examinations in specific situations, although it does not require that the domestic regulator coordinate an examination if it has already begun or initiated an examination. This guideline merely requires that captive RRG examinations be called on ETS. It does not require the domestic regulator to allow other states to participate on the examination. A referral was sent to the Financial Examiners Handbook (E) Technical Group recommending that the Handbook and the ETS e-mail be updated to indicate that the calling of RRG examinations is simply a notification — and not an invitation to participate.</p>

g. Examination Reports

Standard: The Department’s reports of examination should be prepared in accordance with the format adopted by the NAIC and should be sent to other states in which the insurer transacts business in a timely fashion.

Review Team Guidelines	Task Force Consensus
1) The Department should demonstrate that reports of examination have been prepared in accordance with a format outlined in the NAIC <i>Financial Condition Examiners Handbook</i> .	Applicable to captive RRGs.
2) Reports should be prepared and distributed in a timely manner as set forth in statute. Exceptions to these timing requirements should be properly documented. As a general rule, examination reports should be issued no more than 18 months after the “as of date”; however, exceptions to the general rule are possible as noted in the guidance included in the Accreditation Interlineations. Exceptions are permissible provided contemporaneous documentation highlights mitigating circumstances, which balance timeliness issues or provides reasonable justification for delays due to unforeseen circumstances. The documentation should indicate the nature of the exception, such as staffing constraints, lack of cooperation on the part of the insurer, complexity and size of the insurer, awaiting completion of actuarial support, and due process issues. Documentation should identify both the cause of the exception and the regulatory response; for example, the steps taken by the Department to keep other States informed concerning the financial condition of the insurer. Ultimately, all timeliness exceptions should be considered in the aggregate to determine whether the Department is administering its Examination Authority to ensure examination reports are useful in describing the insurer’s financial condition.	Applicable to captive RRGs.
3) Examination reports may be mailed in hard copy form to the other states, may be sent in an electronic format, or may be posted to the Internet. If the Department has the company mail out the reports to other states in which it does business, the Department should have an established procedure to obtain evidence from the company that such reports were mailed. If the report is posted to the Internet, the state must proactively communicate the availability of the report to the other state insurance departments. If a state requests a hardcopy of the examination report, such must be sent to the state in a timely manner. <u>Some state laws or regulations may require that examination reports are confidential documents, but this does not preempt the examining state from sharing examination reports with other states. The examining state may request confirmation from other states that they have the ability to maintain the confidentiality of the report.</u>	Applicable to captive RRGs. Note: the Task Force added language regarding confidentiality of examination reports.

h. Reporting of Material Adverse Findings

Standard: The Department’s procedures should require that all material adverse findings be promptly presented to the commissioner or an appropriate designee for determination and implementation of appropriate regulatory action.

General Guidance: A material adverse finding is defined as a finding made by a Department with respect to an event, trend, transaction or series of transactions, fluctuation, agreement, arrangement, operating results or violation of law, which either has, or reasonably could have, a significant negative impact on a company’s financial position.

Review Team Guidelines	Task Force Consensus
1) The Department should have a policy or procedure to require that all material adverse findings be promptly presented to the commissioner or an appropriate designee. This policy or procedure should be in written form and should be formally communicated to individuals capable of taking appropriate regulatory action via inclusion in the Department Handbook or through some other formal communication channel such as department bulletin, memo, etc. The policy or procedure should define a material adverse finding and to whom the finding should be communicated, as described in Guideline (3), and require findings to be promptly reported.	Applicable to captive RRGs.
2) Examination workpapers should contain evidence that material findings were promptly presented to the commissioner or appropriate designee.	Applicable to captive RRGs.
3) Material adverse findings should be reported to individuals who are capable of taking appropriate regulatory action. For example, if as a result of the material adverse finding the company need only be contacted to get further information on the finding, then reporting to the examiner’s immediate supervisor would be considered adequate. However, if as a result of the material adverse finding the company needs to be placed in liquidation, contact at the highest levels of the Department is expected.	Applicable to captive RRGs.

i. Action on Material Adverse Findings

Standard: Upon the reporting of any material adverse findings from the examination staff, the Department should take timely action in response to such findings or adequately demonstrate the determination that no action was required.

General Guidance: Material adverse finding is defined in the guidelines in h. above. The review team will accept the ultimate action of the regulator as appropriate as long as the logic of the decision is clearly documented and the decision is reasonable based upon what other regulators would commonly understand to be appropriate in that scenario and given the information available at that time.

Review Team Guidelines	Task Force Consensus
1) The Department should have a policy or procedure to take timely action in response to material adverse findings or adequately demonstrate and document that no action was required.	Applicable to captive RRGs.
2) Department files, examination workpapers and examination reports should contain evidence that timely action was taken on material adverse findings or adequately demonstrate and document that no action was required.	Applicable to captive RRGs.

3. Information Sharing and Procedures for Troubled Companies

a. Information Sharing

Standard: States should allow for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with the regulatory officials of any state, federal agency or foreign countries providing that the recipients are required, under their law, to maintain its confidentiality. States also should allow for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with the NAIC providing that the NAIC demonstrates by written statement the intent to maintain its confidentiality. The Department should have a documented policy to cooperate and share information with respect to domestic companies with regulatory officials of any state, federal agency or foreign countries and the NAIC directly and also indirectly through committees established by the NAIC which may be reviewing and coordinating regulatory oversight and activities. This policy should also include cooperation and sharing information with respect to domestic companies subject to delinquency proceedings.

Review Team Guidelines	Task Force Consensus
1) The Department should demonstrate that it is authorized to share confidential documents, materials, information, administrative or judicial orders, or other actions with the regulatory officials of any state, federal agency or foreign countries and the NAIC provided that the recipients are required to maintain its confidentiality.	Applicable to captive RRGs.
2) The Department should demonstrate that it is authorized to keep confidential documents, materials, and information provided by the regulatory officials of any state, federal agency or foreign countries and the NAIC, which is considered confidential in their jurisdiction.	Applicable to captive RRGs.

3) The Department should have a documented policy to cooperate and share documents, materials, and information on domestic companies with the regulatory officials of any state, federal agency or foreign countries and the NAIC. For example, the Department’s policy could be to share critical information on a financially troubled company with the regulatory officials of any state, federal agency or foreign countries when requested as long as confidentiality is maintained.	Applicable to captive RRGs.
4) The Department should make reasonable efforts to respond to inquiries from the NAIC Analyst Team, the Financial Analysis Working Group, and any other appropriate NAIC body.	Applicable to captive RRGs.

b. Procedures for Troubled Companies

Standard: The Department should generally follow and observe procedures set forth in the NAIC *Troubled Insurance Company Handbook*. Appropriate variations in application of procedures and regulatory requirements should be commensurate with the identified financial concerns and operational problems of the insurer.

Review Team Guidelines	Task Force Consensus
1) Once the Department has identified an insurance company as troubled or potentially troubled, the Department should take steps such as those set forth in the NAIC <i>Troubled Insurance Company Handbook</i> to address the identified concerns. This shall apply from the point the Department identifies the insurance company as troubled, or potentially troubled, to the point the company has been placed into receivership.	Applicable to captive RRGs.
2) In most instances, examinations of those insurance companies that the Department has identified as troubled or potentially troubled should occur more frequently than once every five years as outlined in the NAIC Model Law on Examinations (#390). Limited scope examinations are acceptable in meeting this guideline; however; the Department is still required to complete a full-scope examination in compliance with statutory requirements.	Applicable to captive RRGs.
3) Once the Department has identified an insurance company as troubled or potentially troubled, the Department should, within a reasonable amount of time, make efforts to communicate proactively with other state insurance regulators where the insurance company has a significant amount of written, assumed or ceded insurance business and with states in which affiliates of the troubled company are domiciled or those states where the troubled company has significant market share. Department files should contain written evidence of such communication(s). To a lesser extent, oral verification may provide such evidence.	Applicable to captive RRGs.

PART C: ORGANIZATIONAL AND PERSONNEL PRACTICES

1. Professional Development

Standard	Task Force Consensus
The Department should have a policy that encourages the professional development of staff involved with financial surveillance and regulation through job-related college courses, professional programs and/or other training programs.	Applicable to captive RRGs.

2. Minimum Educational and Experience Requirements

Standard	Task Force Consensus
The Department should establish minimum educational and experience requirements for all professional employees and contractual staff positions in the financial regulation and surveillance area, which are commensurate with the duties and responsibilities of the position.	Applicable to captive RRGs.

3. Retention of Personnel

Standard	Task Force Consensus
The Department should have the ability to attract and retain qualified personnel for the positions involved with financial surveillance and regulation.	Applicable to captive RRGs.

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