STATE OF NEW YORK

7095--A

2023-2024 Regular Sessions

IN SENATE

May 18, 2023

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

(1) may share documents, materials or other information, including confidential [~~and~~], privileged**, and trade secret** documents, materials or information with other **local,** state, federal, and international regulatory agencies, **with the New York Liquidation Bureau,** with the National Association of Insurance Commissioners, its affiliates or subsidiaries, [~~and~~] **with any third-party consultant designated by the superintendent,** with **local,** state, federal, and international law enforcement authorities, including members of any supervisory college described in section three hundred two of this chapter, provided that the recipient has the authority and agrees to maintain the confidentiality and privileged status of the document, material or other information **and has verified in writing the legal authority to maintain confidentiality**; provided, however, that this paragraph shall not be construed as limiting access to records pursuant to article six of the public officers law**, except as provided in paragraph three of subsection (b) of this section**;

(2) may receive documents, materials or information, including otherwise confidential [~~and~~], privileged**, and trade secret** documents, materi-

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

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als or information, from the New York Liquidation Bureau, from the National Association of Insurance Commissioners, its affiliates or subsidiaries [~~and~~], from regulatory and law enforcement officials of other foreign or domestic jurisdictions, including members of any supervisory college described in section three hundred two of this chapter, and from any other entity designated by the superintendent in a regulation, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

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

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

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

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

(8) "Group capital calculation instructions" means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC, except where such instructions conflict with the laws of this state and subject to exceptions the superintendent may take in a regulation upon a written finding that the exceptions would not be unduly burdensome on the holding company or insurer.

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

(10) "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 NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC, except where such instructions conflicts with the laws of this state and subject to exceptions the superintendent may take in a regulation upon a written finding that the exceptions would not be unduly burdensome on the holding company or insurer.

(11) "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.

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

(c) (1) An ultimate holding company shall file with the superintendent an annual group capital calculation by June thirtieth of each year when this state is the lead state of the holding company system 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, an ultimate holding company shall file with the superintendent the annual group capital calculation as adopted by its lead state if the ultimate holding company 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.

(2) When this state is the lead state, the ultimate holding company shall complete the annual group capital calculation in accordance with the group capital calculation instructions, which may permit the superintendent to allow a holding company that is not the ultimate holding company to file the annual group capital calculation.

(3) When this state is the lead state, an ultimate holding company shall be exempt from filing an annual group capital calculation if it is part of a holding company system that:

(A) has only one insurer within its system 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 holding company 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 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 holding company systems that operate in that jurisdiction.

(4) Notwithstanding subparagraphs (C) and (D) of paragraph three 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 holding company 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.

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

(6) When this state is the lead state, if the superintendent determines that a holding company no longer meets one or more of the requirements for an exemption from filing the group capital calculation under

this subsection, the holding company 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 ultimate holding company that directly or indirectly controls an insurer subject to registration and that is scoped into the NAIC liquidity stress test framework shall file the results of a specific year's annual liquidity stress test with the superintendent when this state is the lead state of the holding company system as determined by the procedures within the financial analysis handbook adopted by the NAIC and as amended from time to time.

(2) When the lead state is not this state, an ultimate holding company shall file with the superintendent the results of a specific year's liquidity stress test as adopted by its lead state if the ultimate holding company has filed the results with the lead state but the lead state is not willing or able to share the results with the superintendent.

(3) When this state is the lead state, the performance of, and filing of the results from, a specific year's liquidity stress test shall comply with the NAIC liquidity stress test framework.

(4) When this state is the lead state, any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January first of the year following the calendar year when such changes are adopted.

(5) When this state is the lead state, an insurer meeting at least one threshold of the scope criteria shall be considered scoped into the NAIC liquidity stress test framework for the specified data year unless the superintendent, in consultation with the NAIC financial stability task force, or its successor, determines the insurer shall not be scoped into the NAIC liquidity stress test framework for that data year.

(6) When this state is the lead state, an insurer that does not trigger at least one threshold of the scope criteria shall be considered scoped out of the NAIC liquidity stress test framework for the specified data year, unless the superintendent, in consultation with the NAIC financial stability task force, or its successor, determines the insurer shall be scoped into the NAIC liquidity stress test framework for that data year.

(7) The superintendent, in consultation with the NAIC financial stability task force, or its successor, shall assess the concern of wishing to avoid having insurers scoped in and out of the NAIC liquidity stress test framework on a frequent basis as part of the determination for an insurer.

(e) No insurer, insurance producer, or other person shall make, publish, disseminate, circulate, issue, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, issued, or placed before the public, in this state, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, liquidity stress test results, or supporting disclosures for such test, or any component derived in the calculation thereof, of any insurer or holding company system, provided, however, that an insurer may publish, with the superintendent's prior approval, an announcement in a written publication to rebut any materially false statement with respect to the foregoing if the insurer is able to demonstrate to the superintendent with substantial proof the

falsity of such statement or inappropriateness, as the case may be, and if the sole purpose of the announcement is to rebut the materially false statement.

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

(c) (1) The [~~superintendent shall keep the~~] contents of each report and filing made pursuant to this article and any information obtained in connection therewith shall be confidential and proprietary and shall not be subject to subpoena or discovery or admissible in evidence in any private civil action, and the superintendent shall not make the same public without the prior written consent of the controlled insurer to which it pertains unless the superintendent, after notice and an opportunity to be heard, shall determine that the interests of policyholders, shareholders or the public will be served by the publication thereof. In any action or proceeding by the superintendent against the person examined or any other person within the same holding company system a report of such examination published by the superintendent shall be admissible as evidence of the facts stated therein.

(2) Neither the superintendent nor any person who received a report or filing made pursuant to this article and any information obtained in connection therewith, through examination or otherwise, while acting under the authority of the superintendent or with whom such report, filing, 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.

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

(f) Any holding company 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 (a) of this section.

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

§ 1511. Expenses for group-wide supervision. A controlled 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.

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

(d) Any domestic insurer seeking to divest its controlling interest in another 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 (a) of this section.

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

(c) (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, shall file with the superintendent an annual group capital calculation by June 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.

(2) When the lead state is not this state, an authorized domestic insurer shall file with the superintendent the annual group capital calculation as adopted by its lead state if the authorized domestic insurer 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.

(3) When this state is the lead state, 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.

(4) 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.

(5) Notwithstanding subparagraphs (C) and (D) of paragraph four 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.

(6) Notwithstanding the exemptions from filing the group capital calculation set forth in paragraph four 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.

(7) 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 is scoped into the NAIC liquidity stress test framework shall file the results of a specific year's annual liquidity stress test with the superintendent when this state is the lead state as determined by the procedures within the financial analysis handbook adopted by the NAIC and as amended from time to time.

(2) When the lead state is not this state, an authorized domestic insurer shall file with the superintendent the results of a specific year's liquidity stress test as adopted by its lead state if the authorized domestic insurer has filed the results with the lead state but the lead state is not willing or able to share the results with the superintendent.

(3) When this state is the lead state, the performance of, and filing of the results from, a specific year's liquidity stress test shall comply with the NAIC liquidity stress test framework.

(4) When this state is the lead state, any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January first of the year following the calendar year when such changes are adopted.

(5) When this state is the lead state, an insurer meeting at least one threshold of the scope criteria shall be considered scoped into the NAIC liquidity stress test framework for the specified data year unless the superintendent, in consultation with the NAIC financial stability task force, or its successor, determines the insurer shall not be scoped into the NAIC liquidity stress test framework for that data year.

(6) When this state is the lead state, an insurer that does not trigger at least one threshold of the scope criteria shall be considered scoped out of the NAIC liquidity stress test framework for the specified data year, unless the superintendent, in consultation with the NAIC financial stability task force, or its successor, determines the insurer shall be scoped into the NAIC liquidity stress test framework for that data year.

(7) The superintendent, in consultation with the NAIC financial stability task force, or its successor, shall assess the concern of wishing to avoid having insurers scoped in and out of the NAIC liquidity stress test framework on a frequent basis as part of the determination for an insurer.

(e) No insurer, insurance producer, or other person shall make, publish, disseminate, circulate, issue, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, issued, or placed before the public, in this state, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, liquidity stress test results,

or supporting disclosures for such test, or any component derived in the calculation thereof, of any authorized domestic insurer or subsidiary thereof, provided, however, that an insurer may publish, with the superintendent's prior approval, announcements in a written publication to rebut any materially false statement with respect to the foregoing if the insurer is able to demonstrate to the superintendent with substantial proof the falsity of such statement or the inappropriateness, as the case may be, and if the sole purpose of the announcement is to rebut the materially false statement.

(f) For the purpose of this section:

(1) "Group capital calculation instructions" means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC, except where such instructions conflict with the laws of this state and subject to exceptions the superintendent may take in a regulation upon a written finding that the exceptions would not be unduly burdensome on the domestic insurer or subsidiary.

(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 NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC, except where such publication conflicts with the laws of this state and subject to exceptions the superintendent may take in a regulation upon a written finding that the exceptions would not be unduly burdensome on the domestic insurer or subsidiary.

(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 NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC, except where such instructions conflict with the laws of this state and subject to exceptions the superintendent may take in a regulation upon a written finding that the exceptions would not be unduly burdensome on the parent corporation or subsidiary.

(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 NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC, except where such instructions conflict with the laws of this state and subject to exceptions the superintendent may take in a regulation upon a written finding that the exceptions would not be unduly burdensome on the parent corporation or subsidiary.

(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. The opening paragraph of paragraph 1 of subsection (b) of section 1712 of the insurance law, as added by chapter 238 of the laws of 2013, is amended to read as follows:

sales, purchases, exchanges, loans, extensions of credit, or investments with a [~~subsidy~~] **subsidiary**, provided the transactions are equal to or exceed:

§ 15. 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 June 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.

(2) When the lead state is not this state, a parent corporation shall file with the superintendent the annual group capital calculation as adopted by its lead state if 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.

(3) When this state is the lead state, 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.

(4) When this state is the lead state, a parent corporation 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 parent corporation 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 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.

(5) Notwithstanding subparagraphs (C) and (D) of paragraph four 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.

(6) Notwithstanding the exemptions from filing the group capital calculation set forth in paragraph four of this subsection, when this state is the lead state, the superintendent has the discretion to exempt a parent corporation 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.

(7) When this state is the lead state, if the superintendent determines that a parent corporation no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this subsection, the parent corporation 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) 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, that has a subsidiary that is scoped into the NAIC liquidity stress test framework shall file the results of a specific year's liquidity stress test with the superintendent when this state is the lead state as determined by the procedures within the financial analysis handbook adopted by the NAIC and as amended from time to time.

(2) When the lead state is not this state, a parent corporation shall file with the superintendent the results of a specific year's liquidity stress test as adopted by its lead state if the parent corporation has filed the results with the lead state but the lead state is not willing or able to share the results with the superintendent.

(3) When this state is the lead state, the performance of, and filing of the results from, a specific year's liquidity stress test shall comply with the NAIC liquidity stress test framework.

(4) When the lead state is this state, any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January first of the year following the calendar year when such changes are adopted.

(5) When this state is the lead state, an insurer meeting at least one threshold of the scope criteria shall be considered scoped into the NAIC liquidity stress test framework for the specified data year unless the superintendent, in consultation with the NAIC financial stability task force, or its successor, determines the insurer shall not be scoped into the NAIC liquidity stress test framework for that data year.

(6) When this state is the lead state, an insurer that does not trigger at least one threshold of the scope criteria shall be considered scoped out of the NAIC liquidity stress test framework for the specified data year, unless the superintendent, in consultation with the NAIC financial stability task force, or its successor, determines the insurer shall be scoped into the NAIC liquidity stress test framework for that data year.

(7) The superintendent, in consultation with the NAIC financial stability task force, or its successor, shall assess the concern of

wishing to avoid having insurers scoped in and out of the NAIC liquidity stress test framework on a frequent basis as part of the determination for an insurer.

(e) No insurer, insurance producer, or other person shall make, publish, disseminate, circulate, issue, or place before the public, or cause directly or indirectly to be made, published, disseminated, circulated, issued, or placed before the public, in this state, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, liquidity stress test results or supporting disclosures for such test, or any component derived in the calculation thereof, of any parent corporation or subsidiary thereof, provided, however, that a parent corporation may publish, with the superintendent's prior approval, announcements in a written publication to rebut any materially false statement with respect to the foregoing if the insurer is able to demonstrate to the superintendent with substantial proof the falsity of such statement or the inappropriateness, as the case may be, and if the sole purpose of the announcement is to rebut the materially false statement.

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

§ 1718. Expenses for group-wide supervision. A parent corporation 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.

§ 17. This act shall take effect immediately.