

To: Group Solvency Issues Working Group

From: Fred Heese, Missouri Department of Insurance

Date: June 11, 2009

RE: Enhancements to the Insurance Holding Company System Regulatory Act

Insurance Holding Company System Regulatory Act Questionnaire

1. *Please provide observations or lessons learned on the use of the existing Insurance Holding Company System Model Regulatory Act and its effectiveness in addressing the issues that can exist within insurer groups, including international solvency issues. If possible, please include examples from recent events, where if improvements to certain areas of the Act were in place, might have allowed possible regulatory reactions to be more efficient or effective.*
2. *Please describe any significant statutory enhancements a state has made regarding holding companies, international solvency topics related to groups, and/or interactions between federal and state regulators that could be viewed as supplementing this Model Act.*
3. *Please describe any recommendations to enhance the Insurance Holding Company System Model Regulatory Act and the purpose of such enhancements.*

Response:

The model should be changed so that disclaimers of affiliation may be disallowed without a pre-disallowance hearing. Any hearing should come after the disapproval.

Also, they may consider changing the model to clarify that when the 10% presumption applies, the party rebutting that presumption carries the risk of non-persuasion as well as the risk of non-production. That's fancy legal talk which in this case means that if you've got at least 10% of the voting securities, you're going to have produce affirmative and persuasive evidence that you don't in fact control the company rather than just pointing out that you have less than 50% of the voting securities.