

PROJECT HISTOR-2021

INSURANCE HOLDING COMPANY SYSTEM MODEL ACT (#440)

INSURANCE HOLDING COMPANY SYSTEM MODEL REGULATION
WITH REPORTING FORMS AND INSTRUCTIONS (\$3450)
(Receivership)

1. Description of the Project, Issues Addressed etc.

In 2020, the NAIC Plenary adopted a new charge for the Receivership Law Working Group. The charge is still active and reads as follows:

“Review and provide recommendations for remedies to ensure the continuity of essential services

x

2. Name of Group Responsible for Drafting the Model and States Participating.

boTc 0 Tw 3.402 0.3213

All exposures were distributed by email to members, interested state insurance regulators and interested parties of both the Receivership Law (E) Working Group and the Receivership and Insolvency (E) Task Force and posted to the NAIC website.

- In the event of receivership (now including supervisor and conservatorship):
 - The rights of the insurer extend to the receiver or guaranty fund.
 - The affiliate will make available essential personnel.
 - The affiliate will continue the services for a minimum period of time

ri3-10

PROJECT HISTORY 2020

INSURANCE HOLDING COMPANY SYSTEM MODEL ACT (#440)

INSURANCE HOLDING COMPANY SYSTEM MODEL REGULATION
WITH REPORTING FORMS AND INSTRUCTIONS (#450)
(Group Capital Calculation (GCC))

1. Description of the Project, Issues Addressed etc.

In 2015, the NAIC plenary adopted a charge to the Financial Condition (E) respect to the construction of a group capital calculation (GCC). The Financial Condition (E) Committee subsequently formed the Group Capital Calculation (E) Working Group to carry out the following charge:

“Construct a U.S. group capital calculation using an RBC aggregation methodology; liaise as necessary with the ComFrame Development and Analysis (G) Working Group on international capital developments and consider group capital developments by the Federal Reserve Board, both of which may help

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited).

At the 2019 Fall National Meeting, the Executive (EX) Committee approved the Working Group's request to open Model #440 and Model #450 to develop the legal authority under which the GCC would be implemented. In January 2020, the Working Group exposed for public comment a draft memorandum that set forth possible exemptions, as well as the basic structure for the confidentiality protection of ((EX) 92) 0.001 Tw 5.8

7. List the key provisions of the model (sections considered most essential to state adoption).

The changes to Section 4L(2) of Model 410 are the most important provisions in the proposed changes, as they require the ultimate controlling person of every insurer subject to registration to concurrently file an annual GCC as directed by the lead state commissioner with the registration statement. Immediately following this provision in Section 4L(2)(a) through Section 4L(2)(d) are four types of holding company systems that are exempt from filing, which are also important to many parties. As previously discussed, Section 4L(2)(e) would permit, under certain circumstances, a subgroup allocation. Section 4L(2)(f) is also important, as it provides the commissioner the discretion to exempt other groups from filing that meet

PROJECT HISTORY 2011

INSURANCE HOLDING COMPANY SYSTEM MODEL ACT (#440)

INSURANCE HOLDING COMPANY SYSTEM MODEL REGULATION WITH REPORTING FORMS AND INSTRUCTIONS (#450)

1. Description of the Project, Issues Addressed, etc.

In the wake of the recent financial crisis as well as discussions regarding group supervision that have been taking place in the international regulatory community, U.S. state insurance regulators have become aware of the necessity to enhance the Insurance Holding Company System Model Act (Model #440) and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (Model #450) to address group supervision. At the heart of the lessons learned from the recent financial crisis is the ability of regulators to be able to assess the enterprise risk within a holding company system and its impact on an insurer within the group.

As recommended by the Group Solvency Issues (EX) Working Group, the U.S. insurer solvency regime should consider incorporating certain prudential benefits of group supervision, providing a clearer window into group operations, while building upon, the existing walls which provide solvency protection. Ultimately, this enhanced “windows and walls” approach should provide greater and much needed breadth and scope to solvency regulation while retaining the highest level of policyholder protection that exists currently. The concepts addressed in the enhanced “windows and walls” approach include such items, such as: communication between regulators; supervisory colleges; access to and collection of information; and enforcement measures.

The first step to accomplish building better windows is by addressing some of these topics as well as lessons learned during the recent financial crisis through enhancements to the insurance holding company laws and regulations.

2. Name of Group Responsible for Drafting the Model and States Participating

The Group Solvency Issues Working Group of the Executive (EX) Committee was charged by the Financial Condition (E) Committee with drafting revisions to Model #440 and Model #450. The 2010 members of the Working Group that drafted and adopted the revised models on June 14, 2010, were: Nebraska and Texas (co-Chairs), California, Connecticut, Delaware, Florida, Illinois, Iowa, New York, Pennsylvania and Wisconsin.

3. Project Authorized by What Charge and Date First Given to the Group

During the February 11, 2009, conference call, the Financial Condition (E) Committee agreed to revise the holding company models but suggested the technical work be delegated to a Working Group under the Solvency Modernization Initiative (EX) Task Force that was working on other group related initiatives. Based on this recommendation and referral, the Task Force drafted charges for a new working group that would focus on groups issues, including the NAIC Holding Company Models. The Working Group's charges related to the models were as follows:

- x Study the need to modify the Holding Company Model Act by gathering input from all states regarding the use of the existing model and its effectiveness in addressing the issues that exist within insurer groups, particularly considering issues identified during this most recent economic downturn. At the conclusion of such study, provide a recommendation to the Financial Condition (E) Committee.

risk', and voiced concerns with the phrase "has the potential" and with the term "contagion"

reflect that management was “responsible for” and that boards “oversee” rather than stating boards were “responsible for”. CGWG made some edits, however retaining the “board is responsible for...” language and the ~~not~~ optional section 5C, and sent recommendations to GSIWG. GSIWG heard additional discussion at the June meeting and made edits to section 5C waiver language.

f.

6. Any Other Important Information

None