§ 1501. Definitions; determinations. (a) In this article, unless the context shall otherwise require:

(1) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity or any combination of the foregoing acting in concert.

(2) "Control", including the terms "controlling", "controlled by" and "under common control with", means the possession direct or indirect of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (except a commercial contract for goods or non-management services) or otherwise; but no person shall be deemed to control another person solely by reason of his being an officer or director of such other person. Subject to subsection (c) hereof, control shall be presumed to exist if any person directly or indirectly owns, controls or holds with the power to vote ten percent or more of the voting securities of any other person.

(3) "Holding company" means any person who directly or indirectly controls any authorized insurer.

(4) "Controlled insurer" means an authorized insurer controlled directly or indirectly by a holding company.

(5) "Controlled person" means any person other than a controlled insurer, who is controlled directly or indirectly by a holding company.

(6) "Holding company system" means a holding company together with its controlled insurers and controlled persons.

(7) "Enterprise risk" means any activity, circumstance, event, or series of events involving the holding company system that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its holding company system, including anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section one thousand three hundred twenty-two or one thousand three hundred twenty-four of this chapter, or that would cause further transaction of business to be hazardous to the insurer's policyholders or creditors or the public.

(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.

(b) Notwithstanding the provisions of paragraph two of subsection (a) of this section, the superintendent may determine, after notice and opportunity to be heard, that a person exercises directly or indirectly either alone or pursuant to an agreement with one or more other persons such a controlling influence over the management or policies of an authorized insurer as to make it necessary or appropriate in the public interest or for the protection of the insurer's policyholders or shareholders that the person be deemed to control the insurer.

(c) The superintendent may determine upon application that any person does not or will not upon the taking of some proposed action control another person. Such determination shall be made within thirty days or such further period as the superintendent may prescribe. The filing of the application in good faith by any person shall relieve the applicant from any obligation or liability imposed by this article with respect to the subject of the application, except as contained in section one thousand five hundred six of this article, until the superintendent has acted upon the application. The superintendent may prospectively revoke

or modify his determination, after notice and opportunity to be heard, whenever in his judgment revocation or modification is consistent with this article.

(d) For the purposes of this article only, every foreign life insurer which is authorized to do business in this state which is controlled by a person not authorized to do an insurance business in this state, and which, during its three preceding fiscal years taken together, or during any lesser period of time if it has been licensed to transact its business in New York only for such lesser period of time, has written an average of more gross premiums in the state of New York than it has written in its state of domicile during the same period, and such gross premiums written constitute twenty percent or more of its total gross premiums written everywhere in the United States for such three year or lesser period, as reported in its three most recent annual statements, shall be deemed a domestic insurer, provided written notice of the applicability of this subsection is given to such company by the superintendent prior to this article being applicable.