

## **PROJECT HISTORY – 2011**

### **RISK-BASED CAPITAL FOR INSURERS MODEL ACT (#312)**

(Revisions to the Fraternal Benefit Societies)

#### **1. Project Description**

To add fraternal benefit societies to the life sections of the *Risk-Based Capital for Insurers Model Act*. (#312). The request was developed based upon the need for regulatory authority to take corrective actions as a result of a fraternal society having less than the minimum amount of capital as calculated by the fraternal RBC formula.

#### **2. Group Responsible for Drafting Model and States Participating**

The Capital Adequacy (E) Task Force was responsible for drafting the revisions of the model. James J. Wrynn represented by Lou Felice (NY) chairs the Task Force. Ted Nickel represented by Peter Medley (WI) is the vice chair of the Task Force. The following states are Task Force members: Alabama, California, Connecticut, District of Columbia, Delaware, Florida, Illinois, Iowa, Kansas, Maine, Minnesota, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, Utah and Washington.

#### **3. Charge Authorizing Project**

A Sept. 17, 2009, referral letter from the NAIC president on behalf of the NAIC officers was received by the Capital Adequacy (E) Task Force suggesting that “the Capital Adequacy Task Force consider development of a new risk-based capital model law for fraternal benefit societies.”

#### **4. A General Description of Drafting Process and Due Process**

A request for a new model law development was adopted by the Executive (EX) Committee at the 2009 Winter National Meeting. Discussions were held by the Task Force over the next several national meetings regarding the need for a fraternal RBC model act.

At the 2011 Spring National Meeting, the Task Force requested changing the current *Risk-Based Capital for Insurers Model Act* (#312) rather than developing a new model. This request was subsequently adopted by the Financial Condition (E) Committee and Executive (EX) Committee at the 2011 Spring National Meeting.

NAIC staff were asked to draft a proposal to add fraternal benefit societies to the existing model act. The fraternal proposal was released for comment for a 30-day period at a July 14, 2011, Task Force conference call. No comment letters were received during the comment period. The Task Force unanimously adopted the draft fraternal changes to the model act at the Sept. 14, 2011, conference call. The fraternal changes to the model act were then adopted at the Financial Condition (E) Committee’s Sept. 19 meeting.

#### **5. Significant Issues Raised**

A concern was raised about whether the change to add fraternal benefit societies would become an accreditation standard. The Task Force will recommend to the Financial Regulation Standards and Accreditation (F) Committee that the changes to add fraternal benefit societies to the model act would not become an accreditation standard at this point in time.

An issue was raised regarding whether the RBC trend test would also apply to fraternal RBC. The model act draft was modified to incorporate the same trend test language and level as used for life.

## **PROJECT HISTORY – 2011**

### **RISK-BASED CAPITAL FOR INSURERS MODEL ACT (#312)**

(Revisions to the Life RBC Trend Test Level)

#### **1. Project Description**

To change the trend test level for the *Risk-Based Capital for Insurers Model Act* (#312). The request was developed to change the level where the Life RBC trend test is triggered to be raised from 2.5 of the authorized control level amount to 3.0. This would change the level to be the same level as that used for the property and casualty RBC and health RBC trend tests.

#### **2. Group Responsible for Drafting Model and States Participating**

The Capital Adequacy (E) Task Force was responsible for drafting the revisions of the model. James J. Wrynn represented by Lou Felice (NY) chairs the Task Force. Ted Nickel represented by Peter Medley (WI) is the vice chair of the Task Force. The following states are Task Force members: Alabama, California, Connecticut, District of Columbia, Delaware, Florida, Illinois, Iowa, Kansas, Maine, Minnesota, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, Utah and Washington.

#### **3. Charge Authorizing Project**

A March 27, 2007, letter from Steve Johnson (PA) was received by the Capital Adequacy (E) Task Force that suggested: "Raising the trigger for the Life RBC Trend Test from 250 to 300. This change would be consistent with the Property/Casualty Trend Test and would result in more effective efforts to correct negative trends before they create a solvency concern." The item was added to the Task Force's working agenda assigned to the Life Risk-Based Capital (E) Working Group.

#### **4. A General Description of Drafting Process and Due Process**

At the 2008 Fall National Meeting, the Life Risk-Based Capital (E) Working Group reviewed year-end 2003 to 2007 data of additional companies that would be triggered by the change in the trend test level. The Capital Adequacy (E) Task Force decided to keep the issue on the working agenda in order to review data for companies that would have triggered the trend test during the 2008 financial crisis. The Working Group reviewed data for year-end 2005 through 2009 at the 2010 Fall National Meeting. The Working Group recommendation was to consider this change when another change was being made to the model act.

At the 2010 Fall National Meeting, with one state objecting, the Task Force decided to release for a comment period of 30 days a draft model law request form to change the life trend test level. One comment letter was received and discussed on a Dec. 13, 2010, Task Force conference call, where the model law request was adopted with four states opposing the motion. The model law request form was then adopted by the Financial Condition (E) Committee. The request to amend the model law was adopted by the Executive (EX) Committee at the 2011 Spring National Meeting.

The trend test change to the model act was released for comment for a 30-day period at a July 14, 2011, Task Force conference call. No comment letters were received during the comment period. The Task Force unanimously adopted the life trend test change to the model act on the Sept. 14, 2011, conference call. The life trend test changes to the model act were then adopted at the Financial Condition (E) Committee's Sept. 19 meeting.

## **5. Significant Issues Raised**

The Life Risk-Based Capital (E) Working Group had a concern about whether the relatively small number of additional companies that would trigger the trend test would justify changing the model act for just this item. The Capital Adequacy (E) Task Force later decided to make changes to the model for fraternal benefit societies in addition to the trend test change.

A Nov. 29, 2010, comment letter from the American Council of Life Insurers (ACLI) requested further analysis of the need for and the impact of the proposed change. Regulator-only reports of the companies that would have been affected for year- end 2005 to 2009 were distributed to the Task Force. The ACLI eventually agreed to not oppose implementation of the change.

## **PROJECT HISTORY – 2006**

### **RISK-BASED CAPITAL FOR INSURERS MODEL ACT (#312)**

(Incorporation of the Property and Casualty Trend Test)

#### **1. Project Description**

The Capital Adequacy (E) Task Force adopted the following Property/Casualty (P/C) “trend test” to be effective for year-end 2005 RBC reporting:

If the combined ratio is greater than 120% and the RBC is between 200-300, then the RBC company action level is triggered.

However, the trend test is “Informational Only” and the company action level is not legally triggered until states implement modifications to their RBC for Insurers Model Act. The major change proposed to the Model Act is to cite the P/C trend test as a way for the company action level to be triggered. Some minor editorial changes are made to distinguish the Life/Health Trend Test that is already in the Model Act with this new P/C trend test.

#### **History**

At the September 2004 meeting in Anchorage, AK, the Capital Adequacy (E) Task Force exposed a formula, called a dual trend test, as recommended by the P/C RBC Subgroup:

If the RBC is between 200-300 and the combined ratio is greater than 120% OR If the RBC is between 300-350 and the combined ratio is greater than 134%, Then the RBC company action level is triggered.

Steve Johnson (PA) noted that the Task Force would also need to draft a revised RBC model Act for the trend test to be enforceable.

At the December 22, 2004, conference call of the Task Force, the higher tier (at the 300-350 RBC level) of the trend test for the P/C RBC formula was removed and the revised trend test was released for comment. The Task Force noted that the results of the trend test, if adopted, would not be utilized to move an insurer’s result to the Company Action Level RBC in the 2005 formula until an amendment to the RBC Model Law is implemented.

The changes to the P/C RBC formula were adopted at the Jan 27, 2005, conference call of the Capital Adequacy Task Force and at the E Committee in March.

At the June 2005 meeting, Mr. Johnson suggested taking the opportunity to amend the RBC Model Act to exempt monoline bail/immigration bond insurers from filing the property RBC calculation. With this additional amendment, the proposed changes to the RBC Model Act were exposed. During the Task Force’s August 9, 2005, conference call, the exemption of monoline bail/immigration bond insurers was removed, some editorial changes were made, and the revised RBC Model Act was adopted. The revised RBC Model Act is anticipated to be adopted by the E Committee in December.

#### **2. Group Responsible for Drafting Model and States Participating**

The Capital Adequacy (E) Task Force was responsible for drafting the revisions to the model. Lou Felice (New York) chaired the Task Force. The following states were members: Minnesota, Alabama, California, Connecticut,

District Columbia, Florida, Kansas, Missouri, New Jersey, New Mexico, Ohio, Texas, Washington, and Wisconsin.

### **3. Charge Authorizing Project**

The Capital Adequacy (E) Task Force was charged to consider refinements to the RBC calculations and to maintain the Risk- Based Capital For Insurers Model Act.

### **4. Significant Issues Raised**

There were no serious issues raised with the Model Act. Likely, this is because there is already precedence from the Life/Health Trend Test that is already included in the Model Act.

There were some concerns with the underlying formula and the impact of “false positives” (where the company action level would be triggered for a company when the RBC would not trend toward the company action level in subsequent years), but the formula itself is not included in the Model Act.