64B.42 FRATERNAL ACTION LEVEL EVENT.

Subdivision 1. **Definition.** "Fraternal action level event" means, with respect to a society, any of the following events:

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

(i) the society's total adjusted capital is greater than or equal to its fraternal authorized control level risk-based capital but less than its fraternal action level risk-based capital; or

(ii) the society's total adjusted capital is greater than or equal to its fraternal action level risk-based capital but less than the product of its fraternal authorized control level risk-based capital and 2.5 and has a negative trend;

(2) the notification by the commissioner to a society of an adjusted risk-based capital report that indicates an event in clause (1), provided the society does not challenge the adjusted risk-based capital report under section 64B.44;

(3) if, pursuant to section 64B.44, the society challenges an adjusted risk-based capital report that indicates an event in clause (1), the notification by the commissioner to the society that the commissioner has, after a hearing, rejected the society's challenge; or

(4) the failure of the society to file a risk-based capital report by March 1, unless the society has provided an explanation for the failure that is satisfactory to the commissioner and has cured the failure within ten days after March 1.

Subd. 2. **Commissioner's duties.** In the event of a fraternal action level event, the commissioner shall:

(1) require the society to prepare and submit a risk-based capital plan, or, if applicable, a revised risk-based capital plan that:

(i) identifies the conditions that contribute to the fraternal action level event;

(ii) contains proposals of corrective actions that the society intends to take and would be expected to result in the elimination of the fraternal action level event;

(iii) provides projections of the society'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;

(iv) identifies the key assumptions impacting the society's projections and the sensitivity of the projections to the assumptions; and

(v) identifies the quality of, and problems associated with, the society'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;

(2) examine or analyze as the commissioner considers necessary the assets, liabilities, and operations of the society including reviewing its risk-based capital plan or revised risk-based capital plan; and

(3) subsequent to the examination or analysis, issue a corrective order specifying the corrective actions the commissioner determines are required.

Subd. 3. **Corrective action.** In determining corrective actions, the commissioner may take into account factors considered relevant with respect to the society based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the society, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the risk-based capital instructions. The risk-based capital plan or revised risk-based capital plan must be submitted:

(1) within 45 days after the occurrence of the fraternal action level event;

(2) if the society challenges an adjusted risk-based capital report pursuant to section 64B.44 and the challenge is not frivolous in the judgment of the commissioner, within 45 days after the notification to the society that the commissioner has, after a hearing, rejected the society's challenge; or

(3) if the society challenges a revised risk-based capital plan pursuant to section 64B.44 and the challenge is not frivolous in the judgment of the commissioner, within 45 days after the notification to the society that the commissioner has, after a hearing, rejected the society's challenge.

Subd. 4. **Examination and review.** The commissioner may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the commissioner to review the society's risk-based capital plan or revised risk-based capital plan; examine or analyze the assets, liabilities, and operations of the society; and formulate the corrective order with respect to the society. The fees, costs, and expenses relating to consultants must be borne by the affected society or other party as directed by the commissioner.

History: *2010 c 275 art 2 s 4*