

521E.3 Company-action-level event.

1. “*Company-action-level event*” means any of the following:

a. The filing of a risk-based capital report by an insurer which indicates any of the following:

(1) For an insurer other than a life and health insurer, 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.

(2) For a life and health insurer, the insurer’s total adjusted capital 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 two and one-half, and has a negative trend.

(3) For a property and casualty insurer, the insurer’s total adjusted capital 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 three and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty risk-based capital instructions.

b. Notification by the commissioner to the insurer of an adjusted risk-based capital report that indicates an event in paragraph “a”, provided the insurer does not challenge the adjusted risk-based capital report and request a hearing pursuant to section 521E.7.

c. If a hearing is requested pursuant to section 521E.7, notification by the commissioner to the insurer after the hearing that the commissioner has rejected the insurer’s challenge of the adjusted risk-based capital report indicating an event in paragraph “a”.

2. Upon the occurrence of a company-action-level event, the insurer shall prepare and submit to the commissioner a risk-based capital plan which shall include all of the following:

a. Identification of the conditions which contributed to the company-action-level event.

b. Proposed corrective actions which the insurer intends to implement and which are expected to result in the elimination of the company-action-level event.

c. Projections of the insurer’s financial results for the current year and at least the four succeeding years, including projections of statutory operating income, net income, capital, and surplus. Projections shall be provided assuming the absence of the proposed corrective actions and assuming the implementation of the proposed corrective actions. The projections for both new and renewal business may include separate projections for each major line of business and separately identify each significant income, expense, and benefit component.

d. Identification of the primary assumptions impacting the insurer’s projections and the sensitivity of the projections to the assumptions.

e. Identification of 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.

3. The risk-based capital plan shall be submitted within forty-five days of the company-action-level event, or, if the insurer requests a hearing pursuant to section 521E.7 for the purpose of challenging the adjusted risk-based capital report, within forty-five days after notification to the insurer that the commissioner, after hearing, has rejected the insurer’s challenge.

4. Within sixty 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 shall be implemented or, in the judgment of the commissioner, is unsatisfactory. If the commissioner determines the risk-based capital plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which in the judgment of the commissioner will render the risk-based capital plan satisfactory. Upon the receipt of notification from the commissioner pursuant to this subsection, the insurer shall prepare a revised risk-based capital plan, which may incorporate by reference any revisions proposed by the commissioner, and submit the revised risk-based capital plan to the commissioner within forty-five days of the receipt of notification from the commissioner of the commissioner’s determination that the risk-based capital plan is unsatisfactory, or, if the insurer requests a hearing pursuant to section 521E.7 for the purpose

of challenging the commissioner's determination, within forty-five days after notification to the insurer that the commissioner, after hearing, has rejected the insurer's challenge.

5. After notification of the insurer by the commissioner that the insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory, the commissioner, at the commissioner's discretion and subject to the insurer's right to a hearing pursuant to section 521E.7, may specify in the notification that the notification constitutes a regulatory-action-level event.

6. A 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 a state in which the insurer is authorized to do business if both of the following apply:

a. The other state has a provision substantially similar to section 521E.8, subsection 1, with respect to the confidentiality and availability of such plans.

b. The insurance commissioner of that state has notified the insurer in writing of its request to receive a copy of the risk-based capital plan or revised risk-based capital plan. Upon receipt of the written request, the insurer shall file a copy of the risk-based capital plan or revised risk-based capital plan with the requesting commissioner by no later than the later of the following:

(1) Fifteen days from the receipt of the written request.

(2) The date on which the risk-based capital plan or revised risk-based capital plan is filed pursuant to subsection 3 or 4, as applicable.

96 Acts, ch 1046, §11; 2011 Acts, ch 70, §42, 43

Referred to in §521E.1, 521E.4