Compilation of legislative proposals addressing groupwide supervision

California: Legislation (AB 1234) remains pending; may be subject to further amendment.

Connecticut: Legislation (SB 196) died without passing both houses by conclusion of legislative session.

Delaware: Legislation (HB 257) enacted this session but without groupwide supervision language included in earlier versions; earlier groupwide supervision proposal included in materials.

Florida: Legislation enacted; statutory language included in materials.

Iowa: Legislation (SF 2104) enacted this session with groupwide supervision language included in materials.

New Jersey: Legislation (AB 3271) introduced this session and remains pending.

Pennsylvania: Legislation enacted; statutory language included in materials.
(f) "Insurer" shall have the same meaning as set forth in Section 826, excluding subdivisions (e) and (f) of that section.

(g) "Person" is an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or any similar entity, or any combination thereof acting in concert.

(h) A "security holder" of a specified person is the holder that owns any security of that person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

(i) A "subsidiary" of a specified person is an affiliate controlled by that person directly, or indirectly through one or more intermediaries.

(j) "Voting security" shall include any security convertible into or evidencing a right to acquire a voting security.

(k) "Commissioner" means the Insurance Commissioner of this state and any assistant to the Insurance Commissioner designated and authorized by the commissioner while acting under that designation.

(l) "NAIC" means the National Association of Insurance Commissioners.

(m) "Groupwide supervisor" means the chief insurance regulatory official authorized by the official’s jurisdiction to conduct and coordinate groupwide supervisory activities, and whose jurisdiction has been determined or acknowledged by the commissioner pursuant to the factors contained in subdivision (c) of Section 1215.7 to have sufficient significant contacts with an internationally active insurance group.

(n) "Internationally active insurance group" means any insurance holding company system that includes an insurance company registered under Section 1215.4 if both of the following apply:

(i) The group writes premiums in three or more countries and at least 10 percent of its total premium is written outside the United States.

(ii) Based on a rolling three-year average, either the group’s total assets are at least fifty billion dollars ($50,000,000,000) or the group’s gross written premiums are at least ten billion dollars ($10,000,000,000).

SEC. 2. Section 1215.6 of the Insurance Code is amended to read:

1215.6. (a) Subject to the limitation contained in this section, and in addition to the powers which the commissioner has under Article 4 (commencing with Section 730) of Chapter 1 of this part relating to the examination of insurers, the commissioner shall also have the power to examine any insurer registered under Section 1215.4 and its affiliates to ascertain the enterprise risk to which the insurer is subjected by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis. The commissioner may also order any insurer registered under Section 1215.4 to produce such records, books, or other information or papers in the possession of the insurer or its affiliates, including a report on the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis, as shall be necessary to ascertain the financial condition or legality of conduct of such the insurer. If the insurer cannot obtain access to those records, books, or other information, the insurer shall provide to the commissioner a detailed explanation of the reason the insurer cannot obtain the requested records, books, or other information, and the identity of the holder of the
records, books, or other information. If the commissioner deems the explanation to be without merit, the insurer shall be subject to late filing fees in accordance with Section 924 for the amount of time the commissioner determines the books and records should have been filed with the commissioner's office. The commissioner shall also have the power to examine an affiliate to obtain that information.

(b) The commissioner shall exercise his or her power under subdivision (a) only if the examination of the insurer under Article 4 (commencing with Section 730) of Chapter 1 of this part is inadequate or the interests of the policyholders of such the insurer are being adversely affected.

(c) The commissioner may retain at the registered insurer's expense such those attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under subdivision (a) of this section. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

(d) Each registered insurer producing for examination records, books, and papers pursuant to subdivision (a) of this section shall be liable for, and shall pay the expense of such the examination in accordance with Section 736.

SEC. 3. Section 1215.7 of the Insurance Code is amended to read:

1215.7. (a) With respect to any insurer registered under Section 1215.4, and in accordance with subdivision (e), (h), the commissioner shall also have the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this article. The powers of the commissioner with respect to supervisory colleges include, but are not limited to, the following:

(1)Initiating the establishment of a supervisory college.

(2) Clarifying the membership and participation of other supervisors in the supervisory college.

(3) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a groupwide supervisor.

(4) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing.

(5) Establishing a crisis management plan.

(b) In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes, and as part of the examination of individual insurers in accordance with Section 1215.6, the commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal, and international regulatory agencies. A supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates. The commissioner may enter into agreements in accordance with subdivision (b) of Section 1215.8 providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. Nothing in this section shall delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within its jurisdiction.
(c) The commissioner may also act as a groupwide supervisor for any internationally active insurance group by determining in conjunction with the consensus of the members of the group's supervisory college, that the commissioner is the appropriate groupwide supervisor for an internationally active insurance group that conducts substantial insurance business operations in this state or has subsidiaries that conduct substantial insurance business operations in this state. The commissioner may also acknowledge that the chief insurance regulatory official of another jurisdiction is an appropriate groupwide supervisor for an internationally active insurance group that does not conduct substantial insurance business operations in the United States, or conducts substantial insurance business operations in the United States but not in this state, or conducts substantial insurance business operations in the United States and in this state but the commissioner has determined, pursuant to the factors set forth below, that the chief insurance regulatory official of another jurisdiction is the appropriate groupwide supervisor.

(1) The commissioner shall consider the following relevant factors and the relative scale of each in making a determination or acknowledgment under this subdivision:

(A) The location of the home office of the internationally active insurance group or the place of domicile of the ultimate controlling person of the internationally active insurance group.

(B) The locations of the executive offices of the internationally active insurance group.

(C) The locations of origin of the insurance business of the internationally active insurance group.

(D) The locations of the assets and liabilities of the internationally active insurance group.

(E) The locations of the business operations and activities of the internationally active insurance group.

(F) Whether the chief insurance regulatory official of another jurisdiction is acting or seeking to act as the groupwide supervisor under a regulatory system the commissioner determines to be substantially equivalent to that provided under the laws of this state or is otherwise sufficient in terms of groupwide supervision, enterprise risk analysis, and cooperation with other chief insurance regulatory officials, and whether the chief insurance regulatory official acting or seeking to act as the groupwide supervisor provides the Insurance Department with reasonably reciprocal recognition and cooperation.

(d) The commissioner may collect, pursuant to Section 1215.8, from any insurance company registered under Section 1215.4, any information necessary for the department to determine whether the commissioner may act as the groupwide supervisor of an internationally active insurance group or to acknowledge that another chief insurance regulatory official of another jurisdiction should act as the groupwide supervisor of that insurance group.

(e) Prior to issuing any determination or acknowledgment under this section, the commissioner shall notify the member insurance company registered pursuant to Section 1215.4 and the ultimate controlling person of an internationally active insurance group, of the pending determination or acknowledgment. The commissioner shall provide the internationally active insurance group at least 30 calendar days to submit any additional
information pertinent to that determination or acknowledgment that is requested by the commissioner or that the insurance group chooses to submit. The department shall notify the insurance company and ultimate controlling person of its determination or acknowledgment and shall post on the Insurance Department's Internet Web site a current list of internationally active insurance groups the commissioner has determined are subject to groupwide supervision by the commissioner.

(f) The commissioner may conduct and coordinate the following activities for an internationally active insurance group for which the commissioner is the groupwide supervisor:

(1) Assess the enterprise risks within the internationally active insurance group to ensure that material financial conditions of, and liquidity risks to, the members of the insurance group that are engaged in the business of insurance are identified by management and that reasonable and effective mitigation measures are in place.

(2) Request from any member of the internationally active insurance group information necessary and appropriate to assess enterprise risk, including, but not limited to, information about governance, risk assessment and management, and capital adequacy and material intercompany transactions.

(3) Compel development and implementation of reasonable measures designed to ensure the internationally active insurance group is able to timely recognize and mitigate material risks to the members of the insurance group that are engaged in the business of insurance.

(4) Communicate with insurance regulatory officials of the members of the internationally active insurance group and share relevant information, subject to the confidentiality provisions of Section 1215.8, through a supervisory college, as set forth in subdivision (a).

(5) Enter into agreements with or obtain documentation from any member insurance company registered pursuant to Section 1215.4, any other member of the internationally active insurance group, and any chief insurance regulatory official of another jurisdiction, to establish or clarify the commissioner's role as groupwide supervisor and that may include provisions for resolving disputes with other relevant supervisory authorities. None of those agreements or documentation shall serve as evidence that an insurance company or person within an insurance company holding system that is not incorporated in this state is doing business in this state or is otherwise subject to the jurisdiction of this state.

(6) Other activities deemed appropriate by the commissioner to effectuate the purposes of this section.

(g) If the commissioner acknowledges that a regulatory official of a jurisdiction not accredited by NAIC is the groupwide supervisor of an internationally active insurance group, the commissioner shall reasonably cooperate through a supervisory college or otherwise with group supervision undertaken by the groupwide supervisor, provided such cooperation is in compliance with the laws of this state and the groupwide supervisor recognizes and cooperates with the commissioner's activities as a groupwide supervisor for other internationally active insurance groups, when applicable. The commissioner may refuse to cooperate if the commissioner determines that recognition and cooperation are not reasonably reciprocated. The commissioner may enter into agreements with or obtain documentation from any member insurance company registered pursuant to Section 1215.4, any affiliate of that insurance company, and any
regulatory official of another jurisdiction serving as the groupwide supervisor of an
internationally active insurance group, to establish or clarify the official’s role as
groupwide supervisor.

(c) An insurer registered under Section 1215.4 that is subject to this section shall
be liable for and shall, in accordance with Section 736, pay the reasonable expenses
of the commissioner’s participation in a supervisory college pursuant to administration
of this section, including reasonable travel expenses, limited to those expenses
reasonably related to the regulation of the insurer’s business in this state. expenses.

SEC. 4. Section 1215.8 of the Insurance Code is amended to read:
1215.8. (a) All information, documents, and copies thereof obtained by or
disclosed to the commissioner or any other person in the course of an examination or
investigation made pursuant to Sections 1215.4 and 1215.4, 1215.5, and 1215.7, and
all information reported pursuant to Section 1215.4, Sections 1215.4 and 1215.7, shall
be kept confidential, shall not be subject to disclosure by the commissioner pursuant
to the California Public Records Act (Chapter 3.5 (commencing with Section 6250)
of Division 7 of Title 1 of the Government Code), is not subject to subpoena, and shall
not be subject to subpoena, discovery from the commissioner or admissible into
evidence in any private civil action if obtained from the commissioner in any manner.
This information shall not be made public by the commissioner or any other person
except to insurance departments of other states without the prior written consent of the
insurer company to which it pertains, unless the commissioner, after giving the
insurer and its affiliates who would be affected thereby notice and opportunity to be
heard, determines that the interests of policyholders, shareholders, or the public will
be served by the publication thereof, in which event he or she may publish all or any
part thereof in a manner as he or she may deem appropriate.

(b) In order to assist in the performance of the commissioner’s duties, the
commissioner:

(1) May, upon request, be required to share documents, materials, or other
information, including the confidential and privileged documents, materials, or
information subject to subdivision (a), with other state, federal, and international
regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state,
federal, and international law enforcement authorities, including members of any
supervisory college described in Section 1215.7; provided that the recipient agrees in
writing to maintain the confidentiality and privileged status of the documents, materials,
or other information, and has verified in writing the legal authority to maintain
confidentiality.

(2) Notwithstanding paragraph (1), the commissioner may only share confidential
and privileged documents, materials, or information reported pursuant to subdivision
(m) of Section 1215.4 with commissioners of states having statutes or regulations
substantially similar to subdivision (a) and who have agreed in writing not to disclose
the information.

(3) May receive documents, materials, or information, including otherwise
confidential and privileged documents, materials, or information, from the NAIC and
its affiliates and subsidiaries and from regulatory and law enforcement officials of
other foreign or domestic jurisdictions, and shall maintain as confidential or privileged
any documents, materials, or information received with notice or the understanding
General Assembly
February Session, 2014

Amendment
LCO No. 4360

*SB0019604360SD0*

Offered by:
SEN. CRISCO, 17th Dist.
REP. MEGNA, 97th Dist.

To: Senate Bill No. 196

File No. 318
Cal. No. 234

"AN ACT CONCERNING GROUP-WIDE SUPERVISION FOR INTERNATIONALLY ACTIVE INSURANCE GROUPS."

Strike everything after the enacting clause and substitute the following in lieu thereof:

"Section 1. (NEW) (Effective October 1, 2014) (a) As used in this section: (1) "Group-wide supervisor" means the chief insurance regulatory official (A) authorized by such official's jurisdiction to conduct and coordinate group-wide supervisory activities, and (B) who has been determined or acknowledged to be the group-wide supervisor of an internationally active insurance group pursuant to subdivisions (2) and (3) of subsection (b) of this section; and (2) "internationally active insurance group" means any insurance holding company system that (A) includes an insurance company registered pursuant to section 38a-135 of the general statutes, and (B) meets the following criteria: (i) Premiums are written in at least three countries; (ii) the percentage of gross premiums written without the United States is at least ten per cent of the insurance holding company
(b) (1) The Insurance Commissioner may act as a group-wide supervisor for any internationally active insurance group in accordance with the provisions of this section.

(2) (A) The commissioner may determine, in cooperation with and subject to the acknowledgment of the chief insurance regulatory officials of the other jurisdictions where members of the internationally active insurance group are domiciled, that the commissioner is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance business operations in this state or has subsidiaries that conduct substantial insurance business operations in this state.

(B) The commissioner may acknowledge that the chief insurance regulatory official of another jurisdiction is an appropriate group-wide supervisor for an internationally active insurance group that (i) does not conduct substantial insurance business operations in the United States, (ii) conducts substantial insurance business operations in the United States but not in this state, or (iii) conducts substantial insurance business operations in the United States and in this state but the commissioner has determined, pursuant to the factors set forth in subdivision (3) of this subsection that the chief insurance regulatory official of another jurisdiction is the appropriate group-wide supervisor.

(3) The commissioner shall consider the following relevant factors and the relative importance of each in making a determination or acknowledgment under subdivision (2) of this subsection:

(A) The location of the home office of the internationally active insurance group or the place of domicile of the ultimate controlling
person of the internationally active insurance group;

(B) The locations of executive offices of the internationally active insurance group;

(C) The locations of origin of the insurance business of the internationally active insurance group;

(D) The locations of the assets and liabilities of the internationally active insurance group;

(E) The locations of the business operations and activities of the internationally active insurance group; and

(F) Whether (i) the chief insurance regulatory official of another jurisdiction is acting or seeking to act as the group-wide supervisor under a regulatory system the commissioner determines to be substantially equivalent to that provided under the laws of this state or is otherwise sufficient in terms of group-wide supervision, enterprise risk analysis and cooperation with other chief insurance regulatory officials, and (ii) such chief insurance regulatory official acting or seeking to act as the group-wide supervisor provides the Insurance Department with reasonably reciprocal recognition and cooperation.

(c) (1) The commissioner may collect from any insurance company registered pursuant to section 38a-135 of the general statutes any information necessary for the department to determine whether the commissioner may act as the group-wide supervisor of an internationally active insurance group of which such company is a member or to acknowledge that another chief insurance regulatory official of another jurisdiction should act as the group-wide supervisor of such insurance group.

(2) (A) Prior to issuing any determination or acknowledgment under this section, the commissioner shall notify the member insurance company registered pursuant to section 38a-135 of the general statutes and the ultimate controlling person, of an
internationally active insurance group, and in the case of a
determination under subparagraph (A) of subdivision (2) of subsection
(b) of this section, the chief insurance regulatory officials of other
jurisdictions who participated in such determination, of such pending
determination or acknowledgment. The commissioner shall provide
the internationally active insurance group at least thirty calendar days
to submit any additional information pertinent to such determination
or acknowledgment that is requested by the commissioner or that such
insurance group chooses to submit.

(B) (i) Each notice of a pending determination of the commissioner
as the group-wide supervisor of such internationally active insurance
group shall include a listing of all the chief insurance regulatory
officials of other jurisdictions who participated in such determination
and whether each such regulatory official acknowledges that the
commissioner may act as the group-wide supervisor for such
internationally active insurance group.

(ii) If the internationally active insurance group or a chief insurance
regulatory official of another jurisdiction who participated in such
determination disagrees with such pending determination of the
commissioner as the group-wide supervisor of such internationally
active insurance group, such group or regulatory official may submit
an objection to the commissioner not later than thirty calendar days
after receipt of the notice of such pending determination. The
commissioner shall convene, with not less than twenty calendar days'
otice to the internationally active insurance group or regulatory
official, an investigatory hearing on such objection. Any of the parties
may submit additional documentation, information or testimony
related to such objection prior to such hearing and the provisions of
section 38a-137 of the general statutes, as amended by this act, shall
apply to any such documentation, information and testimony. The
commissioner shall conduct such hearing as a nonadversarial
confidential investigatory proceeding. If a chief insurance regulatory
official of another jurisdiction who participated in such pending
determination submitted an objection, the commissioner shall conduct
such hearing jointly with such regulatory official.

(iii) If, after such hearing, there is still disagreement as to the
determination of the commissioner as the group-wide supervisor of
such internationally active insurance group, the commissioner shall
serve as the group-wide supervisor until the matter is resolved in a
court of competent jurisdiction, if necessary.

(C) The commissioner shall notify the member insurance company
registered pursuant to section 38a-135 of the general statutes and the
ultimate controlling person, of an internationally active insurance
group, of the final determination or acknowledgment. The
commissioner shall post on the Insurance Department’s Internet web
site a current list of internationally active insurance groups that the
commissioner has determined, and the chief insurance regulatory
officials of other jurisdictions have acknowledged, are subject to
group-wide supervision by the commissioner.

(d) The commissioner may conduct and coordinate the following
activities for an internationally active insurance group for which the
commissioner is determined to be the group-wide supervisor:

(1) Assess, pursuant to section 38a-135 of the general statutes, the
enterprise risks within the internationally active insurance group to
ensure that material financial conditions of and liquidity risks to the
members of such insurance group that are engaged in the business of
insurance are identified by management and that reasonable and
effective mitigation measures are in place;

(2) Request from insurance regulatory officials of the jurisdictions
where any member of the internationally active insurance group is
domiciled information necessary and appropriate to assess enterprise
risk, including, but not limited to, information about governance, risk
assessment and management, capital adequacy and material
intercompany transactions;
(3) Coordinate with insurance regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled to compel the development and implementation of reasonable measures designed to ensure the internationally active insurance group is able to timely recognize and mitigate material enterprise risks to the members of such insurance group that are engaged in the business of insurance;

(4) Communicate with insurance regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled and share relevant information, subject to the confidentiality provisions of section 38a-137 of the general statutes, as amended by this act, through a supervisory college, as set forth in subsection (n) of section 38a-135 of the general statutes;

(5) Designate the member insurance company within the internationally active insurance group that shall serve as the commissioner's contact regarding the responsibilities of the internationally active insurance group under the provisions of this section;

(6) Enter into agreements with or obtain documentation from any member insurance company registered pursuant to section 38a-135 of the general statutes, any other member of the internationally active insurance group and any chief insurance regulatory official of another jurisdiction, to establish or clarify the commissioner's role as group-wide supervisor and that may include provisions for resolving disputes with other relevant supervisory authorities. No such agreement or documentation shall serve as evidence that an insurance company or person within an insurance company holding system that is not incorporated in this state is doing business in this state or is otherwise subject to the jurisdiction of this state; and

(7) Other activities necessary to effectuate the group-wide supervisory purposes of this section and sections 38a-129 to 38a-140, inclusive, of the general statutes, as amended by this act, and within
the authority granted in those sections.

(e) If the commissioner acknowledges that a regulatory official of a jurisdiction not accredited by NAIC is the group-wide supervisor of an internationally active insurance group, the commissioner shall reasonably cooperate through a supervisory college or otherwise with group supervision undertaken by such group-wide supervisor, provided such cooperation is in compliance with the laws of this state and such group-wide supervisor recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other internationally active insurance groups, where applicable. The commissioner may refuse to cooperate if the commissioner determines such recognition and cooperation are not reasonably reciprocated. The commissioner may enter into agreements with or obtain documentation from any member insurance company registered pursuant to section 38a-135 of the general statutes, any affiliate of such insurance company and any regulatory official of another jurisdiction serving as the group-wide supervisor of an internationally active insurance group, to establish or clarify such official's role as group-wide supervisor.

(f) The commissioner may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to carry out the provisions of this section.

(g) Each insurance company registered pursuant to section 38a-135 of the general statutes and subject to this section shall be liable for and shall pay its share of the reasonable expenses of the commissioner's administration of this section, including the engagement of the services of attorneys, actuaries and other professionals and all reasonable travel expenses.

Sec. 2. Subsection (a) of section 38a-137 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2014):
(3) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;

(4) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and

(5) Establishing a crisis management plan.

(b) Expenses. Each registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the Commissioner’s participation in a supervisory college in accordance with subsection (c) below, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the Commissioner may establish a regular assessment to the insurer for the payment of these expenses.

(c) Supervisory College. In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers in accordance with § 5006 of this title, the Commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other State, federal and international regulatory agencies. The Commissioner may enter into agreements in accordance with § 5009(c) of this title providing the basis for cooperation between the Commissioner and the other regulatory agencies, and the activities of the supervisory college. Nothing in this section shall delegate to the supervisory college the authority of the Commissioner to regulate or supervise the insurer or its affiliates within its jurisdiction.


(a) The Commissioner is authorized to act as the group-wide supervisor for any international insurance group where the international insurance group’s ultimate controlling person is domiciled in Delaware. However, the Commissioner may otherwise acknowledge another jurisdiction as the group-wide supervisor where the international insurance group:

(1) Does not have substantial insurance operations in the United States.

(2) Has substantial insurance operations in the United States, but not in Delaware.

(3) Has substantial insurance operations in the United States and Delaware, but the Commissioner has determined pursuant to the factors set forth in subsections (b)(1), (2), (3), (4), (5), (6) and (7) and (f) that the other jurisdiction is the appropriate group supervisor.

(b) In cooperation with other supervisors, the Commissioner may determine that the Commissioner is the appropriate group-wide supervisor for an international insurance group with substantial operations concentrated in Delaware or in insurance operations conducted by subsidiary insurance companies domiciled in Delaware, where the ultimate controlling person is domiciled outside Delaware, or the Commissioner may acknowledge that another chief insurance regulatory official is the appropriate group-wide supervisor for the international insurance group. The Commissioner shall consider the following

factors and the relative scale of each when making a determination or acknowledge under this subsection:

(1) The location where the international insurance group is based or the place of domicile of the ultimate controlling person of the international insurance group.

(2) The locations of the international insurance group’s executive offices.

(3) The locations of origin of the insurance business of the international insurance group.

(4) The locations of the assets and liabilities of the international insurance group.

(5) The locations of the business operations and activities of the international insurance group.

(6) Whether another chief insurance regulatory official is acting or seeking to act as the lead group-wide supervisor under a regulatory system that the department determines to be:

   (i) substantially similar to that provided under the laws of this State; or

   (ii) otherwise sufficient in terms of provision of group-wide supervision, enterprise risk analysis and cooperation with other chief regulatory officials.

(7) Whether a chief insurance regulatory official acting or seeking to act as the lead group-wide supervisor provides the department with reasonably reciprocal recognition and cooperation.

(c) Pursuant to § 5006 of this title, the Commissioner is authorized to collect from any insurer registered pursuant to § 5004 of this title all information necessary to determine whether the Commissioner may act as the group-wide supervisor or if the Commissioner may acknowledge another insurance regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an international insurance group is subject to group-wide supervision by the Commissioner, the Commissioner shall notify the insurer registered pursuant to § 5004 and the ultimate controlling person within the international insurance group. The international insurance group shall have not less than thirty (30) days to provide the Commissioner with additional information pertinent to the pending determination. The Commissioner shall publish and on its Internet website the identity of international insurance groups that the Commissioner has determined are subject to the Commissioner’s group-wide supervision.

(d) If the Commissioner is the group-wide supervisor for an international insurance group, the Commissioner is authorized to engage in conducting and coordinating and of the following group-wide supervision activities:

(1) Assess the enterprise risks within the international insurance group, pursuant to § 5006, to ensure that:

   (i) The material financial condition and liquidity risks to the members of the international
insurance group which are engaged in the business of insurance are identified by management.

(ii) __ Reasonable and effective mitigation measures are in place.

(2) __ Request, from any member of an international insurance group subject to the Commissioner's supervision, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the international insurance group regarding:

(i) Governance, risk assessment and management.

(ii) __ Capital adequacy.

(iii) __ Material intercompany transactions.

(3) __ Compel development and implementation of reasonable measures designed to assure that the international insurance group is able to timely recognize and mitigate material risks to members that are engaged in the business of insurance.

(4) __ Communicate with other insurance regulatory officials for members within the international insurance group and share relevant information subject to the confidentiality provisions of § 5009, through supervisory colleges as set forth in § 5007, or otherwise.

(5) __ Enter into agreements with or obtain documentation from any insurer registered under § 5004, any member of the international insurance group and any other chief insurance regulatory officials for members, providing the basis for or otherwise clarifying the Commissioner's role as group supervisor, including provisions for resolving disputes with other relevant supervisory authorities. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not incorporated in this State is doing business in this State or is otherwise subject to jurisdiction in this State.

(6) __ Other group-wide supervisory activities as considered appropriate by the Commissioner.

(e) __ If the Commissioner acknowledges that a regulatory official from a jurisdiction which is not accredited by the NAIC is the group-wide supervisor, the Commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group supervision undertaken by the group-wide supervisor, provided that:

(1) __ The Commissioner's cooperation is in compliance with the laws of this State.

(2) __ The regulator also recognizes and cooperates with the Commissioner's activities as a group-wide supervisor for other international insurance groups where applicable. Where such recognition and cooperation is not reasonably reciprocal, the Commissioner is authorized to refuse recognition and cooperation.
(f) The Commissioner is authorized to enter into agreements with or obtain documentation from any insurer registered under § 5004, any affiliate of the insurer and other regulatory officials for members of the insurance group, which provide the basis for or otherwise clarify a regulatory official's role as group supervisor.

(g) The Commissioner may promulgate regulations necessary for the administration of this section. In determining whether a regulation should be promulgated, the Commissioner shall give due consideration to model laws, model regulations, and definitions or guidelines pertaining to group-wide supervision, if any, promulgated by the NAIC or other recognized insurance regulatory bodies or associations.

(h) A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the Commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries and any other professionals and all reasonable travel expenses.

(i) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Group-wide supervisor." The chief insurance regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is from the jurisdiction determined or acknowledged by the Commissioner under subsection (b) to have sufficient significant contacts with the international insurance group.

"International insurance group." An insurance group operating internationally that includes an insurer registered under § 5004.


All information, documents and copies thereof obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to § 5006 of this title and all information reported pursuant to §§ 5004 and 5005 of this title, shall be given confidential treatment; shall not be subject to subpoena and shall not be made public by the Commissioner, the National Association of Insurance Commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event the Commissioner may publish all or any part thereof in such manner as the Commissioner may deem appropriate.

(a) Documents, materials or other information in the possession or control of the Department that are obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to § 5006 and all information reported pursuant to §§ 5004 and 5005 shall be confidential by law; shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents,
The 2014 Florida Statutes

Title XXXVII

INSURANCE

STOCK AND MUTUAL INSURERS; HOLDING COMPANIES

Chapter 628

GROUPWIDE SUPERVISION FOR INTERNATIONAL INSURANCE GROUPS

628.804 Groupwide supervision for international insurance groups.—

(1) As used in this section:

(a) "Groupwide supervisor" means the chief insurance regulatory official for the jurisdiction who is determined by the office to have significant contacts with the international insurance group sufficient to conduct and coordinate groupwide supervision activities.

(b) "International insurance group" means an insurance group operating internationally which includes an insurer.

(2) The office may act as the groupwide supervisor for an international insurance group in which the ultimate controlling person of the group is domiciled in this state.

(3)(a) If the ultimate controlling person is domiciled outside this state, the office, in cooperation with other groupwide supervisors, may:

1. Determine that the office is the appropriate groupwide supervisor for an international insurance group with substantial operations concentrated in this state or in insurance operations conducted by subsidiary insurance companies domiciled in this state; or

2. Acknowledge that another chief insurance regulatory official is the appropriate groupwide supervisor for the international insurance group.

(b) Before issuing a determination, the office must notify the insurer and the ultimate controlling person within the international insurance group and provide the international insurance group with at least 30 days to submit information pertinent to the pending determination.

(4) The commission may adopt rules to administer this section, including rules establishing the criteria for making a determination under paragraph (3)(a), such as the extent of insurance operations in this state and nation; the location of the executive offices, assets and liabilities, and business operations of the international insurance group; the domicile of the ultimate controlling person of the international insurance group; and the similarity of the regulatory systems of other jurisdictions acting or seeking to act as lead groupwide supervisor.

obliged to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. Such a person shall be entitled to the same fees and mileage, if claimed, as a witness in district court, which fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, shall be itemized and charged against, and be paid by, the company being examined.

2. Use of consultants. The commissioner may retain at the registered insurer’s expense such attorneys, actuaries, accountants and other experts not otherwise a part of the commissioner’s staff as shall be reasonably necessary to assist in the conduct of the examination under subsection 1, 2, or 3 of this section. Any persons so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

3. Expenses. Each registered insurer producing for examination records, books and papers pursuant to subsection 1, 2, or 3 of this section shall be liable for and shall pay the expense of such examination in accordance with section 507.7.

Sec. 19. NEW SECTION. 521A.6A Supervisory colleges.

1. Power of commissioner. With respect to any insurer registered under section 521A.4 and in accordance with subsection 3 of this section, the commissioner shall have the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this chapter. The powers of the commissioner with respect to supervisory colleges include but are not limited to the following:

a. Initiating the establishment of a supervisory college.

b. Clarifying the membership and participation of other supervisors in the supervisory college.

c. Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor.

d. Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing.

e. Establishing a crisis management plan.

2. Selection of group-wide supervisor. In the event a group-wide supervisor is established for a supervisory college as described in subsection 1, the commissioner is authorized,
but not required, to act as the group-wide supervisor. In order to determine whether the commissioner or another chief insurance regulatory official is the appropriate group-wide supervisor, the commissioner shall, in cooperation with other supervisors, consider the following factors and the relative scale of each:

a. The extent to which the insurance holding company system's insurance operations are domiciled in Iowa.

b. The location where the insurance holding company system is based or the place of domicile of the insurance holding company system's ultimate controlling person.

c. The locations of the insurance holding company system's executive offices.

d. The locations of origin of the insurance business of the insurance holding company system.

e. The locations of the assets and liabilities of the insurance holding company system.

f. The locations of the business operations and activities of the insurance holding company system.

g. Whether another chief insurance regulatory official is acting or seeking to act as the lead group-wide supervisor under a regulatory system that the commissioner determines to be either of the following:

(1) Substantially similar to that provided under the laws of the state of Iowa.

(2) Otherwise sufficient in terms of provision of group-wide supervision, enterprise risk analysis, and cooperation with other chief insurance regulatory officials.

h. Whether a chief insurance regulatory official acting or seeking to act as the lead group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

3. Commissioner as group-wide supervisor. If the commissioner is the group-wide supervisor as described in subsection 2, the commissioner is authorized to engage in conducting and coordinating any of the following group-wide supervision activities:

a. Assessing the enterprise risks within the international insurance group in accordance with the "own risk and solvency assessments" requirements of chapter 522.

b. Requesting from any member of an international insurance group subject to the commissioner's supervision information necessary and appropriate to assess enterprise risk in
accordance with chapter 522.

c. Communicating with other insurance regulatory officials regarding members within the international insurance group and sharing relevant information, subject to the confidentiality provisions of section 521A.7, through supervisory colleges as set forth in this section.

d. Other group-wide supervisory activities as considered appropriate by the commissioner and as defined by the commissioner by rule.

4. Expenses — assessment. Each registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner’s participation in a supervisory college in accordance with subsection 5, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

5. Supervisory college. In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes, and as part of the examination of individual insurers in accordance with section 521A.6, the commissioner may participate in a supervisory college with other regulators charged with supervision of an insurer or its affiliates, including other state, federal, and international regulatory agencies. The commissioner may enter into agreements in accordance with section 521A.7, subsection 3, providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. Nothing in this section shall delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within the commissioner’s jurisdiction.

Sec. 20. Section 521A.7, Code 2014, is amended to read as follows:

521A.7 Confidential treatment.

1. All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 521A.6 or 521A.6A, and all information reported pursuant to sections 521A.4 and 521A.5, shall be given
order to determine compliance by the insurer with P.L. , c. (C. ) (pending before the Legislature as this bill). The powers of the commissioner with respect to supervisory colleges include, but are not limited to, the following:

1. Initiating the establishment of a supervisory college;
2. Clarifying the membership and participation of other supervisors in the supervisory college;
3. Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;
4. Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and
5. Establishing a crisis management plan.

b. Expenses. Each registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with subsection c. of this section, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

c. Supervisory college. In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers in accordance with section 5 of P.L.1970, c.22 (C.17:27A-5), the commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal and international regulatory agencies. The commissioner may enter into agreements in accordance with subsection c. of section 6 of P.L.1970, c.22, (C.17:27A-6) providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. Nothing in this section shall delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within its jurisdiction.

8. (New section) Group-wide supervision for international insurance groups

a. As used in this section, the following terms shall have the respective meanings hereinafter set forth, unless the context clearly indicates otherwise:

"Group-wide supervisor" means the chief insurance regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is from the jurisdiction determined
or acknowledged by the commissioner under subsection c. of this section to have sufficient significant contacts with the international insurance group.

“International insurance group” means an insurance group operating internationally that includes an insurer registered under section 3 of P.L.1970, c.22 (C.17:27A-3).

b. The commissioner is authorized to act as the group-wide supervisor for any international insurance group if the international insurance group's ultimate controlling person is domiciled in this State. The commissioner may otherwise acknowledge another jurisdiction as the group-wide supervisor whenever the international insurance group:
   (1) Does not have substantial insurance operations in the United States;
   (2) Has substantial insurance operations in the United States, but not in this State; or
   (3) Has substantial insurance operations in the United States and this State, but the department has determined pursuant to the factors set forth in subsections c. and f. of this section that the other jurisdiction is the appropriate group supervisor.

c. In cooperation with other supervisors, the commissioner may determine that the commissioner is the appropriate group-wide supervisor for an international insurance group with substantial operations concentrated in this State or in insurance operations conducted by subsidiary insurance companies domiciled in this State, where the ultimate controlling person is domiciled outside of this State, or the commissioner may acknowledge that another chief insurance regulatory official is the appropriate group-wide supervisor for the international insurance group. The commissioner shall consider the following factors and the relative scale of each when making a determination or acknowledgment under this subsection:
   (1) The location where the international insurance group is based or the place of domicile of the ultimate controlling person of the international insurance group.
   (2) The locations of the international insurance group's executive offices.
   (3) The locations of origin of the insurance business of the international insurance group.
   (4) The locations of the assets and liabilities of the international insurance group.
   (5) The locations of the business operations and activities of the international insurance group.
   (6) Whether another chief insurance regulatory official is acting or seeking to act as the lead group-wide supervisor under a regulatory system that the commissioner determines to be:
      (a) substantially similar to that provided under the insurance laws of this State; or
(b) otherwise sufficient in terms of provision of group-wide supervision, enterprise risk analysis and cooperation with other chief regulatory officials.

(7) Whether a chief insurance regulatory official acting or seeking to act as the lead group-wide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation.

d. Pursuant to section 5 of P.L.1970, c.22 (C.17:27A-5), the commissioner is authorized to collect from any insurer registered pursuant to section 3 of P.L.1970, c.22 (C.17:27A-3) all information necessary to determine whether the commissioner may act as the group-wide supervisor or if the commissioner may acknowledge another insurance regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an international insurance group is subject to group-wide supervision by the commissioner, the commissioner shall notify the insurer registered pursuant to section 3 of P.L.1970, c.22 (C.17:27A-3) and the ultimate controlling person within the international insurance group. The international insurance group shall have not less than 30 days to provide the commissioner with additional information pertinent to the pending determination. The commissioner shall publish on the Department of Banking and Insurance website the identity of international insurance groups that the commissioner has determined are subject to its group-wide supervision.

e. If the commissioner is the group-wide supervisor for an international insurance group, the commissioner is authorized to engage in conducting and coordinating any of the following group-wide supervision activities:

(1) Assess the enterprise risks within the international insurance group, pursuant to section 5 of P.L.1970, c.22 (C.17:27A-5), to ensure that:

(a) The material financial condition and liquidity risks to the members of the international insurance group which are engaged in the business of insurance are identified by management.

(b) Reasonable and effective mitigation measures are in place.

(2) Request, from any member of an international insurance group subject to the commissioner's supervision, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the international insurance group regarding:

(a) Governance, risk assessment and management.

(b) Capital adequacy.

(c) Material intercompany transactions.

(3) Compel development and implementation of reasonable measures designed to assure that the international insurance group is able to timely recognize and mitigate material risks to members that are engaged in the business of insurance.
Communicate with other insurance regulatory officials for members within the international insurance group and share relevant information subject to the confidentiality provisions of section 6 of P.L. 1970, c. 22 (C.17:27A-6), through supervisory colleges as set forth in section 7 of P.L. c. (C.) (pending before the Legislature as this bill) or otherwise.

Enter into agreements with or obtain documentation from any insurer registered under section 3 of P.L. 1970, c. 22 (C.17:27A-3), any member of the international insurance group and any other chief insurance regulatory officials for members, providing the basis for or otherwise clarifying the commissioner's role as group supervisor, including provisions for resolving disputes with other relevant supervisory authorities. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not incorporated in this State is doing business in this State or is otherwise subject to jurisdiction in this State.

Other group-wide supervisory activities as considered appropriate by the commissioner.

If the commissioner acknowledges that a regulatory official from a jurisdiction which is not accredited by the National Association of Insurance Commissioners (NAIC) is the group-wide supervisor, the commissioner is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group supervision undertaken by the group-wide supervisor, provided that:

1. The commissioner's cooperation is in compliance with the insurance laws of this State.

2. The regulator also recognizes and cooperates with the commissioner's activities as a group-wide supervisor for other international insurance groups where applicable. Whenever such recognition and cooperation is not reasonably reciprocal, the commissioner is authorized to refuse recognition and cooperation.

The commissioner is authorized to enter into agreements with or obtain documentation from any insurer registered under section 3 of P.L. 1970, c. 22 (C.17:27A-3), any affiliate of the insurer and other regulatory officials for members of the insurance group, which provide the basis for or otherwise clarify a regulatory official's role as group supervisor.

The commissioner may promulgate regulations pursuant to the Administrative Procedure Act, P.L. 1968, c. 430 (C.52:14B-1 et seq.) necessary for the administration of this section. In determining whether to promulgate a regulation, the commissioner shall give appropriate consideration to model laws, model regulations and definitions or guidelines pertaining to group-wide supervision, if any, promulgated by the NAIC or other recognized insurance regulatory bodies or associations.

A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the commissioner's
participation in the administration of this section, including the
government of attorneys, actuaries and any other professionals and
all reasonable travel expenses.

9. Section 6 of P.L. 1970, c.22 (C.17:27A-6) is amended to read
as follows:

6. Confidential treatment. All information, documents and
copies thereof obtained by or disclosed to the commissioner or any
other person in the course of an examination or investigation made
pursuant to section 5 of P.L. 1970, c.22 (C.17:27A-5) and all
information reported pursuant to section 3 and section 4 of
P.L. 1970, c.22 (C.17:27A-3 and 17:27A-4) shall be given
confidential treatment and shall not be subject to subpoena and shall
not be made public by the commissioner or any other person, except
to insurance departments of other states, without the prior written
consent of the insurer to which it pertains unless the commissioner,
after giving the insurer, and its affiliates who would be affected
thereby, notice and opportunity to be heard, determines that the
interests of policyholders, shareholders or the public will be served
by the publication thereof, in which event he may publish all or any
part thereof in such manner as he may deem appropriate.

a. Documents, materials or other information in the possession
or control of the department that are obtained by or disclosed to the
commissioner or any other person in the course of an examination
or investigation made pursuant to section 5 of P.L. 1970, c.22
(C.17:27A-5) and all information reported pursuant to paragraphs
(12) and (13) of subsection b. of section 2 of P.L. 1970, c.22 (C.
and 17:27A-4) shall be confidential by law and privileged, shall not
be subject to P.L. 1953, c.73 (C.47:1A-1 et seq.), shall not be subject
to subpoena, and shall not be subject to discovery or admissible in
evidence in any private civil action. The commissioner is authorized
to use the documents, materials or other information in the
furtherance of any regulatory or legal action brought as a part of the
commissioner's official duties. The commissioner shall not
otherwise make the documents, materials or other information
public without the prior written consent of the insurer to which it
pertains unless the commissioner, after giving the insurer and its
affiliates who would be affected thereby notice and opportunity to
be heard, determines that the interest of policyholders, shareholders
or the public will be served by the publication thereof, in which
event the commissioner may publish all or any part in such manner
as may be deemed appropriate.

b. Neither the commissioner nor any person who received
documents, materials or other information while acting under the
authority of the commissioner or with whom such documents,
materi als or other information are shared pursuant to P.L. 1970, c.22
(C.17:27A-1 et seq.) shall be permitted or required to testify in any
Section 7. The act is amended by adding sections to read:

Section 1406.1. Supervisory Colleges.--(a) A supervisory college may be convened as a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates.

(b) The department may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including international, Federal and other state regulatory agencies, for any of the following reasons:

(1) To assess the enterprise risk, business strategy, legal, regulatory and financial position, risk exposure, risk management and governance processes of the insurer or its affiliates.

(2) As part of the examination of individual insurers in accordance with section 1406.

(c) The department shall have the power to participate in a supervisory college for a domestic insurer, registered under section 1404, that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this article.

(d) The powers of the department regarding supervisory colleges include, but are not limited to, the following:

(1) Initiating the establishment of a supervisory college.

(2) Clarifying the membership and participation of other supervisors in the supervisory college.

(3) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group supervisor.

(4) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities and processes for information sharing.

(5) Establishing a crisis management plan.

(e) The department may enter into agreements in accordance with sections 1406.2, 1407 and Article II-A of the act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of 1921," to provide the basis for sharing information between the department and other regulatory agencies. The department may also enter into agreements to share information and further coordinate the activities of the supervisory college pursuant to this section. Nothing in this section shall delegate to the supervisory college the authority of the department to regulate or supervise the insurer or its affiliates within its jurisdiction.

(f) A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the department's participation in a supervisory college, including reasonable travel expenses.

Section 1406.2. Group-wide Supervision for International Insurance Groups.--(a) (Reserved).

(b) The department is authorized to act as the group-wide supervisor for any international insurance group where the international insurance group's ultimate controlling person is domiciled in Pennsylvania. However, the department may otherwise acknowledge another jurisdiction as the group-wide supervisor where the international insurance group:

(1) Does not have substantial insurance operations in the United States.

(2) Has substantial insurance operations in the United States, but not in Pennsylvania.

(3) Has substantial insurance operations in the United States and Pennsylvania, but the department has determined pursuant to the factors set forth in subsections (c)(1), (2), (3), (4), (5), (6) and (7) and (f) that the other jurisdiction is the appropriate group supervisor.

(c) In cooperation with other supervisors, the department may determine that it is the appropriate group-wide supervisor for an international insurance group with substantial operations.
concentrated in Pennsylvania or in insurance operations conducted by subsidiary insurance companies domiciled in Pennsylvania, where the ultimate controlling person is domiciled outside Pennsylvania, or it may acknowledge that another chief insurance regulatory official is the appropriate group-wide supervisor for the international insurance group. The department shall consider the following factors and the relative scale of each when making a determination or acknowledgment under this subsection:

(1) The location where the international insurance group is based or the place of domicile of the ultimate controlling person of the international insurance group.

(2) The locations of the international insurance group's executive offices.

(3) The locations of origin of the insurance business of the international insurance group.

(4) The locations of the assets and liabilities of the international insurance group.

(5) The locations of the business operations and activities of the international insurance group.

(6) Whether another chief insurance regulatory official is acting or seeking to act as the lead group-wide supervisor under a regulatory system that the department determines to be:

(i) substantially similar to that provided under the laws of this Commonwealth; or

(ii) otherwise sufficient in terms of provision of group-wide supervision, enterprise risk analysis and cooperation with other chief regulatory officials.

(7) Whether a chief insurance regulatory official acting or seeking to act as the lead group-wide supervisor provides the department with reasonably reciprocal recognition and cooperation.

(d) Pursuant to section 1406, the department is authorized to collect from any insurer registered pursuant to section 1404 all information necessary to determine whether the department may act as the group-wide supervisor or if the department may acknowledge another insurance regulatory official to act as the group-wide supervisor. Prior to issuing a determination that an international insurance group is subject to group-wide supervision by the department, the department shall notify the insurer registered pursuant to section 1404 and the ultimate controlling person within the international insurance group. The international insurance group shall have not less than thirty (30) days to provide the department with additional information pertinent to the pending determination. The department shall publish in the Pennsylvania Bulletin and on its Internet website the identity of international insurance groups that it has determined are subject to its group-wide supervision.

(e) If the department is the group-wide supervisor for an international insurance group, the department is authorized to engage in conducting and coordinating any of the following group-wide supervision activities:

(1) Assess the enterprise risks within the international insurance group, pursuant to section 1406, to ensure that:

(i) The material financial condition and liquidity risks to the members of the international insurance group which are engaged in the business of insurance are identified by management.

(ii) Reasonable and effective mitigation measures are in place.

(2) Request, from any member of an international insurance group subject to the department's supervision, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the international insurance group regarding:

(i) Governance, risk assessment and management.

(ii) Capital adequacy.

(iii) Material intercompany transactions.
(3) Compel development and implementation of reasonable measures designed to assure that the international insurance group is able to timely recognize and mitigate material risks to members that are engaged in the business of insurance.

(4) Communicate with other insurance regulatory officials for members within the international insurance group and share relevant information subject to the confidentiality provisions of section 1407, through supervisory colleges as set forth in section 1406.1 or otherwise.

(5) Enter into agreements with or obtain documentation from any insurer registered under section 1404, any member of the international insurance group and any other chief insurance regulatory officials for members, providing the basis for or otherwise clarifying the department's role as group supervisor, including provisions for resolving disputes with other relevant supervisory authorities. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not incorporated in this Commonwealth is doing business in this Commonwealth or is otherwise subject to jurisdiction in this Commonwealth.

(6) Other group-wide supervisory activities as considered appropriate by the department.

(f) If the department acknowledges that a regulatory official from a jurisdiction which is not accredited by the NAIC is the group-wide supervisor, the department is authorized to reasonably cooperate, through supervisory colleges or otherwise, with group supervision undertaken by the group-wide supervisor, provided that:

(1) The department's cooperation is in compliance with the laws of this Commonwealth.

(2) The regulator also recognizes and cooperates with the department's activities as a group-wide supervisor for other international insurance groups where applicable. Where such recognition and cooperation is not reasonably reciprocal, the department is authorized to refuse recognition and cooperation.

(g) The department is authorized to enter into agreements with or obtain documentation from any insurer registered under section 1404, any affiliate of the insurer and other regulatory officials for members of the insurance group, which provide the basis for or otherwise clarify a regulatory official's role as group supervisor.

(h) The department may promulgate regulations necessary for the administration of this section. In determining whether a regulation should be promulgated, the department shall give due consideration to model laws, model regulations and definitions or guidelines pertaining to group-wide supervision, if any, promulgated by the NAIC or other recognized insurance regulatory bodies or associations.

(i) A registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the department's participation in the administration of this section, including the engagement of attorneys, actuaries and any other professionals and all reasonable travel expenses.

(j) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Group-wide supervisor." The chief insurance regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is from the jurisdiction determined or acknowledged by the department under subsection (c) to have sufficient significant contacts with the international insurance group.

"International insurance group." An insurance group operating internationally that includes an insurer registered under section 1404.