

521E.4 Regulatory-action-level event.

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

a. The filing of a risk-based capital report by the insurer which indicates that the insurer’s total adjusted capital is greater than or equal to its authorized-control-level risk-based capital but less than its regulatory-action-level risk-based capital.

b. Notification by the commissioner to an insurer of an adjusted risk-based capital report that indicates the 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. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer’s challenge of the adjusted risk-based capital report indicating the event in paragraph “a”.

d. Failure of the insurer to file a risk-based capital report by the filing date, unless the insurer has provided an explanation for the failure which is satisfactory to the commissioner and has cured the failure within ten days after the filing date.

e. Failure of the insurer to submit a risk-based capital plan to the commissioner within the time period set forth in section 521E.3, subsection 3.

f. Notification by the commissioner to the insurer of both of the following:

(1) The risk-based capital plan or revised risk-based capital plan submitted by the insurer, in the judgment of the commissioner, is unsatisfactory.

(2) Notification pursuant to this paragraph constitutes a regulatory-action-level event with respect to the insurer, provided the insurer has not challenged the determination pursuant to section 521E.7.

g. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer’s challenge of the determination made by the commissioner pursuant to paragraph “f”.

h. Notification by the commissioner to the insurer that the insurer has failed to adhere to the insurer’s risk-based capital plan or revised risk-based capital plan, but only if the failure has a substantial adverse effect on the ability of the insurer to eliminate the company-action-level event pursuant to the insurer’s risk-based capital plan or revised risk-based capital plan and the commissioner has so stated in the notification. However, notification by the commissioner pursuant to this paragraph does not constitute a company-action-level event if the insurer has challenged the determination of the commissioner pursuant to section 521E.7.

i. After a hearing pursuant to section 521E.7, notification by the commissioner to the insurer that the commissioner has rejected the insurer’s challenge of the commissioner’s determination pursuant to paragraph “h”.

2. In the event of a regulatory-action-level event the commissioner shall do all of the following:

a. Require the insurer to prepare and submit a risk-based capital plan or a revised risk-based capital plan, as applicable.

b. Perform an examination or analysis of the assets, liabilities, and operations of the insurer, including a review of its risk-based capital plan or revised risk-based capital plan, as deemed necessary by the commissioner.

c. Subsequent to the examination or analysis pursuant to paragraph “b”, issue a corrective order.

3. In determining the corrective actions to be specified, the commissioner shall take into account factors the commissioner deems to be relevant with respect to the insurer based upon the commissioner’s examination or analysis of the assets, liabilities, and operations of the insurer, 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 shall be submitted within forty-five days after the occurrence of the regulatory-action-level event, except as follows:

a. If the insurer challenges an adjusted risk-based capital report pursuant to section 521E.7, and in the judgment of the commissioner the challenge is not frivolous, within forty-five days after the notification to the insurer that the commissioner, after a hearing pursuant to section 521E.7, has rejected the insurer’s challenge.

b. If the insurer challenges a revised risk-based capital plan pursuant to section 521E.7, and in the judgment of the commissioner the challenge is not frivolous, within forty-five days after the notification to the insurer that the commissioner, after a hearing pursuant to section 521E.7, has rejected the insurer's challenge.

4. The commissioner may retain actuaries, investment experts, and other consultants as deemed necessary by the commissioner to review the insurer's risk-based capital plan or revised risk-based capital plan; examine or analyze the assets, liabilities, and operations of the insurer; and assist in the formulation of the corrective order with respect to the insurer. Fees of the actuaries, investment experts, or other consultants retained by the commissioner shall be paid by the insurer subject to the review or examination.

96 Acts, ch 1046, §12

Referred to in §521E.5