

# WEST VIRGINIA CODE: §33-27-2

## §33-27-2. Definitions.

As used in this article:

(1) An "affiliate" of, or person "affiliated" with, a specific person means a person that, directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

(2) "Commissioner" means the West Virginia Insurance Commissioner, his or her deputies, or the West Virginia offices of the Insurance Commissioner, as appropriate.

(3) "Control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by §33-27-4(k) of this code that control does not exist in fact. The commissioner may determine after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level, as set forth in §33-40-1 *et seq.* of this code, or would cause the insurer to be in hazardous financial condition, as set forth in §33-34-1 *et seq.* of this code.

(5) "Group capital calculation instructions" means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC, from time to time, in accordance with the procedures adopted by the NAIC.

(6) "Group-wide supervisor" means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities who is determined or acknowledged by the commissioner under §33-27-6b of this code to have sufficient significant contacts with the internationally active insurance group.

(7) "Insurance holding company system" means a system that consists of two or more affiliated persons, one or more of which is an insurer.

(8) "Insurer" means any person, persons, corporation, partnership, or company authorized by the laws of this state to transact the business of insurance in this state, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(9) "Internationally active insurance group" means an insurance holding company system that includes an insurer registered under §33-27-4 of this code and meets the following criteria:

(A) Premiums written in at least three countries;

(B) The percentage of gross premiums written outside the United States is at least 10 percent of the insurance holding company system's total gross written premiums; and

(C) Based on a three-year rolling average, the total assets of the insurance holding company system are at least \$50 billion or the total gross written premiums of the insurance holding company system are at least \$10 billion.

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

(11) "NAIC liquidity stress test framework" means a NAIC publication that includes a history of the NAIC's development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress test instructions and reporting templates for a specific data year, such scope criteria, instructions, and reporting template being as adopted by the NAIC and as amended by the NAIC, from time to time, in accordance with the procedures adopted by the NAIC.

(12) "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint-stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert, but does not include any joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

(13) "Scope criteria," as detailed in the NAIC liquidity stress test framework, means the designated exposure bases along with minimum magnitudes thereof for the specified data year, used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for that data year.

(14) A "security holder" of a specified person means one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

(15) A "subsidiary" of a specified person means an affiliate controlled by such person directly or indirectly through one or more intermediaries.

(16) "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

WV Legislature