

836-027-0005

Definitions

(1) Unless the context otherwise requires, as used in OAR 836-027-0005 to 836-027-0180:

(a) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

(b) "Foreign insurer" includes an alien insurer except where specifically noted otherwise.

(c) "Form A" means the form prescribed by OAR 836-027-0100.

(d) "Form B" means the form prescribed by OAR 836-027-0010.

(e) "Form C" means the form prescribed by OAR 836-027-0012.

(f) "Form D" means the form prescribed by OAR 836-027-0160.

(g) "Form E" means the form prescribed by OAR 836-027-0125.

(h) "Form F" means the form prescribed by OAR 836-027-0140.

(i) "Group capital calculation" means a calculation made in accordance with instructions that the National Association of Insurance Commissioners publishes for the purpose of specifying the method of calculation. The director shall prescribe, on a periodic basis, the instructions published by the National Association of Insurance Commissioners. The director's decision to prescribe the instructions for the method of calculation shall be posted on the department's Division of Financial Regulation website at XXX.

(k) "Ultimate controlling person" means the person who is not controlled by any other person.

(2) Unless the context requires otherwise, other terms used in OAR 836-027-0005 to 836-027-0180 are used as defined in ORS 732.548.

(3) As required by section 1 of SB 831 (2025), the "NAIC liquidity stress test framework" means a method for testing an insurer's liquidity that the National Association of Insurance Commissioners describes in a publication by the association that includes instructions and reporting templates and that identifies scope criteria that apply to a specific data year. The director shall prescribe, on a periodic basis, the method as described in a publication by the National Association of Insurance Commissioners. The director's decision to

prescribe the method shall be posted on the department's Division of Financial Regulation website at XXX.

[ED. NOTE: Exhibits referenced are available from the agency.]

Statutory/Other Authority: ORS 732.572

Statutes/Other Implemented: ORS 732.517 - 732.592

History:

ID 3-2016, f. & cert. ef. 3-3-16

ID 1-2014, f. & cert. ef. 1-8-14

ID 7-2013, f. 12-26-13, cert. ef. 1-1-14

ID 15-1996, f. & cert. ef. 11-12-96

ID 8-1993, f. & cert. ef. 9-23-93

IC 68, f. & ef. 6-22-76

836-027-0150

(1) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the ~~lead state commissioner~~chief insurance regulatory official, as described in ORS 732.569(1), has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the ~~lead state commissioner~~chief insurance regulatory official makes a determination based upon that filing that the insurance holding company system meets all of the following criteria:

- (a) 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, of less than \$1,000,000,000;
 - (b) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
 - (c) Has no banking, depository or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;
 - (d) The holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group that have occurred since the last filing of the annual group capital calculation; and
 - (e) The non-insurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.
- (2) Where an insurance holding company system has previously filed the annual group

capital calculation at least once, the ~~lead state commissioner~~ chief insurance regulatory official has the discretion to accept in lieu of the group capital calculation a limited group capital filing if:

- (a) The insurance holding company system 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, of less than \$1,000,000,000; and all of the following additional criteria are met:
 - A. Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
 - B. Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and
 - C. The holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of the report to the lead state commissioner and the non-insurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations.
- (3) For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to subsections (1) or (2) of this rule Section 21A or 21B of this regulation, the ~~lead state commissioner~~ chief insurance regulatory official may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC ~~g~~Group ~~c~~Capital ~~c~~alculation ~~i~~nstructions, if any of the following criteria are met:
 - (a) Any insurer within the insurance holding company system is in a ~~r~~Risk-~~b~~Based ~~c~~Capital action level event as set forth in ORS 731.554 and OAR 836-011-0300 to OAR 836-011-0360 ~~[insert cross-reference to appropriate section of Risk-Based Capital (RBC) Model Act]~~ or a similar standard for a non-U.S. insurer; or
 - (b) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in ORS 731.385 and OAR 836-013-001 to OAR 836-013-0120 ~~[insert cross-reference to appropriate section of Model Regulation to Define Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition]~~; or
 - (c) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the ~~lead state commissioner~~ chief insurance regulatory official 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.

(4) A non-U.S. jurisdiction is considered to “recognize and accept” the group capital calculation if it satisfies the following criteria:

(a) With respect to ~~ORS 732.569(2)(b)(D): the [insert cross-reference to Section 4L(2)(d) of the Model Act]~~

(A) The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(B) Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in ~~section 4 subsection (a) paragraph (A) of this rule~~ ~~Section 21D(1)(a)~~.

(b) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the ~~lead state commissioner~~ ~~chief insurance regulatory official~~ in accordance with a memorandum of understanding or similar document between the ~~commissioner~~ ~~official~~ and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The ~~commissioner~~ ~~chief insurance regulatory official~~ shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.

- (5) A list of non-U.S. jurisdictions that “recognize and accept” the group capital calculation will be published through the NAIC Committee Process:
- (a) A list of jurisdictions that “recognize and accept” the group capital calculation pursuant to ORS 732.569(2)(b)(D) ~~[insert cross-reference to Sections 4L(2)(d)]~~, is published through the NAIC Committee Process to assist the ~~lead state commissioner~~ chief insurance regulatory official in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under ORS 732.569(2)(b)(D) ~~[insert cross-reference to Sections 4L(2)(d)]~~. To assist with a determination under ORS 732.569(3) 4L(2)(e), the list will also identify whether a jurisdiction that is exempted under either ORS 732.569(2)(b)(C) or ORS 732.569(2)(b)(D) ~~[insert cross-reference to Sections 4L(2)(c) and 4L(2)(d)]~~ requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.
 - (b) For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of section 4 subsection (a) paragraph (B) of this rule Section 21D(1)(b) will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC Committee Process.
 - (c) If the ~~lead state commissioner~~ chief insurance regulatory official makes a determination pursuant to ORS 732.569(2)(b)(D) Section 4L(2)(d) that differs from the list set forth in subsection (5)(a) NAIC List, the ~~lead state commissioner~~ chief insurance regulatory official shall provide thoroughly documented justification to the NAIC and other states.
 - (d) Upon determination by the ~~lead state commissioner~~ chief insurance regulatory official that a non-U.S. jurisdiction no longer meets one or more of the requirements to “recognize and accept” the group capital calculation, the ~~lead state commissioner~~ chief insurance regulatory official may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that “recognize and accepts” the group capital calculation.

836-027-0160

Transactions Subject to Prior Notice — Notice Filing

- (1) An insurer required to give notice of a proposed transaction pursuant to ORS 732.574 shall furnish the required information on Form D. Form D is set forth on the website of the Department of Consumer and Business Services at dfr.oregon.gov.
- (2) Agreements for cost sharing services and management services shall at a minimum and as applicable:

- (a) Identify the person providing services and the nature of such services;
- (b) Set forth the methods to allocate costs;
- (c) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;
- (d) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;
- (e) State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
- (f) Define ~~books and~~ records and data of the insurer to include all ~~books and~~ records and data developed or maintained under or related to the agreement that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records or similar records within the possession, custody or control of the affiliate;
- (g) Specify that all ~~books and~~ records and data of the insurer are and remain the property of the insurer, and:
 - (A) ~~Are~~ subject to the control of the insurer;
 - (B) Are identifiable; and
 - (C) Are segregated from all other persons' records and data or are readily capable of segregation at no additional cost to the insurer;
- (h) State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;
- (i) Include standards for termination of the agreement with and without cause;
- (j) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services and for any actions by the affiliate that violate provisions of the agreement required in subsections (k) to (o) of this section;
- (k) Specify that, if the insurer is placed in supervision, seizure, conservatorship, or receivership pursuant to ~~or seized by the director under~~ ORS chapter 734:
 - (A) All of the rights of the insurer under the agreement extend to the receiver or the director to the extent permitted by ORS chapter 734; ~~and;~~

(B) All records and data of the insurer shall be identifiable, and segregated from all other persons' records and data or readily capable of segregation at no additional cost to the receiver or the director;

(C) All complete set of books and records and data of the insurer will immediately be made available to the receiver or the director, shall be made available in a usable format and shall be turned over to the receiver or the director immediately upon the receiver or the director's request, and the cost to transfer the data to the receiver or the director shall be fair and reasonable; and,

(D) The affiliated persons will make available all employees essential to the operations of the insurer and the services associated therewith for the immediate continued performance of the essential services ordered or directed by the receiver or director;

(l) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed into supervision, seizure, conservatorship or receivership pursuant to ORS chapter 734; and

(m) Specify that the affiliate will provide the essential services for a minimum period of time, specified in the agreement, after termination of the agreement, if the insurer is placed into supervision, seizure, conservatorship or receivership pursuant to ORS chapter 734, as ordered or directed by the receiver or director. Performance of the essential services will continue to be provided without regard to pre-receivership unpaid fees, so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, director or supervising court;

(n) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding supervision, seizure, conservatorship or receivership pursuant to a seizure by the director under ORS chapter 734, and will make them available to the receiver or director as ordered or directed by the receiver or director; for so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, director or supervising court; and,=

(o) Specify that, in furtherance of the cooperation between the receiver and the affected guaranty association(s) and subject to the receiver's authority over the insurer, if the insurer is placed into supervision, seizure, conservatorship or receivership pursuant to ORS chapter 734, and portions of the insurer's policies or contracts are eligible for coverage by one or more guaranty associations, the affiliate's commitments under subsections (k) to (n) of this section will extend to such guaranty association(s).

Statutory/Other Authority: ORS 732.572

Statutes/Other Implemented: ORS 732.517 - 732.592

History:

[ID 9-2020, amend filed 12/17/2020, effective 01/01/2021](#)

ID 3-2016, f. & cert. ef. 3-3-16

Reverted to ID 15-1996, f. & cert. ef. 11-12-96

ID 6-2015(Temp), f. & cert. ef. 9-2-15 thru 2-26-16

ID 15-1996, f. & cert. ef. 11-12-96

ID 8-1993, f. & cert. ef. 9-23-93