



National Association of Insurance Commissioners

To: Risk Retention Group (E) Task Force
From: Julie Glaszczak, Senior Accreditation Manager
Date: Updated as of May 31, 2008
Re: Part A Accreditation Standards Summary Memo

Discussion of Part A Standards that do NOT Require Substantially Similar Language

Standard	Type of Requirement	Task Force Consensus
13. Receivership	Receivership scheme	Applicable to captive RRGs
14. Guaranty Funds	N/A as captive RRGs do not participate in guaranty funds	Not applicable to captive RRGs
16. Producer Controlled Insurers	Regulatory framework	Applicable to captive RRGs
17. Managing General Agents	Regulatory framework	Applicable to captive RRGs
18. Reinsurance Intermediaries	Regulatory framework	Applicable to captive RRGs

Note: If a state can provide evidence that none of the entities contemplated in standards 16, 17 or 18, is either present or allowed to operate in the state, it will not need to demonstrate compliance with that standard.

Discussion of Part A Standards that DO Require Substantially Similar Language

The following Part A standards do require language substantially similar to certain model laws and regulations. Therefore, the task force has discussed each of the significant elements in detail and the results of the discussions are included below.

1. Examination Authority

Significant Element	Task Force Consensus or Comments
(a) Authority to examine companies whenever deemed necessary.	Applicable to captive RRGs
(b) Complete access to company's books and records.	Applicable to captive RRGs
(c) Access to records of Affiliated companies, agents and/or MGAs.	Applicable to captive RRGs
(d) Examine under oath officers, employees, and agents.	Applicable to captive RRGs
(e) Examine all domestic insurers no less frequently than every five years.	Applicable to captive RRGs

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(f) Require examiners to observe those guidelines and procedures set forth in the NAIC <i>Financial Condition Examiners Handbook</i> .	Generally applicable to captive RRGs. However, the Task Force recognizes that certain elements of the Examiners Handbook are not applicable to captive RRGs. The state should clearly document any variances from the Examiners Handbook. The Examiners Handbook allows for professional judgment in determining which procedures are applicable. The appropriateness of the examination procedures performed would be assessed in conjunction with the Part B standards. A state may need to perform procedures in addition to those in the Examiners Handbook for RRG-specific or GAAP- specific items (e.g., deferred acquisition costs, reserve discounting, etc.). Additional procedures should be developed by the NAIC particularly due to the significant growth of the number of RRGs and for uniformity purposes.
(g) Authority to retain professionals and specialists, the cost of which shall be borne by the insurer.	Applicable to captive RRGs
(h) Authority to use information discovered during any examination in legal action.	Applicable to captive RRGs
(i) Establish guidelines to ensure reports are timely similar to Section 5 of the Model Exam Law.	Applicable to captive RRGs
(j) Authority for the Commissioner to disclose the content of an examination report to an agency or office with a written confidential agreement.	Applicable to captive RRGs

2. Capital and Surplus Requirement

Significant Element	Task Force Consensus or Comments
(a) Require insurers to maintain minimum capital and surplus.	Applicable to captive RRGs.
(b) Authority to require additional capital and surplus based on the type, volume, and nature of business transacted.	Applicable to captive RRGs.
Risk-Based Capital for Insurers Model Act	
(c) Definitions similar to those in Section 1.	Not currently applicable to captive RRGs. The Task Force has identified the following for inclusion in the Task Force's final report: Many RRGs report on an accounting basis other than SAP. GAAP is often utilized and letters of credit may support surplus amounts. Some of the primary differences between SAP and GAAP include capitalization of deferred policy acquisition costs, admission of certain prepaid assets, discounting of loss reserves, valuation of investments and capitalization of deferred taxes. The Task Force agrees that utilization of a basis of accounting that differs significantly from SAP may produce RBC amounts that differ dramatically had SAP been used. As such, the Task Force recognizes that the current RBC formulas may not be the best tool to utilize for RRGs. Although there are differences in opinion on how this should be done, the Task Force generally agrees that there

	should be some sort of consistent formula to assess the capital levels given the assumed level of risk for RRGs. Consideration of such is beyond the charge of this Task Force. The Task Force recommends that the Financial Condition (E) Committee consider whether consider of such should be referred to the Capital Adequacy Task Force.
(d) Provisions to RBC Reports similar to Section 2.	See significant element (c).
(e) Definitions of Company Action Level Event and processes regarding such similar to Section 3.	See significant element (c).
(f) Definitions of Regulatory Action Level Event and processes regarding such similar to Section 4.	See significant element (c).
(g) Definitions of Authorized Control Level Event and processes regarding such similar to Section 5.	See significant element (c).
(h) Definitions of Mandatory Control Level Event and processes regarding such similar to Section 5.	See significant element (c).
(i) Provisions for Hearings similar to those in Section 7.	See significant element (c).
(j) Confidentiality and Prohibition on Announcement provisions similar to those in Section 8.	See significant element (c).
(k) Supplemental provisions similar to Section 9.	See significant element (c).
(l) Provisions for foreign insurers similar to Section 10.	See significant element (c).
(m) Severability provisions similar to Section 12.	See significant element (c).
(n) Notice provisions similar to Section 13.	See significant element (c).

3. NAIC Accounting Practices and Procedures

Significant Element	Task Force Consensus or Comments
(a) Require NAIC Annual Statement Blank.	<p>Applicable to captive RRGs.</p> <p>The Task Force will make a recommendation to the Financial Condition (E) Committee regarding modifications to the annual and quarterly financial statement blanks so that one may be able to readily identify those companies that utilize an accounting basis that differs from SAP.</p>
(b) Prepared in accordance with NAIC Annual Statement Instructions.	<p>Generally applicable to captive RRGs.</p> <p>However, parts of the Annual Statement Instructions may be not applicable if the accounting basis utilized is something other than SAP. The Financial Condition (E) Committee should consider whether revisions to the Annual Statement Instructions should be made to identify those items that are not applicable to RRGs.</p> <p>The Annual Statement Instructions should also include some sort of indication that if “Risk Retention Group” is included in the name of an insurer, an accounting basis other than SAP may be used.</p>

	<p>The Task Force agreed that Management’s Discussion and Analysis should be filed by an RRG in accordance with the Instructions. Further, RRGs should also follow requirements in the Instructions regarding the actuarial opinion (including prescription of minimum standards for liabilities). The Instructions includes information on the annual audited financial report, but this information is identical to that contemplated in the “CPA Audits” standard.</p> <p>States take differing positions on whether RRGs are authorized to write contractual liability business. Some states are “first-dollar” states so that if an RRG writes contractual liability business, it may be responsible for 100% of the claims arising from that contract. Any actuarial opinion should address all business and potential claims applicable to RRGs, including those under contractual liability business.</p> <p>Included in the recommendation noted in element (a) above will be a request to also develop specific instructions for those items in the annual or quarterly statement blanks that may be different depending on whether an insurer files on a GAAP or a SAP basis. In addition, for the instructions specifically regarding annual audited financial reports, the Task Force will inform the Blanks Working Group that there should be a slight modification noting that the audited report of an RRG may be for an insurer that utilized a basis of accounting other than SAP.</p>
(c) Follow NAIC Accounting Practices & Procedures Manual.	<p>Generally applicable to captive RRGs. However, another form of accounting basis may be prescribed or permitted (such as GAAP or modified GAAP) but a reconciliation to SAP must be included in the notes.</p> <p>The Task Force sent a referral to the Statutory Accounting Principles Working Group related to the issue of accounting basis. Although a formal response was not received, discussions held indicate that deviations from SAP (including usage of GAAP or modified GAAP) are within the parameters of a permitted practice.</p>

4. Corrective Action

Significant Element	Task Force Consensus or Comments
(a) Identify standards to determine whether the continued operation of any licensed insurer might be hazardous to the policyholders or the general public.	Applicable to captive RRGs.
(b) Authority for the Commissioner to issue an order requiring the insurer to take action(s) when a company has been determined hazardous to policy holders or the general public.	Applicable to captive RRGs.
(c) Ability for the insurer to request a hearing to review any order issued, privately with Commissioner, unless a public hearing is requested.	Applicable to captive RRGs.

5. Valuation of Investments

Significant Element	Task Force Consensus or Comments
(a) Require all securities owned by insurers be valued in accordance with NAIC’s SVO.	Applicable to captive RRGs that utilize SAP. If using GAAP or modified GAAP, the state must have authority to determine valuation of securities, which may include the SVO. Regardless of method of accounting used, reconciliation back to SAP must be included in the notes.
(b) Require that other invested assets be valued in accordance with the NAIC Accounting Practices and Procedures Manual.	Applicable to captive RRGs that utilize SAP. If using GAAP or modified GAAP, the state must have authority to determine valuation of securities, which may include the SVO. Regardless of method of accounting used, reconciliation back to SAP must be included in the notes.

6. Holding Company Systems

Significant Element	Task Force Consensus or Comments
(a) Define control as presumed to exist if any person holds with the power to vote or holds proxies representing 10% or more of the voting securities of any other person, which presumption may be rebutted by showing that control does not exist in fact and define similar to Section 1.	<p>The Task Force agrees that there may be instances in which an RRG is part of a holding company system, as defined in the model. Further, the Task Force generally agrees that the requirements of the Holding Company Systems standard should apply to RRGs. However, it should be noted that there is a provision within the Model that allows for exemptions to the model based on disclaimer of affiliation. This allows the commissioner flexibility in applying the requirements of the model.</p> <p>During its discussion of the Part B accreditation standards, the Task Force will address the issue of communication to other states as it relates to items such as exemptions to the model requirements based on disclaimer of affiliation. It should be discussed whether this communication should just indicate that an exemption was granted or also indicate why an exemption was granted.</p>
(b) Insurer’s investments limited to the lesser of 10% of the insurer’s assets or 50% of the insurer’s surplus as regards policyholders except in instances where a greater investment has been approved by the Commissioner?	See significant element (a).
(c) Filing requirements similar to those specified in Section 3A of the model.	See significant element (a).
(d) Statement filed in accordance with c. above required to include items similar to those specified in Section 3B of the model.	See significant element (a).
(e) Approval and hearing provisions similar to those specified in section 3D of the model.	See significant element (a).
(f) Authority to retain, at the acquiring person’s expense, any experts as may be reasonably necessary in reviewing proposed change of control.	See significant element (a).
(g) Jurisdiction and consent to service of process provisions similar to those specified in Section 3G of the model.	See significant element (a).

(h) Require all insurers authorized to do business in the state to register with the department annually, except foreign insurers subject to similar registration requirements in their jurisdiction of domicile.	See significant element (a).
(i) Registration statements required to contain information similar to that required by Sections 4B and C of the model.	See significant element (a).
(j) Transactions within a holding company system subject to the following standards similar to Section 5A(1):	See significant element (a).
- The terms shall be fair and reasonable.	See significant element (a).
- Charges or fees for services performed shall be reasonable.	See significant element (a).
- Expenses incurred and payment received shall be allocated to the insurer and consistently applied.	See significant element (a).
- The books shall accurately disclose the nature and details of the transactions to support the reasonableness of the charges or fees.	See significant element (a).
- The surplus following any distributions shall be reasonable.	See significant element (a).
(k) The following transactions involving a domestic insurer and any person in its holding company system require notification of the department at least 30 days prior to the transaction similar to Section 5A(2):	See significant element (a).
- sales, purchases, exchanges, loans or extensions of credit, guarantees or investments equal to or exceed: a) nonlife – lesser of 3% of admitted assets or 25% of surplus; b) life – 3% of admitted assets; each as of the 31 st of December next preceding.	See significant element (a).
- Loans or extensions of credit provided transactions are equal to or exceed: a) nonlife – lesser of 3% of admitted assets or 25% of surplus; b) life – 3% of admitted assets; each as of the 31 st of December next preceding.	See significant element (a).
- Reinsurance agreements in which the premium or change in liabilities equals or exceeds 5% of the surplus as of the 31 st of December next preceding.	See significant element (a).
- All management agreements, service contracts, and all cost-sharing arrangements.	See significant element (a).
- Any material transactions, which the Commissioner determines may adversely affect the interests of the policyholders.	See significant element (a).
(l) Domestic insurers specifically prohibited from entering into transactions if the purpose of those separate transactions is to avoid a statutory threshold amount and thus avoid the review that would otherwise occur.	See significant element (a).
(m) Department notification required by a domestic insurer at least 30 days prior to paying an extraordinary dividend or making an extraordinary distribution.	See significant element (a).

(n) Extraordinary dividend/distribution defined as cash or other property, whose fair market value together with other dividends made within the preceding 12 months exceeds the lesser of (1) 10% of surplus (2) net gain from operations, or an approved similar alternative by the F Committee.	See significant element (a).
(o) Authority to order any registered insurer to produce such information in the possession of the insurer or its affiliates as are reasonably necessary to ascertain the financial condition or to determine compliance with the holding company act.	See significant element (a).
(p) Provisions for injunctions, prohibitions against voting securities, and sequestration of voting securities similar to Section 9 of the model.	See significant element (a).
(q) Recovery provisions similar to Section 12 of the model.	See significant element (a).
(r) Regulation setting forth rules to carry out the holding company act and for reporting forms similar to those in the NAIC model regulation Sections 10, 11, 13, 14, & 15 for: Form A, B, C, and D.	See significant element (a).
(s) Regulation setting forth rules for disclaimers and terminations similar to Section 18 of the model regulation.	See significant element (a).
(t) Regulation setting forth rules for filing extraordinary dividends and other distributions similar to Section 20 of the model regulation.	See significant element (a).

7. Risk Limitation

Significant Element	Task Force Consensus or Comments
(a) Limit net amount of risk retained for an individual risk to no more than 10% of a property/casualty insurer's capital and surplus.	The specific 10% limitation may not be appropriate for RRGs. However, the state insurance department should have clear authority in statute or regulation to limit the net amount of risk retained for an individual risk.

8. Investment Regulations

Significant Element	Task Force Consensus or Comments
(a) "External" limits for all types of investments.	Applicable to captive RRGs
(b) "Internal" limits for all types of investments.	Applicable to captive RRGs
(c) Authority to require insurers to limit certain investments or discontinue practices if determined that the continuous operation is hazardous.	Applicable to captive RRGs

9. Liabilities and Reserves

Significant Element	Task Force Consensus or Comments
(a) Prescribe minimum standards for establishment of claims liabilities and life, active life, unearned premium, and loss reserves.	Not applicable for those items specific to life/health companies (i.e., life and active life reserves). Other items are applicable to captive RRGs (i.e., unearned premium reserves, claim liabilities and loss reserves) and the Annual Statement Instructions should include detailed information on the minimum provisions for reserves for property/casualty companies.
Standard Valuation Law	Significant elements (b) and (c) are not applicable as the Standard Valuation Law only applies to life/health companies.
(b) Prescribe minimum provisions on actuarial opinion of reserves similar to those in Section 3.	Not applicable.
(c) Prescribe minimum provisions for establishment of reserves similar to those in Section 4.	Not applicable.
Actuarial Opinion Memorandum Regulation	Significant elements (d) through (k) are not applicable as the Actuarial Opinion Memorandum Regulation only applies to life/health companies.
(d) Scope provisions similar to those in Section 3.	Not applicable.
(e) Definitions similar to Section 4.	Not applicable.
(f) General Requirements similar to Section 5.	Not applicable.
(g) Provisions for required opinions similar to Section 6.	Not applicable.
(h) Provisions for statement of actuarial opinion not including an asset adequacy analysis similar to Section 7.	Not applicable.
(i) Provisions for statement of actuarial opinion based on an asset adequacy analysis similar to Section 8.	Not applicable.
(j) Provisions for description of an actuarial memorandum including an asset adequacy analysis similar to Section 9.	Not applicable.
(k) Provisions for additional considerations for analysis similar to Section 10.	Not applicable.

10. Reinsurance Ceded

Significant Element	Task Force Consensus or Comments
Credit for Reinsurance Model Law	
(a) Credit allowed for reinsurance ceded to a licensed insurer.	Applicable to captive RRGs after adding the following sentence: "If the reinsurer is licensed as a risk retention group, then the ceding risk retention group or its members must qualify for membership with the reinsurer."

(b) Credit allowed for reinsurance ceded to an accredited insurer who meets requirements similar to those in Section 1.B. of the model law.	Applicable to captive RRGs.
(c) Credit allowed for reinsurance ceded to an insurer domiciled and licensed in a state which employs substantially similar credit for reinsurance standards, maintains at least \$20,000,000 in capital and surplus, and submits to this states authority to examine its books and records.	Applicable to captive RRGs.
(d) Credit allowed for reinsurance ceded to an insurer who maintains a trust fund in a qualified U.S. institution for the payment of valid claims and reports annual financial information to determine sufficiency of the fund.	Applicable to captive RRGs.
(e) In instances where reinsurance is ceded to insurers maintaining a trust fund, trustees of the trust required to annually report the trust balance, asset listing, and date of termination.	Applicable to captive RRGs.
(f) Credit for reinsurance allowed under c. or d. above only permitted where assuming insurer agrees: 1) in the event of a failure to submit to the jurisdiction of any court of competent jurisdiction; 2) to designate Commissioner or an attorney whom may be served by or on behalf of the ceding company.	Applicable to captive RRGs.
(g) Credit allowed for reinsurance ceded to an insurer not meeting the requirements of a., b., c., or d. above in an amount not exceeding the liabilities and only in the amount of acceptable forms of security.	Applicable to RRGs. In addition, a new significant element should be added, which indicates the following: “Although not required for accreditation, a state’s laws and regulations may allow RRGs licensed as captive insurers to take credit for reinsurance without posting collateral in circumstances not contemplated by the Credit for Reinsurance Model Law and Regulations. For such cases, the Accreditation Interlineations include “Reinsurance Guidelines for Risk Retention Groups Licensed as Captive Insurers” and a state’s laws and regulations must comply with the guidelines in order to be considered substantially similar with this standard. If your state’s laws and regulations do allow credit for reinsurance without collateral as discussed in the Accreditation Interlineations, please include in the citation.”
Life and Health Reinsurance Agreements Model Regulation	
(h) Scope similar to Section 3.	Significant elements (h) through (m) are not applicable as the Life and Health Reinsurance Agreements Model Regulation only applies to life/health companies.
(i) No insurer, for reinsurance ceded establishes any asset or reduces liability due to the terms of the agreement, in substance or effect if any of the conditions in Section 4A exist.	Not applicable.
(j) Agreements entered into after the effective date of this regulation which involve business issued prior to	Not applicable.

the effective date, shall be filed within 30 days from the execution date along with attachments noted in Section 4C(1).	
(k) Any increase in surplus net of federal income tax resulting from arrangements described in Section 4C(1) to be reported as described in Section 4C(2).	Not applicable.
(l) Written agreements with provisions similar to Section 5.	Not applicable.
(m) Insurers required to reduce to zero any reserve established prior to the effective date, which would not be recognized under this regulation.	Not applicable.
Credit for Reinsurance Model Regulation	
(n) Credit for reinsurance allowed for reinsurance ceded by domestic reinsurers to assuming insurers that were licensed in the state as of the last date of the ceding insurers' statutory financial statement.	See significant element 10(a) above regarding allowing credit for reinsurance ceded to a licensed insurer as permitted by the Credit for Reinsurance Model Law.
(o) Credit for reinsurance provisions for accredited reinsurer similar to Section 5.	See significant element 10(b) above regarding allowing credit for reinsurance for accredited reinsurers as permitted by the Credit for Reinsurance Model Law.
(p) Credit for reinsurance provisions for reinsurers licensed and domiciled in other states similar to Section 6.	See significant element 10(c) above regarding allowing credit for reinsurance ceded to an insurer domiciled and licensed in a state which employs substantially similar credit for reinsurance standards as permitted by the Credit for Reinsurance Model Law.
(q) Credit for reinsurance provisions for reinsurers maintaining trust funds similar to Section 7.	See significant element 10(d) above regarding allowing credit for reinsurance ceded to an insurer who maintains a trust fund in a qualified U.S. institution as permitted by the Credit for Reinsurance Model Law.
(r) Credit for reinsurance required by law similar to Section 8.	Applicable to captive RRGs to the extent permitted by 15 USC 3902(a).
(s) Reduction from liability for reinsurance ceded to an unauthorized assuming insurer similar to Section 9.	See significant element 10(g) above regarding credit allowed for reinsurance ceded to an insurer not meeting the four main requirements included in the Credit for Reinsurance Model Law.
(t) Provisions for trust agreements similar to Section 10.	Applicable to captive RRGs.
(u) Provisions for letters of credit similar to Section 11.	Applicable to captive RRGs.
(v) Provisions for unencumbered funds similar to Section 12.	Applicable to captive RRGs.
(w) Provisions for reinsurance contracts similar to Section 13.	Section 13A of the Credit for Reinsurance Model Regulation – Applicable to captive RRGs. Section 13B of the Credit for Reinsurance Model Regulation – See significant element 10(g) above regarding credit allowed for reinsurance ceded to an insurer not meeting the four main requirements included in the Credit for Reinsurance Model Law.

(x) The adoption of Form AR-1 – Certificate of Assuming Insurer.	Applicable to captive RRGs when credit for reinsurance is taken as allowed by sections 5, 6, 7, and 9 of the model regulation. For situations in which credit for reinsurance is taken in situations not contemplated by the model regulation, significant element (g) above would be applicable. The reinsurance guidelines associated with significant element (g) discuss requirements related to submitting to a court of competent jurisdiction.
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11. CPA Audits

Significant Element	Task Force Consensus or Comments
(a) Requires audited financial statement prepared in conformity with SAP prescribed or permitted to be filed on or before June 1 for the preceding year ending Dec. 31.	Applicable to captive RRGs. However the financial statements may be prepared in conformity with GAAP, or some other modification of GAAP. A reconciliation back to SAP would be required in the footnotes. The Task Force sent a referral to the Statutory Accounting Principles Working Group related to the issue of accounting basis. Although a formal response was not received, discussions held indicate that deviations from SAP (including usage of GAAP or modified GAAP) are within the parameters of a permitted practice.
(b) Contents of annual audited financial report similar to Section 5 of the model rule.	Applicable to captive RRGs. However, the exact titles, footnotes, etc. of the various reports may be somewhat modified if GAAP accounting is used.
(c) Partner rotation requirements similar to Section 7C of the model rule.	Applicable to captive RRGs
(d) Allow audited consolidated or combined financial statements in regards to pooling.	Applicable to captive RRGs
(e) Independent CPA required to notify insurer’s board of directors and Commissioner within 5 business days when financial condition is materially misstated or capital/surplus requirements not met.	Applicable to captive RRGs
(f) Require report be filed with the Commissioner in the event “reportable conditions” were noted during the audit.	Applicable to captive RRGs
(g) Require accountant’s letter of qualifications similar to Section 12 of the model rule.	Applicable to captive RRGs
(h) Insurer to require CPA to make available for review and retain all workpapers and communications prepared during audit.	Applicable to captive RRGs

12. Actuarial Opinion

Significant Element	Task Force Consensus or Comments
Require opinion by qualified actuary or specialist.	Applicable to captive RRGs. Current standards for accreditation simply state that an actuarial opinion should be required but they do not discuss the form or content of the opinion.

15. Filings with NAIC

Significant Element	Task Force Consensus or Comments
Require domestic companies to file annual and quarterly statements with the NAIC.	Applicable to captive RRGs
Require such companies to file in an electronic format acceptable to the NAIC.	Applicable to captive RRGs