

The NAIC solicits comments on this draft. Underlining and overstrikes show changes from the existing model. Comments should be sent to Crystal Brown, NAIC, at [cbrown@naic.org](mailto:cbrown@naic.org) by May 15, 2009.

RBC for Health Organizations Model Act

- D. If a domestic health organization files an RBC report that in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the RBC report to correct the inaccuracy and shall notify the health organization of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBC report as so adjusted is referred to as an “adjusted RBC report.”

### Section 3. Company Action Level Event

**Drafting Note:** Risk-based capital is a method of establishing the minimum amount of capital appropriate for a health organization to support its overall business operations in consideration of its size, structure and risk profile. Typically, the formula result is compared to total adjusted capital to determine if any action is necessary. The domiciliary commissioner may wish to determine whether other financial resources (e.g. parental guarantees, letters of credit) provide adequate safeguards to consumers based on the dynamics of the market in their particular state, although the working group did not specifically examine, and expresses no opinion on the merits of any such alternative financial resources. Rather, the working group acknowledges that these arrangements may fall within the statutory or regulatory discretion that is available to a regulator in a given jurisdiction. However, this discretion should not be used to mask the reporting of any action level under the provisions of this Act, but may be used in evaluating an RBC plan submitted pursuant to Sections 3 through 5.

- A. “Company Action Level Event” means any of the following events:
- (1) The filing of an RBC report by a health organization that indicates that the health organization’s total adjusted capital is greater than or equal to its Regulatory Action Level RBC but less than its Company Action Level RBC;  
  

(a) If a health organization has total adjusted capital which is greater than or equal to its Company Action Level RBC but less than the product of its Authorized Control Level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the Health RBC instructions;
  - (2) Notification by the commissioner to the health organization of an adjusted RBC report that indicates an event in Paragraph (1) of this subsection, provided the health organization does not challenge the adjusted RBC report under Section 7; or
  - (3) If, pursuant to Section 7, a health organization challenges an adjusted RBC report that indicates the event in Paragraph (1) of this subsection, the notification by the commissioner to the health organization that the commissioner has, after a hearing, rejected the health organization’s challenge.
- B. In the event of a Company Action Level Event, the health organization shall prepare and submit to the commissioner an RBC plan that shall:
- (1) Identify the conditions that contribute to the Company Action Level Event;
  - (2) Contain proposals of corrective actions that the health organization intends to take and that would be expected to result in the elimination of the Company Action Level Event;

- (3) Provide projections of the health organization's financial results in the current year and at least the two (2) succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory balance sheets, operating income, net income, capital and surplus, and RBC levels. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense and benefit component;
- (4) Identify the key assumptions impacting the health organization's projections and the sensitivity of the projections to the assumptions; and