

§6453. Company action level event

1. Company action level event; defined. "Company action level event" means any of the following events:

A. The filing of a risk-based capital report by an insurer that indicates that:

(1) The insurer's total adjusted capital is greater than or equal to its regulatory action level risk-based capital but less than its company action level risk-based capital; or

(2) The insurer has total adjusted capital that is greater than or equal to its company action level risk-based capital but has a negative trend, if its total adjusted capital is less than the product of its authorized control level risk-based capital and 3.0. [PL 2013, c. 238, Pt. D, §2 (AMD).]

B. Provided the insurer does not challenge the adjusted risk-based capital report under section 6457, the notification by the superintendent to the insurer of an adjusted risk-based capital report that indicates the event in paragraph A; or [PL 1993, c. 634, Pt. A, §1 (NEW).]

C. If the insurer, under section 6457, challenges the adjusted risk-based capital report that indicates the event in paragraph A, the notification by the superintendent to the insurer that the superintendent has, after a hearing, rejected the insurer's challenge. [PL 1993, c. 634, Pt. A, §1 (NEW).]

[PL 2013, c. 238, Pt. D, §2 (AMD).]

2. Contents of risk-based capital plan. When a company action level event occurs, the insurer shall submit to the superintendent a risk-based capital plan that must:

A. Identify the conditions in the insurer's business that contribute to the company action level event; [PL 1993, c. 634, Pt. A, §1 (NEW).]

B. Contain proposals of corrective actions that the insurer intends to take and that are expected to result in the elimination of the company action level event; [PL 1993, c. 634, Pt. A, §1 (NEW).]

C. Provide projections of the insurer's financial results in the current year and at least the 4 succeeding years, with consideration given to the effect of implementing and not implementing the proposed corrective actions, including projections of statutory operating income, net income, capital and surplus. The projections for new and renewal business may include separate projections for each major line of business and separately identify each significant income, expense and benefit component; [PL 1993, c. 634, Pt. A, §1 (NEW).]

D. Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and [PL 1993, c. 634, Pt. A, §1 (NEW).]

E. Identify the quality of, and the problems associated with, the insurer's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business and use of reinsurance in each case, if any. [PL 1993, c. 634, Pt. A, §1 (NEW).]

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3. Submission of risk-based capital plan. The risk-based capital plan must be submitted:

A. Within 45 days after the company action level event; or [PL 1999, c. 113, §26 (AMD).]

B. If the insurer challenges an adjusted risk-based capital report under section 6457, within 45 days after notification to the insurer that the superintendent has, after a hearing, rejected the insurer's challenge. [PL 1993, c. 634, Pt. A, §1 (NEW).]

[PL 1999, c. 113, §26 (AMD).]

4. Review by superintendent. Within 60 days after the submission by an insurer of a risk-based capital plan to the superintendent pursuant to this section, the superintendent shall notify the insurer whether the risk-based capital plan may be implemented or is, in the judgment of the superintendent, unsatisfactory. If the superintendent determines the risk-based capital plan is unsatisfactory, the notification to the insurer must set forth the reasons for the determination and may set forth proposed revisions that will render the risk-based capital plan satisfactory, in the judgment of the superintendent. Upon notification from the superintendent, the insurer shall prepare a revised risk-based capital plan, which may incorporate by reference any revisions proposed by the superintendent, and shall submit the revised risk-based capital plan to the superintendent:

A. Within 45 days after the notification from the superintendent; or [PL 1993, c. 634, Pt. A, §1 (NEW).]

B. If the insurer challenges the notification from the superintendent under section 6457, within 45 days after a notification to the insurer that the superintendent has, after a hearing, rejected the insurer's challenge. [PL 1993, c. 634, Pt. A, §1 (NEW).]
[PL 1993, c. 634, Pt. A, §1 (NEW).]

5. Notification that plan is unsatisfactory. In the event of a notification by the superintendent to an insurer that the insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory, the superintendent may at the superintendent's discretion, subject to the insurer's right to a hearing under section 6457, specify in the notification that the notification constitutes a regulatory action level event. [PL 1993, c. 634, Pt. A, §1 (NEW).]

6. Duty to file copies of plan with other states. A domestic insurer that files a risk-based capital plan or revised risk-based capital plan with the superintendent pursuant to this section shall file a copy of the risk-based capital plan or revised risk-based capital plan with the insurance regulator in any state in which the insurer is authorized to do business if:

A. That state has a risk-based capital provision substantially similar to that required by this chapter; and [PL 1993, c. 634, Pt. A, §1 (NEW).]

B. The insurance regulator of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk-based capital plan or revised risk-based capital plan in that state no later than the later of:

(1) Fifteen days after the receipt of notice to file a copy of its risk-based capital plan or revised risk-based capital plan with the state; or

(2) The date on which the risk-based capital plan or revised risk-based capital plan is filed with the superintendent. [PL 1999, c. 113, §27 (AMD).]

[PL 1999, c. 113, §27 (AMD).]

SECTION HISTORY

PL 1993, c. 634, Pt. A, §1 (NEW). PL 1997, c. 81, §7 (AMD). PL 1999, c. 113, §§26, 27 (AMD). PL 2009, c. 511, Pt. E, §2 (AMD). PL 2013, c. 238, Pt. D, §2 (AMD).

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