



Government of the District of Columbia
Department of Insurance, Securities and Banking

New Laws and Regulations in Washington, DC



NAIC Part A Accreditation Standards

- Examination Authority
- Capital and Surplus Requirement
- NAIC Accounting Practices and Procedures
- Corrective Action
- Valuation of Investments
- Holding Company Systems
- Risk Limitation



NAIC Part A Accreditation Standards (Cont.)

- Investment Regulations
- Liabilities and Reserves
- Reinsurance Ceded
- CPA Audit and Actuarial Opinion
- Filings with the NAIC
- Receivership
- Guaranty Funds
- Producer Controlled Insurers
- Managing General Agents
- Reinsurance Intermediaries



Implementation of Part A Accreditation Standards

- Examination Authority – No change
 - Authority to examine companies whenever necessary
 - Access to books and records, including affiliated companies
 - Examine all domestic RRGs not less than every five years
 - Examiners are required to follow NAIC Financial Condition Examiners Handbook
 - Authority to retain professionals
 - Authority to take legal action
 - Authority for Commissioner to disclose content of examination reports



Implementation of Part A Accreditation Standards (Cont.)

- **Capital and Surplus Requirement – No change**
 - Authority to require insurers to maintain minimum capital and surplus
 - Authority to require additional capital and surplus based on type, volume and nature of business transacted
- **NAIC Accounting Practices and Procedures – No Change**
 - Authority to require filing of NAIC Annual Statement Blank



Implementation of Part A Accreditation Standards (Cont.)

- Corrective Action – No change
 - Authority to identify standards to determine whether the continued operation of any licensed insurer might be hazardous to policyholders or the general public
 - Authority for Commissioner to issue an order requiring the insurer to take action when a company is determined hazardous to policyholders or the general public



Implementation of Part A Accreditation Standards (Cont.)

- Valuation of Investments – Amendment - DC Investment Law will be applicable to RRGs
 - Authority to require all investments to be valued according to NAIC SVO guidelines
 - GAAP filers must include SAP reconciliation in notes
 - Authority to require other invested assets to be valued in accordance with NAIC Accounting Practices and Procedures Manual



Implementation of Part A Accreditation Standards (Cont.)

- Holding Company Systems – Statutory Amendment to Make HCA applicable to RRGs
 - HC is an “affiliation” of 2 or more persons, one of which is an insurer
 - An “Affiliate” is a person who directly or indirectly “controls,” is controlled or is under common control with the person specified
 - “Control” is presumed to exist if any person holds to power to vote 10% or more of the voting securities of an insurer
 - “Control” can also exist if a person has the power to direct or cause the direction of the management of an insurer through contract



Implementation of Part A Accreditation Standards (Cont.)

- Holding Company Systems – Statutory Amendment to Make HCA applicable to RRGs (Continued)
 - An acquisition of a domestic insurer requires prior approval by DISB (Form A)
 - A HC shall file a registration statement (Form B) annually, by April 30, disclosing financial condition, identities of every member of the HC system, transactions with affiliates (loans, sales, exchanges or pledges of assets, transactions not in the ordinary course of business, guarantees, management and service contracts, reinsurance agreements, dividends and distributions to shareholders, and tax allocation agreements)
 - Terms, charges and fees, and transactions are required to be fair and reasonable



Implementation of Part A Accreditation Standards (Cont.)

- Holding Company Systems – Statutory Amendment to Make HCA applicable to RRGs (Continued)
 - Any person may file a disclaimer of affiliation (DC Code § 31-705(k))
 - The Disclaimer must disclose all material relationships and bases for affiliation, and the basis for disclaiming the affiliation
 - If the Commissioner approves the disclaimer, the insurer shall be relieved of its duty to file the annual registration statement. It is not an exemption from the other parts of the Holding Company Act
 - The Commissioner may disallow the disclaimer of affiliation after giving notice and an opportunity to be heard



Implementation of Part A Accreditation Standards (Cont.)

- Holding Company Systems – Statutory Amendment to Make HCA applicable to RRGs (Continued)
- Prior approval of Material Transactions (DC Code 31-706)(Form D)
 - Sales, Purchases, Loans or Investment that are equal to or exceed the lesser of 3% of admitted assets or 25% of surplus
 - Reinsurance Agreements in which the reinsurance premium or change in the insurer's liabilities equals or exceeds 5% of the insurer's surplus
 - All Management and Service Contracts, and Cost Sharing Arrangements
 - Extraordinary Dividends, including dividends made within past 12 months that exceed lesser of 10% of surplus or net gains from operations
 - Certain Loans to any person who is not an affiliate



Implementation of Part A Accreditation Standards (Cont.)

- Risk Limitation – Statutory Amendment
 - Authority to limit an insurer's net amount of retained risk for an individual risk to no more than 10% of a Company's capital and surplus
 - Captive Act will be amended to give the Commissioner the legal authority to impose a risk limitation
 - Amendment will give Commissioner the authority to issue regulations waiving this requirement



Implementation of Part A Accreditation Standards (Cont.)

- Investment Regulations - DC Investment Law applicable to RRG
 - Authority to limit types of investments
 - Authority to require insurers to limit certain investments or discontinue practices if determined that continuous operation is hazardous
- Liabilities and Reserves – No change
 - Authority to prescribe minimum standards for establishment of claims liabilities, unearned premium and loss reserves



Implementation of Part A Accreditation Standards (Cont.)

- Reinsurance Ceded – New Regulations to Make Reinsurance Guidelines Applicable to RRGs
 - Credit for reinsurance if assuming company in compliance with the DC Credit for Reinsurance Act
 - Licensed Insurer in DC;
 - An “accredited reinsurer” in DC if: (1) the reinsurer is licensed in at least one state, submits to exam authority, files its annual statement, and maintains at least \$20 million in policyholder surplus;
 - A reinsurer that maintains a trust in the US with at least \$20 million in surplus
 - A reinsurer that complies with Reinsurance Guidelines approved by the RRG Task Force
 - Net written premium to surplus not more than 3:1
 - No third party business
 - No cell arrangements unless approved by the Commissioner
 - Reinsurer must be domiciled in a jurisdiction acceptable to the Commissioner
 - Reinsurer must file audited financials with DISB



Implementation of Part A Accreditation Standards (Cont.)

- CPA Audit and Actuarial Opinion – Minor Changes
 - Audit Committee requirements effective 1-1-12
 - Actuarial Opinion Summary (“AOS”) required for 12-31-2011 reporting
- Filings with NAIC – No Change
- Receivership – No Change
- Guaranty Funds – No Change (inapplicable to RRGs)
- Producer Controlled Insurers – Statutory Amendment
 - Statute applies if a Producer “controls” a RRG
 - “Control” defined the same way as Holding Company Act (stock or contract)
 - Act applies if Controlling Producer places with the controlled insurer during a calendar year, GWP equal to or greater than 5% of insurer’s admitted assets



Implementation of Part A Accreditation Standards (Cont.)

- Act does not apply if CP places insurance only with the controlled insurer or a member of the insurer's HCS and receives no compensation based on the amount of premium written; and (2) CP accepts insurance placements only from non-affiliated subproducers and not directly from insureds; and (3) the CI accepts insurance business only from a controlling producer or a producer controlled by the insurer, or a producer that is sub of the controlled insurer
- If Act applies, CI and CP must have written contract approved by the CI's board of directors and contains certain mandatory provisions: termination, CP required to provide CI with information about material transactions, payment of funds, separate books and records, no assignment of contract, CP is required to follow CI's underwriting policies, etc.
- Every CI is required to have an audit committee composed of independent directors.
- CP shall, prior to the effective date of the policy, notify insureds of the relationship with the CI



Implementation of Part A Accreditation Standards (Cont.)

- Managing General Agents – Statutory Amendment
 - MGA defined as a person or entity who: (1) negotiates reinsurance contracts on behalf of the insurer; or (2) manages all or part of the business of an insurer; and (3) acts an agent for an insurer that produces and underwrites GWP equal to or more than 5% of policyholder surplus in any one quarter or year
 - MGA does not include an employee of the insurer; a US manager of an alien insurer; an underwriter who, pursuant to contract, manages all or part of the insurance ops of an insurer, and the UW is under common control with the insurer; or an attorney-in-fact of a reciprocal insurer
 - Mandatory Contract Provisions

MGA shall be licensed as a Broker in the District.



Implementation of Part A Accreditation Standards (Cont.)

- Reinsurance Intermediaries – Statutory Amendment
 - Any person acting as a reinsurance broker for a domestic insurer shall be a licensed broker in the District of Columbia.
 - Mandatory contract provisions
 - Mandatory books and records requirements
 - Insurer may not engage a person to act as a reinsurance broker unless that person is licensed in the District
 - The insurer shall annually obtain a copy of the reinsurance broker's statement of financial condition.



• Risk Based Capital

- Effective for year end reporting as of December 31, 2012
- RRGs may elect to file earlier



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Risk Focused Examinations of RRGs



Overview

- **New Requirement Effective January 1, 2011**
- **“Old” versus “New”**
- **New Approach – 7 Phases**
- **Impact on DC RRGs**
- **Company Preparations**



Required January 1, 2011

- **Beginning January 1, 2011, all Financial Examinations of Risk Retention Groups are required to be conducted under the risk-focused examination approach as outlined in the revised NAIC Financial Condition Examiners Handbook.**



“Old” versus “New”

- **“Old” Handbook is the 2006 version**
- **“New” Handbook was first published in 2007**
- **2007 version totally revamped for “Risk-Focused” approach**
- **“Risk-Focused” approach has been required for traditional companies since January 1, 2010. One-year extension for RRGs to allow for development of additional Handbook guidance.**
- **Many “traditional” states implemented early, prior to 2010**



“Old” versus “New” (con’t.)

- **Many Similarities**
- **Some Differences**
- **Old “SRA” approach focused on cycles (premiums, losses, reinsurance, etc.). Standard questionnaires and procedures. Focus on financial statement balances.**
- **New approach also focuses on controls in key areas, now called “key functional areas”. Also more focus on corporate governance and prospective risk assessment.**



7 Phases of the RF Approach

- **Phase 1: Understand the Company and Identify Key Functional Activities to be Reviewed**
- **Phase 2: Identify and Assess Inherent Risk in Activities (Done within each Key Activity)**
- **Phase 3: Identify and Evaluate Risk Mitigation Strategies (Done within each Key Activity)**
- **Phase 4: Determine Residual Risk (Done within each Key Activity)**



7 Phases of the RF Approach (con't.)

- **Phase 5: Establish/Conduct Detail Examination Procedures (Done within each Key Activity)**
- **Phase 6: Update Prioritization and Supervisory Plan (Done within each Key Activity)**
- **Phase 7: Draft Examination Report and Management Letter (Done within each Key Activity)**



“Old” versus “New”

- **Both approaches are “Risk-Focused”. Old approach was frequently not properly implemented.**
- **Both approaches rely on the work of the independent auditor.**
- **Old approach – more backward looking**
- **New approach – also forward looking**
- **New Approach – Goal - focus more examination resources on those areas posing greater risk and fewer resources on those areas with less risk.**



Impact on DC RRGs

- **Frequency and timing of exams – little or no impact. Still required to be performed at least once every 5 years. Timing will not significantly change – most exams begin after the annual audits are completed.**
- **Exam approach and procedures – some changes, many similarities.**



Impact on DC RRGs (con't.)

- **Cost – Goal is cost neutral.**
- **Long-term, the goal of RF exams is to make exams more efficient, more effective and less expensive, especially for those companies with strong corporate governance and strong control environments.**



Company Preparations

- **Ensure good corporate governance and control structures.**
- **Document corporate governance and controls.**
- **Coordinate with auditors. Help examiners leverage CPA workpapers**
- **Help examiners to better understand the company, not just understanding prior filings and supporting documentation.**
- **Become familiar with the Handbook and Process**
- **Help facilitate the exam.**



Summary

What exactly does all of this mean for DC Exams?

- **Huge difference not expected. Will need to modify standard procedures to fit the RF approach, but there is plenty of flexibility in the new approach to do exams largely as we have been doing them and still be within the RF guidelines.**
- **Underlying premise for a state to report on the insurer's financial condition through a report of examination, which includes the financial statements, will continue under this risk-focused approach.**



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