

RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENT MODEL ACT

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- D. "ORSA Guidance Manual." The term "ORSA Guidance Manual" shall mean the current version of the _____ developed and adopted by the National Association of Insurance Commissioners (NAIC) and as amended from time to time. A change in the ORSA Guidance Manual shall be effective on the January 1 following the calendar year in which the changes have been adopted by the NAIC.

- E. "ORSA Summary Report." An "ORSA Summary Report" shall mean _____

Section 6. Exemption.

A. An insurer shall be exempt from the requirements of this Act, if

- (1). The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000; and,
- (2). The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$1,000,000,000.

B. If an insurer qualifies for exemption pursuant to paragraph (1) of subsection A, but the insurance group of which the insurer is a member does not qualify for exemption pursuant to paragraph (2) of subsection A, then the ORSA Summary Report that may be required pursuant to Section 5 shall include every insurer within the insurance group. This requirement may be satisfied by the submission of more than one ORSA Summary Report for any combination of insurers provided any combination of reports includes every insurer within the insurance group.

C. If an insurer does not qualify for exemption pursuant to paragraph (1) of subsection A, but the insurance group of which it is a member qualifies for exemption pursuant to paragraph (2) of subsection A, then the only ORSA Summary Report that may be required pursuant Section 5 shall be the report applicable to that insurer.

D. An insurer that does not qualify for exemption pursuant to subsection A may apply to the commissioner for a waiver from the requirements of this Act based upon unique circumstances. In deciding whether to grant the insurer's request for waiver, the commissioner may consider the type and volume of business written, ownership and organizational structure, and any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

E. Notwithstanding the exemptions stated in this section,

(1) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA Summary Report based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

(2) The commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA Summary Report if the insurer has Risk-Based Capital (as defined in ORS 646.002(1))-287(4e)-3(v)-4(e) referenel to appropriate section of Risk

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other information and has verified in writing the legal authority to maintain confidentiality; and

- (2) May receive documents, materials or other ORSA-related information, including otherwise confidential and privileged documents, materials or information, including proprietary and trade-secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college as defined in the [insert cross-reference to appropriate section of Insurance Holding Company System Regulatory Act, as amended], and from the NAIC, and shall maintain as confidential or privileged any documents, materials 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.
- (3) Shall enter into a written agreement with the NAIC or a third-party consultant governing sharing and use of information provided pursuant to this Act, consistent with this subsection that shall:
 - (i) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC or a third-party consultant pursuant to this Act, including procedures and protocols for sharing by the NAIC with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;
 - (ii) Specify that ownership of information shared with the NAIC or a third-party consultant pursuant to this Act remains with the commissioner and the NAIC's or a third-party consultant's use of the information is subject to the direction of the commissioner;
 - (iii) Prohibit the NAIC or third-party consultant from storing the information shared pursuant to this Act in a permanent database after the underlying analysis is completed;
 - (iv) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or a third-party consultant pursuant to this Act is subject to a request or subpoena to the NAIC or a third-party consultant for disclosure or production;
 - (v) Require the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this Act; and
 - (vi) In the case of an agreement involving a third-party consultant, provide for the insurer's written consent.

D. The sharing of information and documents by the commissioner pursuant to this Act shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is

