

STATE OF NEW YORK

7356

2023-2024 Regular Sessions

IN ASSEMBLY

May 18, 2023

Introduced by M. of A. WEPRIN -- (at request of the Department of Financial Services) -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to group capital calculations, liquidity stress tests, and confidentiality

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs 1 and 2 of subsection (a) and subsection (b) of
2 section 110 of the insurance law, paragraphs 1 and 2 of subsection (a)
3 as amended by chapter 238 of the laws of 2013 and subsection (b) as
4 added by chapter 687 of the laws of 2003, are amended to read as
5 follows:

6 (1) may share documents, materials or other information, including
7 confidential [~~and~~], privileged, and trade secret documents, materials or
8 information with other local, state, federal, and international regula-
9 tory agencies, with the National Association of Insurance Commissioners,
10 its affiliates or subsidiaries, [~~and~~] with any third-party consultant
11 designated by the superintendent, with local, state, federal, and inter-
12 national law enforcement authorities, including members of any supervi-
13 sory college described in section three hundred two of this chapter,
14 provided that the recipient has the authority and agrees to maintain the
15 confidentiality and privileged status of the document, material or other
16 information and has verified in writing the legal authority to maintain
17 confidentiality; provided, however, that this paragraph shall not be
18 construed as limiting access to records pursuant to article six of the
19 public officers law, except as provided in paragraph three of subsection
20 (b) of this section;

21 (2) may receive documents, materials or information, including other-
22 wise confidential [~~and~~], privileged, and trade secret documents, materi-
23 als or information, from the National Association of Insurance Commis-
24 sioners, its affiliates or subsidiaries [~~and~~], from regulatory and law
25 enforcement officials of other foreign or domestic jurisdictions,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

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1 including members of any supervisory college described in section three
2 hundred two of this chapter, and from any other entity designated by the
3 superintendent in a regulation, and shall maintain as confidential or
4 privileged any document, material or information received with notice or
5 the understanding that it is confidential or privileged under the laws
6 of the jurisdiction that is the source of the document, material or
7 information; and

8 (b) (1) No waiver of any applicable privilege or claim of confiden-
9 tiality in the documents, materials, or information shall occur as a
10 result of disclosure to the superintendent under this section or as a
11 result of sharing as authorized in this section.

12 (2) The sharing of documents, materials, or information by the super-
13 intendent pursuant to this section shall not constitute a delegation of
14 regulatory authority or rulemaking, and the superintendent is solely
15 responsible for the administration, execution, and enforcement of the
16 provisions of this section.

17 (3) Documents, materials, or other information in the possession or
18 control of the National Association of Insurance Commissioners or third-
19 party consultants pursuant to this section shall be confidential by law
20 and privileged, shall not be subject to article six of the public offi-
21 cers law, shall not be subject to subpoena, and shall not be subject to
22 discovery or admissible in evidence in any private civil action.

23 § 2. Subsection (a) of section 1501 of the insurance law is amended by
24 adding four new paragraphs 8, 9, 10 and 11 to read as follows:

25 (8) "Group capital calculation instructions" means the group capital
26 calculation instructions as adopted by the: (A) NAIC and as amended by
27 the NAIC from time to time in accordance with the procedures adopted by
28 the NAIC; and (B) superintendent pursuant to a regulation.

29 (9) "NAIC" means the National Association of Insurance Commissioners.

30 (10) "NAIC liquidity stress test framework" means an NAIC publication
31 that includes a history of the NAIC's development of regulatory liquidi-
32 ty stress testing, the scope criteria applicable for a specific data
33 year, and the liquidity stress test instructions and reporting templates
34 for a specific data year, such scope criteria, instructions and report-
35 ing template being as adopted by the: (A) NAIC and as amended by the
36 NAIC from time to time in accordance with the procedures adopted by the
37 NAIC; and (B) superintendent pursuant to a regulation.

38 (11) "Scope criteria" means the designated exposure bases along with
39 minimum magnitudes thereof for the specified data year, used to estab-
40 lish a preliminary list of insurers considered scoped into the NAIC
41 liquidity stress test framework for that data year.

42 § 3. Section 1503 of the insurance law is amended by adding three new
43 subsections (c), (d) and (e) to read as follows:

44 (c) (1) An ultimate holding company shall file with the superintendent
45 an annual group capital calculation by April thirtieth of each year when
46 this state is the lead state of the holding company system as determined
47 in accordance with the procedures within the financial analysis handbook
48 adopted by the NAIC, as amended from time to time. When the lead state
49 is not this state, an ultimate holding company shall file with the
50 superintendent the annual group capital calculation if the ultimate
51 holding company has not filed the annual group capital calculation with
52 its lead state because the lead state has not enacted an annual group
53 capital calculation filing requirement or the ultimate holding company
54 has filed the annual group capital calculation with the lead state but
55 the lead state is not willing or able to share the annual group capital
56 calculation with the superintendent. The ultimate holding company shall

1 complete the annual group capital calculation in accordance with the
2 group capital calculation instructions, which may permit the superinten-
3 dent to allow a holding company that is not the ultimate holding company
4 to file the annual group capital calculation. When this state is the
5 lead state, an ultimate holding company shall be exempt from filing an
6 annual group capital calculation if it is part of a holding company
7 system that:

8 (A) has only one insurer within its system that only writes business
9 and is only licensed in its domestic state and assumes no business from
10 any other insurer;

11 (B) is required to perform a group capital calculation specified by
12 the United States Federal Reserve Board, except that the holding company
13 shall not be exempt if the superintendent requests the group capital
14 calculation from the United States Federal Reserve Board under the terms
15 of information sharing agreements in effect and the Federal Reserve
16 Board cannot share the calculation with the superintendent;

17 (C) has a non-United States group-wide supervisor that is located
18 within a reciprocal jurisdiction, as described in part one hundred twen-
19 ty-five of title eleven of the official compilation of codes, rules and
20 regulations of this state, that recognizes the United States state regu-
21 latory approach to group supervision and group capital; or

22 (D)(i) provides information to the superintendent, either directly or
23 indirectly through the group-wide supervisor, who has determined such
24 information is satisfactory to allow the superintendent to comply with
25 the NAIC group supervision approach, as detailed in the NAIC financial
26 analysis handbook; and

27 (ii) has a non-United States group-wide supervisor that is not in a
28 reciprocal jurisdiction that recognizes and accepts, as specified by the
29 superintendent in a regulation, the group capital calculation as the
30 world-wide group capital assessment for United States holding company
31 systems that operate in that jurisdiction.

32 (2) Notwithstanding subparagraphs (C) and (D) of paragraph one of this
33 subsection, when this state is the lead state, the superintendent shall
34 require the group capital calculation for United States operations of
35 any non-United States-based holding company system where, after any
36 necessary consultation with other supervisors or officials, it is deemed
37 appropriate by the superintendent for prudential oversight and solvency
38 monitoring purposes or for ensuring the competitiveness of the insurance
39 marketplace.

40 (3) Notwithstanding the exemptions from filing the group capital
41 calculation set forth in paragraph one of this subsection, when this
42 state is the lead state, the superintendent has the discretion to exempt
43 a holding company from filing an annual group capital calculation or
44 accept a limited group capital calculation filing or report in accord-
45 ance with criteria as specified by the superintendent in a regulation.

46 (4) When this state is the lead state, if the superintendent deter-
47 mines that a holding company no longer meets one or more of the require-
48 ments for an exemption from filing the group capital calculation under
49 this subsection, the holding company shall file the group capital calcu-
50 lation at the next annual filing date unless given an extension by the
51 superintendent based on reasonable grounds shown.

52 (d)(1) An ultimate holding company that directly or indirectly
53 controls an insurer subject to registration and that is scoped into the
54 NAIC liquidity stress test framework shall file the results of a specif-
55 ic year's annual liquidity stress test with the superintendent when this
56 state is the lead state of the holding company system as determined by

1 the procedures within the financial analysis handbook adopted by the
2 NAIC and as amended from time to time. When the lead state is not this
3 state, an ultimate holding company shall file with the superintendent
4 the results of a specific year's liquidity stress test if the ultimate
5 holding company has not filed the results with the lead state because
6 the lead state has not enacted a liquidity stress test filing require-
7 ment or the ultimate holding company has filed the results with the lead
8 state but the lead state is not willing or able to share the results
9 with the superintendent. The performance of, and filing of the results
10 from, a specific year's liquidity stress test shall comply with the NAIC
11 liquidity stress test framework.

12 (2) Any change to the NAIC liquidity stress test framework or to the
13 data year for which the scope criteria are to be measured shall be
14 effective on January first of the year following the calendar year when
15 such changes are adopted. When this state is the lead state, an insurer
16 meeting at least one threshold of the scope criteria shall be considered
17 scoped into the NAIC liquidity stress test framework for the specified
18 data year unless the superintendent, in consultation with the NAIC
19 financial stability task force, or its successor, determines the insurer
20 shall not be scoped into the NAIC liquidity stress test framework for
21 that data year. When this state is the lead state, an insurer that does
22 not trigger at least one threshold of the scope criteria shall be
23 considered scoped out of the NAIC liquidity stress test framework for
24 the specified data year, unless the superintendent, in consultation with
25 the NAIC financial stability task force, or its successor, determines
26 the insurer shall be scoped into the NAIC liquidity stress test frame-
27 work for that data year. The superintendent, in consultation with the
28 NAIC financial stability task force, or its successor, shall assess the
29 concern of wishing to avoid having insurers scoped in and out of the
30 NAIC liquidity stress test framework on a frequent basis as part of the
31 determination for an insurer.

32 (e) No insurer, insurance producer, or other person shall make,
33 publish, disseminate, circulate, issue, or place before the public, or
34 cause directly or indirectly to be made, published, disseminated, circu-
35 lated, issued, or placed before the public, in this state, in any news-
36 paper, magazine, or other publication, or in the form of a notice,
37 circular, pamphlet, letter, or poster, or over any radio or television
38 station or any electronic means of communication available to the
39 public, or in any other way as an advertisement, announcement, or state-
40 ment containing a representation or statement with regard to the group
41 capital calculation, group capital ratio, liquidity stress test results,
42 or supporting disclosures for such test, or any component derived in the
43 calculation thereof, of any insurer or holding company system, provided,
44 however, that an insurer may publish, with the superintendent's prior
45 approval, an announcement in a written publication to rebut any mate-
46 rially false statement with respect to the foregoing if the insurer is
47 able to demonstrate to the superintendent with substantial proof the
48 falsity of such statement or inappropriateness, as the case may be, and
49 if the sole purpose of the announcement is to rebut the materially false
50 statement.

51 § 4. Subsection (c) of section 1504 of the insurance law, as amended
52 by chapter 238 of the laws of 2013, is amended to read as follows:

53 (c) ~~(1) The [superintendent shall keep the]~~ contents of each report
54 and filing made pursuant to this article and any information obtained in
55 connection therewith shall be confidential and proprietary and shall not
56 be subject to subpoena or discovery or admissible in evidence in any

1 private civil action, and the superintendent shall not make the same
2 public without the prior written consent of the controlled insurer to
3 which it pertains unless the superintendent, after notice and an oppor-
4 tunity to be heard, shall determine that the interests of policyholders,
5 shareholders or the public will be served by the publication thereof. In
6 any action or proceeding by the superintendent against the person exam-
7 ined or any other person within the same holding company system a report
8 of such examination published by the superintendent shall be admissible
9 as evidence of the facts stated therein.

10 (2) Neither the superintendent nor any person who received a report or
11 filing made pursuant to this article and any information obtained in
12 connection therewith, through examination or otherwise, while acting
13 under the authority of the superintendent or with whom such report,
14 filing, or information are shared pursuant to this chapter, shall be
15 permitted or required to testify in any private civil action concerning
16 the report, filing, or information.

17 § 5. Subsection (f) of section 1506 of the insurance law, as added by
18 chapter 238 of the laws of 2013, is amended to read as follows:

19 (f) Any holding company seeking to divest its controlling interest in
20 a domestic insurer, in any manner, shall file with the superintendent,
21 with a copy to the insurer, notice of its proposed divestiture at least
22 thirty days prior to the cessation of control, provided, however that
23 this subsection shall not apply if notice is provided as required by
24 subsection (a) of this section.

25 § 6. The insurance law is amended by adding a new section 1511 to read
26 as follows:

27 § 1511. Expenses for group-wide supervision. A controlled insurer
28 shall be liable for and shall pay the reasonable expenses of the super-
29 intendent's participation in the administration of group-wide super-
30 vision of internationally active insurance groups, including the engage-
31 ment of attorneys, actuaries, and any other professionals and all
32 reasonable travel expenses.

33 § 7. Subsection (d) of section 1603 of the insurance law, as added by
34 chapter 238 of the laws of 2013, is amended to read as follows:

35 (d) Any domestic insurer seeking to divest its controlling interest in
36 another domestic insurer, in any manner, shall file with the superinten-
37 dent, with a copy to the insurer, notice of its proposed divestiture at
38 least thirty days prior to the cessation of control, provided, however
39 that this subsection shall not apply if notice is provided as required
40 by subsection (a) of this section.

41 § 8. Section 1604 of the insurance law is amended by adding four new
42 subsections (c), (d), (e) and (f) to read as follows:

43 (c) (1) An authorized domestic insurer, other than a domestic insurer
44 required to register as a controlled insurer pursuant to section one
45 thousand five hundred three of this chapter, shall file with the super-
46 intendent an annual group capital calculation by April thirtieth of each
47 year when this state is the lead state as determined in accordance with
48 the procedures within the financial analysis handbook adopted by the
49 NAIC, as amended from time to time. When the lead state is not this
50 state, an authorized domestic insurer shall file with the superintendent
51 the annual group capital calculation if the authorized domestic insurer
52 has not filed the annual group capital calculation with its lead state
53 because the lead state has not enacted an annual group capital calcu-
54 lation filing requirement or the authorized domestic insurer has filed
55 the annual group capital calculation with the lead state but the lead
56 state is not willing or able to share the annual group capital calcu-

lation with the superintendent. The authorized domestic insurer shall complete the annual group capital calculation in accordance with the group capital calculation instructions, which may permit the superintendent to allow a subsidiary to file the annual group capital calculation. When this state is the lead state, an authorized domestic insurer shall be exempt from filing an annual group capital calculation if it:

(A) has only one insurer subsidiary that only writes business and is only licensed in its domestic state and assumes no business from any other insurer;

(B) is required to perform a group capital calculation specified by the United States Federal Reserve Board, except that the authorized domestic insurer shall not be exempt if the superintendent requests the group capital calculation from the United States Federal Reserve Board under the terms of information sharing agreements in effect and the Federal Reserve Board cannot share the calculation with the superintendent;

(C) has a non-United States group-wide supervisor that is located within a reciprocal jurisdiction, as described in part one hundred twenty-five of title eleven of the official compilation of codes, rules and regulations of this state, that recognizes the United States state regulatory approach to group supervision and group capital; or

(D)(i) provides information to the superintendent, either directly or indirectly through the group-wide supervisor, who has determined such information is satisfactory to allow the superintendent to comply with the NAIC group supervision approach, as detailed in the NAIC financial analysis handbook; and

(ii) has a non-United States group-wide supervisor that is not in a reciprocal jurisdiction and that recognizes and accepts, as specified by the superintendent in a regulation, the group capital calculation as the world-wide group capital assessment for United States systems that operate in that jurisdiction.

(2) Notwithstanding subparagraphs (C) and (D) of paragraph one of this subsection, when this state is the lead state, the superintendent shall require the group capital calculation for United States operations of any non-United States-based system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the superintendent for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(3) Notwithstanding the exemptions from filing the group capital calculation set forth in paragraph one of this subsection, when this state is the lead state, the superintendent has the discretion to exempt an authorized domestic insurer from filing an annual group capital calculation or accept a limited annual group capital calculation filing or report in accordance with criteria as specified by the superintendent in a regulation.

(4) When this state is the lead state, if the superintendent determines that an authorized domestic insurer no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this subsection, the authorized domestic insurer shall file the group capital calculation at the next annual filing date unless given an extension by the superintendent based on reasonable grounds shown.

(d)(1) An authorized domestic insurer, other than a domestic insurer required to register as a controlled insurer pursuant to section one thousand five hundred three of this chapter, that has a subsidiary that

1 is scoped into the NAIC liquidity stress test framework shall file the
2 results of a specific year's annual liquidity stress test with the
3 superintendent when this state is the lead state as determined by the
4 procedures within the financial analysis handbook adopted by the NAIC
5 and as amended from time to time. When the lead state is not this
6 state, an authorized domestic insurer shall file with the superintendent
7 the results of a specific year's liquidity stress test if the authorized
8 domestic insurer has not filed the results with its lead state because
9 the lead state has not enacted a liquidity stress test filing require-
10 ment or the authorized domestic insurer has filed the results with the
11 lead state but the lead state is not willing or able to share the
12 results with the superintendent.

13 (2) Any change to the NAIC liquidity stress test framework or to the
14 data year for which the scope criteria are to be measured shall be
15 effective on January first of the year following the calendar year when
16 such changes are adopted. When this state is the lead state, an insurer
17 meeting at least one threshold of the scope criteria shall be considered
18 scoped into the NAIC liquidity stress test framework for the specified
19 data year unless the superintendent, in consultation with the NAIC
20 financial stability task force, or its successor, determines the insurer
21 shall not be scoped into the NAIC liquidity stress test framework for
22 that data year. When this state is the lead state, an insurer that does
23 not trigger at least one threshold of the scope criteria shall be
24 considered scoped out of the NAIC liquidity stress test framework for
25 the specified data year, unless the superintendent, in consultation with
26 the NAIC financial stability task force, or its successor, determines
27 the insurer shall be scoped into the NAIC liquidity stress test frame-
28 work for that data year. The superintendent, in consultation with the
29 NAIC financial stability task force, or its successor, shall assess the
30 concern of wishing to avoid having insurers scoped in and out of the
31 NAIC liquidity stress test framework on a frequent basis as part of the
32 determination for an insurer.

33 (e) No insurer, insurance producer, or other person shall make,
34 publish, disseminate, circulate, issue, or place before the public, or
35 cause directly or indirectly to be made, published, disseminated, circu-
36 lated, issued, or placed before the public, in this state, in a newspa-
37 per, magazine, or other publication, or in the form of a notice, circu-
38 lar, pamphlet, letter, or poster, or over any radio or television
39 station or any electronic means of communication available to the
40 public, or in any other way as an advertisement, announcement, or state-
41 ment containing a representation or statement with regard to the group
42 capital calculation, group capital ratio, liquidity stress test results,
43 or supporting disclosures for such test, or any component derived in the
44 calculation thereof, of any authorized domestic insurer or subsidiary
45 thereof, provided, however, that an insurer may publish, with the super-
46 intendent's prior approval, announcements in a written publication to
47 rebut any materially false statement with respect to the foregoing if
48 the insurer is able to demonstrate to the superintendent with substan-
49 tial proof the falsity of such statement or the inappropriateness, as
50 the case may be, and if the sole purpose of the announcement is to rebut
51 the materially false statement.

52 (f) For the purpose of this section:

53 (1) "Group capital calculation instructions" means the group capital
54 calculation instructions as adopted by the: (A) NAIC and as amended by
55 the NAIC from time to time in accordance with the procedures adopted by
56 the NAIC; and (B) superintendent pursuant to a regulation.

(2) "NAIC" means the National Association of Insurance Commissioners.

(3) "NAIC liquidity stress test framework" means an NAIC publication that includes a history of the NAIC's development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress test instructions and reporting templates for a specific data year, such scope criteria, instructions and reporting template being as adopted by the: (A) NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC; and (B) superintendent pursuant to a regulation.

(4) "Scope criteria" means the designated exposure bases along with minimum magnitudes thereof for the specified data year, used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for that data year.

§ 9. The insurance law is amended by adding two new sections 1613 and 1614 to read as follows:

§ 1613. Expenses for group-wide supervision. An authorized domestic insurer shall be liable for and shall pay the reasonable expenses of the superintendent's participation in the administration of group-wide supervision of internationally active insurance groups, including the engagement of attorneys, actuaries, and any other professionals and all reasonable travel expenses.

§ 1614. Confidentiality of reports and filings. The contents of each report and filing submitted pursuant to this article and information pertaining thereto shall be kept confidential, shall not be subject to subpoena or discovery, shall not be admissible in evidence in any private civil action, and shall not be made public unless, after notice and opportunity to be heard, the superintendent determines that the interests of policyholders, subscribers, stockholders or the public will be served by the publication thereof. Neither the superintendent nor any person who received a report or filing submitted pursuant to this article and information pertaining thereto, through examination or otherwise, while acting under the authority of the superintendent or with whom such report or information are shared pursuant to this chapter, shall be permitted or required to testify in any private civil action concerning the report, filing, or information.

§ 10. The section heading of section 1702 of the insurance law, as amended by chapter 238 of the laws of 2013, is amended to read as follows:

~~[Meaning of "subsidiary", "parent corporation" and "enterprise risk"; certain types of subsidiaries defined]~~ Definitions.

§ 11. Section 1702 of the insurance law is amended by adding four new subsections (g), (h), (i) and (j) to read as follows:

(g) "Group capital calculation instructions" means the group capital calculation instructions as adopted by the: (1) NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC; and (2) superintendent pursuant to a regulation.

(h) "NAIC" means the National Association of Insurance Commissioners.

(i) "NAIC liquidity stress test framework" means an NAIC publication that includes a history of the NAIC's development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress test instructions and reporting templates for a specific data year, such scope criteria, instructions and reporting template being as adopted by the: (1) NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC; and (2) superintendent pursuant to a regulation.

(j) "Scope criteria" means the designated exposure bases along with minimum magnitudes thereof for the specified data year, used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for that data year.

§ 12. Section 1709 of the insurance law, as amended by chapter 381 of the laws of 1986, is amended to read as follows:

§ 1709. Confidentiality of ~~[information]~~ reports and filings. The contents of each ~~[information]~~ report ~~[filed hereunder]~~ and filing submitted pursuant to this article and information pertaining thereto shall be kept confidential, shall not be subject to subpoena or discovery, shall not be admissible in evidence in any private civil action, and shall not be made public unless, after notice and opportunity to be heard, the superintendent determines that the interests of policyholders, subscribers, stockholders or the public will be served by the publication thereof. The provisions of this section shall not be applicable to any ~~[information]~~ report ~~[filed hereunder]~~ or filing submitted pursuant to this article and any information pertaining thereto, if the parent corporation is a corporation subject to article forty-three of this chapter. Neither the superintendent nor any person who received a report or filing submitted pursuant to this article and information pertaining thereto, through examination or otherwise, while acting under the authority of the superintendent or with whom such report or information are shared pursuant to this chapter, shall be permitted or required to testify in any private civil action concerning the report, filing, or information.

§ 13. Subsection (a) of section 1710 of the insurance law, as added by chapter 238 of the laws of 2013, is amended to read as follows:

(a) Any parent corporation seeking to divest its controlling interest in a domestic insurer, in any manner, shall file with the superintendent, with a copy to the insurer, notice of its proposed divestiture at least thirty days prior to the cessation of control, provided, however that this subsection shall not apply if notice is provided as required by subsection (b) of section one thousand seven hundred one of this article.

§ 14. Section 1717 of the insurance law is amended by adding three new subsections (c), (d) and (e) to read as follows:

(c) (1) A parent corporation, other than a parent corporation required to register as a controlled insurer pursuant to section one thousand five hundred three of this chapter, shall file with the superintendent an annual group capital calculation by April thirtieth of each year when this state is the lead state as determined in accordance with the procedures within the financial analysis handbook adopted by the NAIC, as amended from time to time. When the lead state is not this state, a parent corporation shall file with the superintendent the annual group capital calculation if the parent corporation has not filed the annual group capital calculation with its lead state because the lead state has not enacted an annual group capital calculation filing requirement or the parent corporation has filed the annual group capital calculation with the lead state but the lead state is not willing or able to share the annual group capital calculation with the superintendent. The parent corporation shall complete the annual group capital calculation in accordance with the group capital calculation instructions, which may permit the superintendent to allow a subsidiary to file the annual group capital calculation. When this state is the lead state, a parent corporation shall be exempt from filing an annual group capital calculation if it:

1 (A) has only one insurer subsidiary that only writes business and is
2 only licensed in its domestic state and assumes no business from any
3 other insurer;

4 (B) is required to perform a group capital calculation specified by
5 the United States Federal Reserve Board, except that the parent corpo-
6 ration shall not be exempt if the superintendent requests the group
7 capital calculation from the United States Federal Reserve Board under
8 the terms of information sharing agreements in effect and the Federal
9 Reserve Board cannot share the calculation with the superintendent;

10 (C) has a non-United States group-wide supervisor that is located
11 within a reciprocal jurisdiction, as described in part one hundred twen-
12 ty-five of title eleven of the official compilation of codes, rules and
13 regulations of this state, that recognizes the United States state regu-
14 latory approach to group supervision and group capital; or

15 (D)(i) provides information to the superintendent, either directly or
16 indirectly through the group-wide supervisor, who has determined such
17 information is satisfactory to allow the superintendent to comply with
18 the NAIC group supervision approach, as detailed in the NAIC financial
19 analysis handbook; and

20 (ii) has a non-United States group-wide supervisor that is not in a
21 reciprocal jurisdiction that recognizes and accepts, as specified by the
22 superintendent in a regulation, the group capital calculation as the
23 world-wide group capital assessment for United States systems that oper-
24 ate in that jurisdiction.

25 (2) Notwithstanding subparagraphs (C) and (D) of paragraph one of this
26 subsection, when this state is the lead state, the superintendent shall
27 require the group capital calculation for United States operations of
28 any non-United States-based system where, after any necessary consulta-
29 tion with other supervisors or officials, it is deemed appropriate by
30 the superintendent for prudential oversight and solvency monitoring
31 purposes or for ensuring the competitiveness of the insurance market-
32 place.

33 (3) Notwithstanding the exemptions from filing the group capital
34 calculation set forth in paragraph one of this subsection, when this
35 state is the lead state, the superintendent has the discretion to exempt
36 a parent corporation from filing an annual group capital calculation
37 or accept a limited annual group capital calculation filing or report in
38 accordance with criteria as specified by the superintendent in a regu-
39 lation.

40 (4) When this state is the lead state, if the superintendent deter-
41 mines that a parent corporation no longer meets one or more of the
42 requirements for an exemption from filing the group capital calculation
43 under this subsection, the parent corporation shall file the group capi-
44 tal calculation at the next annual filing date unless given an extension
45 by the superintendent based on reasonable grounds shown.

46 (d)(1) A parent corporation, other than a parent corporation required
47 to register as a controlled insurer pursuant to section one thousand
48 five hundred three of this chapter, that has a subsidiary that is scoped
49 into the NAIC liquidity stress test framework shall file the results of
50 a specific year's liquidity stress test with the superintendent when
51 this state is the lead state as determined by the procedures within the
52 financial analysis handbook adopted by the NAIC and as amended from time
53 to time. When the lead state is not this state, a parent corporation
54 shall file with the superintendent the results of a specific year's
55 liquidity stress test if the parent corporation has not filed the
56 results with its lead state because the lead state has not enacted a

1 liquidity stress test filing requirement or the parent corporation has
2 filed the results with the lead state but the lead state is not willing
3 or able to share the results with the superintendent.

4 (2) Any change to the NAIC liquidity stress test framework or to the
5 data year for which the scope criteria are to be measured shall be
6 effective on January first of the year following the calendar year when
7 such changes are adopted. When this state is the lead state, an insurer
8 meeting at least one threshold of the scope criteria shall be considered
9 scoped into the NAIC liquidity stress test framework for the specified
10 data year unless the superintendent, in consultation with the NAIC
11 financial stability task force, or its successor, determines the insurer
12 shall not be scoped into the NAIC liquidity stress test framework for
13 that data year. When this state is the lead state, an insurer that does
14 not trigger at least one threshold of the scope criteria shall be
15 considered scoped out of the NAIC liquidity stress test framework for
16 the specified data year, unless the superintendent, in consultation with
17 the NAIC financial stability task force, or its successor, determines
18 the insurer shall be scoped into the NAIC liquidity stress test frame-
19 work for that data year. The superintendent, in consultation with the
20 NAIC financial stability task force, or its successor, shall assess the
21 concern of wishing to avoid having insurers scoped in and out of the
22 NAIC liquidity stress test framework on a frequent basis as part of the
23 determination for an insurer.

24 (e) No insurer, insurance producer, or other person shall make,
25 publish, disseminate, circulate, issue, or place before the public, or
26 cause directly or indirectly to be made, published, disseminated, circu-
27 lated, issued, or placed before the public, in this state, in a newspa-
28 per, magazine, or other publication, or in the form of a notice, circu-
29 lar, pamphlet, letter, or poster, or over any radio or television
30 station or any electronic means of communication available to the
31 public, or in any other way as an advertisement, announcement, or state-
32 ment containing a representation or statement with regard to the group
33 capital calculation, group capital ratio, liquidity stress test
34 results or supporting disclosures for such test, or any component
35 derived in the calculation thereof, of any parent corporation or
36 subsidiary thereof, provided, however, that a parent corporation may
37 publish, with the superintendent's prior approval, announcements in a
38 written publication to rebut any materially false statement with respect
39 to the foregoing if the insurer is able to demonstrate to the super-
40 intendent with substantial proof the falsity of such statement or the
41 inappropriateness, as the case may be, and if the sole purpose of the
42 announcement is to rebut the materially false statement.

43 § 15. The insurance law is amended by adding a new section 1718 to
44 read as follows:

45 § 1718. Expenses for group-wide supervision. A parent corporation
46 shall be liable for and shall pay the reasonable expenses of the super-
47 intendent's participation in the administration of group-wide super-
48 vision of internationally active insurance groups, including the engage-
49 ment of attorneys, actuaries, and any other professionals and all
50 reasonable travel expenses.

51 § 16. This act shall take effect immediately.