

§ 58-19-26. Group capital calculation.

(a) Reporting Requirement. – The ultimate controlling person of every insurer subject to registration pursuant to G.S. 58-19-25 shall concurrently file with the registration an annual group capital calculation report. The report shall be filed with the lead state commissioner.

(b) Exemptions. – The ultimate controlling person of any of the following is exempt from the filing requirement of subsection (a) of this section:

- (1) An insurance holding company system that (i) has only one insurer within its holding company structure, (ii) only writes insurance business, (iii) is only licensed in its state of domicile, and (iv) assumes no business from any other insurer.
- (2) An insurance holding company system that is required to perform a group capital calculation specified by the United States Federal Reserve Board. When this exemption applies, the lead state commissioner shall request the calculation from the United States Federal Reserve Board. If the United States Federal Reserve Board cannot share the calculation with the lead state commissioner under the terms of any information sharing agreements in effect, then the insurance holding company system is not exempt from the group capital calculation filing.
- (3) An insurance holding company system whose non-United States group-wide supervisor is located within a reciprocal jurisdiction that recognizes the United States state regulatory approach to group supervision and group capital.
- (4) An insurance holding company system that meets both of the following requirements:
 - a. The insurance holding company system provides information to the lead state commissioner that meets the requirements for accreditation under the NAIC financial standards and accreditation program. The insurance holding company may provide this information either directly or indirectly through its group-wide supervisor. If provided indirectly through a group-wide supervisor, the supervisor is responsible for determining whether the information provided is sufficient to permit the lead state commissioner to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook.
 - b. The insurance holding company system's non-United States group-wide supervisor is not in a reciprocal jurisdiction but nonetheless recognizes the group capital calculation as the worldwide group capital assessment for United States insurance groups who operate in that jurisdiction.

(c) Recognition of Group Capital Calculation. – For purposes of subdivision (b)(4) of this section, a non-United States jurisdiction recognizes the group capital calculation if it satisfies any of the following criteria:

- (1) A competent regulatory authority in the jurisdiction affirms that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC accreditation program shall be subject only to worldwide prudential insurance group supervision, including worldwide group governance, solvency and capital, and reporting, as applicable, by that jurisdiction's lead state commissioner and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level

of the worldwide parent undertaking of the insurance or reinsurance group by the non-United States jurisdiction.

- (2) A competent regulatory authority in the jurisdiction affirms that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with an information sharing agreement in the form of a memorandum of understanding or similar document. Acceptable information sharing agreements include the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The jurisdiction does not satisfy this criteria if the lead state commissioner determines, in consultation with the NAIC, that the requirements of the information sharing agreements are no longer in force.
- (3) If no United States insurance groups operate in the non-United States jurisdiction, that non-United States jurisdiction notifies the lead state commissioner and the International Association of Insurance Supervisors in writing that the jurisdiction considers the group capital calculation an acceptable international capital standard.

(d) **Limitation of Exemptions.** – Notwithstanding subsection (b) of this section, the lead state commissioner shall require filing of the group capital calculation for United States operations of any non-United States based insurance holding company system if the lead state commissioner determines that the filing is required for (i) prudential oversight and solvency monitoring purposes or (ii) ensuring the competitiveness of the insurance marketplace.

(e) **Consideration and Correction of NAIC Materials.** – The lead state commissioner shall consider any relevant lists, reports, and recommendations published by the NAIC in determining whether the exceptions of subdivision (b)(4) of this section apply to an insurer. If the lead state commissioner's determination differs from relevant materials published by the NAIC, the lead state commissioner shall provide the NAIC with written justification for the difference supported by documentation. If published NAIC materials indicate that a non-United States jurisdiction recognizes the group capital calculation and the lead state commissioner determines that the jurisdiction no longer meets the requirements of subsection (c) of this section, the lead state commissioner may recommend a correction of the materials to the NAIC.

(f) **Discretionary Exemptions.** – The lead state commissioner may either (i) exempt the ultimate controlling person of an insurance holding company system from the filing requirement of subsection (a) of this section or (ii) authorize the ultimate controlling person of an insurance holding company to file a limited group capital filing in lieu of the filing requirement of subsection (a) of this section if all of the following apply:

- (1) The insurance holding company system has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than one billion dollars (\$1,000,000,000).
- (2) The insurance holding company system does not include insurers within its holding company structure that are domiciled outside of the United States or one of its territories.
- (3) The insurance holding company system does not include a banking, depository, or other financial entity that is subject to an identified regulatory capital framework within its holding company structure.

- (4) The insurance holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of an annual group calculation report, if any.
- (5) The non-insurers within the insurance holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

(g) Resumption of Filings. – If the lead state commissioner determines that an insurance holding company system exempted from the filing requirements of subsection (a) of this section no longer meets the requirements for an exemption, the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown. If the lead state commissioner, pursuant to subsection (f) of this section, either grants a discretionary exemption or authorizes a limited group capital filing, the lead state commissioner may require the ultimate controlling person of that insurance holding company system to file an annual group calculation at any time if any of the following apply:

- (1) Any insurer within the insurance holding company system is in a risk-based capital action level event as set forth in Article 12 of this Chapter or a similar standard for a non-United States insurer.
- (2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition pursuant to the criteria provided in G.S. 58-30-60.
- (3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances, including the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests. (2025-45, s. 3(a).)