WEST VIRGINIA CODE: §33-40-2

§33-40-2. RBC reports.

(a) Every domestic insurer , on or prior to each March 1 (the filing date), shall prepare and submit to the commissioner a report of its RBC levels as of the end of the calendar year just ended, in a form and containing the information required by the RBC instructions. In addition, every domestic insurer shall file its RBC report:

(1) With the NAIC in accordance with the RBC instructions; and

(2) With the Insurance Commissioner in any state in which the insurer is authorized to do business, if the Insurance Commissioner has notified the insurer of its request in writing, in which case the insurer shall file its RBC report not later than the later of:

(A) Fifteen days from the receipt of notice to file its RBC report with that state; or

(B) The filing date.

(b) A life and health insurer's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take into account (and may adjust for the covariance between):

(1) The risk with respect to the insurer's assets;

(2) The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;

(3) The interest rate risk with respect to the insurer's business; and

(4) All other business risks and any other relevant risks set forth in the RBC instructions determined in each case by applying the factors in the manner set forth in the RBC instructions.

(c) A property and casualty insurer's RBC shall be determined in accordance with the applicable formula set forth in the RBC instructions. The formula shall take into account (and may adjust for the covariance between), determined in each case by applying the factors in the manner set forth in the RBC instructions:

(1) Asset risk;

(2) Credit risk;

(3) Underwriting risk; and

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(4) All other business risks and any other relevant risks as are set forth in the RBC instructions.

(d) An excess of capital over the amount produced by the risk-based capital requirements contained in this article and the formulas, schedules and instructions referenced in this article is desirable in the business of insurance. Accordingly, insurers and HMOs should seek to maintain capital above the RBC levels required by this article. Additional capital is used and useful in the insurance business and helps to secure insurers against various risks inherent in, or affecting, the business of insurance and not accounted for or only partially measured by the risk-based capital requirements contained in this article.

(e) If a domestic insurer files an RBC report which, in the judgment of the commissioner is inaccurate, then the commissioner shall adjust the RBC report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBC report that is adjusted is referred to as an Adjusted RBC Report.

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