

60A.62 COMPANY ACTION LEVEL EVENT.

Subdivision 1. **Definition.** "Company action level event" means any of the following events:

(1) the filing of a risk-based capital report by an insurer which indicates that:

(i) the insurer's total adjusted capital is greater than or equal to its regulatory action level risk-based capital but less than its company action level risk-based capital;

(ii) if a life and/or health insurer, the insurer has total adjusted capital that is greater than or equal to its company action level risk-based capital but less than the product of its authorized control level risk-based capital and 3.0 and has a negative trend; or

(iii) if a property and casualty insurer, the insurer has total adjusted capital which is greater than or equal to its company action level risk-based capital but less than the product of its authorized control level risk-based capital and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty risk-based capital instructions;

(2) the notification by the commissioner to the insurer of an adjusted risk-based capital report that indicates an event in clause (1), provided the insurer does not challenge the adjusted risk-based report under section 60A.66; or

(3) if, pursuant to section 60A.66, an insurer challenges an adjusted risk-based capital report that indicates the event in clause (1), the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

Subd. 2. **Plan.** In the event of a company action level event, the insurer shall prepare and submit to the commissioner a risk-based capital plan that:

(1) identifies the conditions that contribute to the company action level event;

(2) contains proposals of corrective actions that the insurer intends to take and would be expected to result in the elimination of the company action level event;

(3) provides projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projected statutory balance sheets, income statements, and cash flow statements. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;

(4) identifies the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and

(5) identifies the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.

Subd. 3. **Submission.** The risk-based capital plan must be submitted:

(1) within 45 days of the company action level event; or

(2) if the insurer challenges an adjusted risk-based capital report pursuant to section 60A.66, within 45 days after notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

Subd. 4. **Notification by commissioner.** Within 60 days after the submission by an insurer of a risk-based capital plan to the commissioner, the commissioner shall notify the insurer whether the risk-based capital plan must be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the risk-based capital plan is unsatisfactory, the notification to the insurer must set forth the reasons for the determination, and may set forth proposed revisions that will render the risk-based capital plan satisfactory, in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised risk-based capital plan, that may incorporate by reference any revisions proposed by the commissioner, and shall submit the revised risk-based capital plan to the commissioner:

(1) within 45 days after the notification from the commissioner; or

(2) if the insurer challenges the notification from the commissioner under section 60A.66, within 45 days after a notification to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge.

Subd. 5. **Unsatisfactory plan.** In the event of a notification by the commissioner to an insurer that the insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory, the commissioner may at the commissioner's discretion, subject to the insurer's right to a hearing under section 60A.66, specify in the notification that the notification constitutes a regulatory action level event.

Subd. 6. **Filings to other states.** Every domestic insurer that files a risk-based capital plan or revised risk-based capital plan with the commissioner shall file a copy of the risk-based capital plan or revised risk-based capital plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

(1) the state has a risk-based capital provision substantially similar to section 60A.67, subdivision 1; and

(2) the insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk-based capital plan or revised risk-based capital plan in that state no later than the later of:

(i) 15 days after the receipt of notice to file a copy of its risk-based capital plan or revised risk-based plan with the state; or

(ii) the date on which the risk-based capital plan or revised risk-based capital plan is filed under section 60A.62, subdivisions 3 and 4.

History: 1995 c 253 s 4; 2013 c 135 art 3 s 8