

§ 58-12-11. Company action level event.

- (a) "Company action level event" means any of the following events:
- (1) The filing of a risk-based capital report by an insurer that indicates any of the following:
 - a. 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.
 - b. In the case of a life or health insurer, the insurer has total adjusted capital that (i) is greater than or equal to its company action level risk-based capital but less than three times its authorized control level risk-based capital and (ii) has a negative trend.
 - c. In the case of a property or casualty insurer or a health organization, the insurer has total adjusted capital that 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 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty or health organization risk-based capital instructions.
 - (2) The notification by the Commissioner to the insurer of an adjusted risk-based capital report that indicates the event in sub-subdivision (1)a., (1)b., or (1)c. of this subsection if the insurer does not challenge the adjusted risk-based capital report under G.S. 58-12-30.
 - (3) If the insurer challenges an adjusted risk-based capital report that indicates the event in sub-subdivision (1)a., (1)b., or (1)c. of this subsection under G.S. 58-12-30, the notification by the Commissioner to the insurer that the Commissioner has rejected the insurer's challenge.
- (b) In the event of a company action level event, the insurer shall prepare and submit to the Commissioner a comprehensive financial plan that:
- (1) Identifies the conditions in the insurer that contribute to the company action level event.
 - (2) Contains proposals of corrective actions that the insurer intends to take and would be expected to result in the elimination of the company action level event.
 - (3) Provides forecasts of the insurer's financial results in the current year and at least the four succeeding years (except for health organizations, which must provide forecasts in the current year and at least the two succeeding years), both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including forecasts of statutory balance sheets, operating income, net income, capital and surplus, and risk-based capital levels (the forecasts for both new and renewal business should include separate forecasts for each major line of business and separately identify each significant income, expense, and benefit component).
 - (4) Identifies the key assumptions affecting the insurer's forecasts and the sensitivity of the forecasts to the assumptions.
 - (5) Identifies the quality of, and problems associated with, the insurer's business, including its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance in each case, if any.
- (c) The risk-based capital plan shall be submitted:
- (1) Within 45 days after the company action level event; or

- (2) If the insurer challenges an adjusted risk-based capital report pursuant to G.S. 58-12-30, within 45 days after notification to the insurer that the Commissioner has rejected the insurer's challenge.

(d) Within 60 days after the submittal 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 is, in the judgment of the Commissioner, 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 that will render the risk-based capital plan satisfactory, in the judgment of the Commissioner. Upon notification from the Commissioner, the insurer shall prepare a revised risk-based capital plan, which may incorporate by reference any revisions proposed by the Commissioner, and shall submit the revised risk-based capital plan to the Commissioner:

- (1) Within 45 days after notification from the Commissioner; or
- (2) If the insurer challenges the notification from the Commissioner under G.S. 58-12-30, within 45 days after a notification to the insurer that the Commissioner has rejected the insurer's challenge.

(e) In the event of a notification by the Commissioner to an insurer that the insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory, the Commissioner may, subject to the insurer's right to a hearing under G.S. 58-12-30, specify in the notification that the notification constitutes a regulatory action level event.

(f) Every 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 regulator in any state in which the insurer is authorized to do business if:

- (1) That state has a risk-based capital provision substantially similar to G.S. 58-12-21(a); and
- (2) The insurance regulator of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk-based capital plan or revised risk-based capital plan in that state no later than the later of:
 - a. Fifteen days after the receipt of notice to file a copy of its risk-based capital plan or revised risk-based capital plan with the state; or
 - b. The date on which the risk-based capital plan or revised risk-based capital plan is filed under subsection (c) or (d) of this section. (1993 (Reg. Sess., 1994), c. 678, s. 1; 1995, c. 193, s. 21; c. 318, s. 5; 2001-223, ss. 12.5, 12.6; 2011-196, s. 7; 2013-199, s. 4; 2015-146, s. 2.)