

## Final Proposed Filing - Coversheet

### **Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT  
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Risk Retention Group Holding Company Systems**

\_\_\_\_\_/s/ Kaj Samsom\_\_\_\_\_, on 12/5/2025  
(signature) (date)

Printed Name and Title:

Kaj Samsom, Commissioner

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

**Risk Retention Group Holding Company Systems**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

25P037

3. ADOPTING AGENCY:

Department of Financial Regulation

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Russ McCracken

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Montpelier, VT 05620

Telephone: 8028283301 Fax:

E-Mail: russ.mccracken@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment>

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Dan Petterson

Agency: Department of Financial Regulation

Mailing Address: 89 Main Street, Montpelier, VT 05620

Telephone: 802-828-3304 Fax:

E-Mail: dan.petterson@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

N/A

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

N/A

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

8 V.S.A. § 15(a); 8 V.S.A. § 6015; 8 V.S.A. § 6052(e)

**8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

Under 8 V.S.A. § 6052(e), the provisions of Subchapter 13 of Title 8, Chapter 101 apply to risk retention groups, and the Commissioner of the Department is authorized to implement by rule the provisions of that subchapter. The Department is also expressly authorized by 8 V.S.A. § 15(a) to adopt rules to carry out the provisions of Title 8. The revisions modify the rule in response to changes made in Subchapter 13 of Title 8, Act 101 by Act 110 (H.659) of 2024, which became effective July 1, 2024. The Department also has rulemaking authority pursuant to 8 V.S.A. § 6015 that gives the Department authority to promulgate rules related to captive insurance companies.

**9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.**

**10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.**

**11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.**

**12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.**

**13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.**

**14. CONCISE SUMMARY (150 WORDS OR LESS):**

The Risk Retention Group Holding Company System Rule sets out reporting, organizational and operational requirements for Risk Retention Groups (RRG) organized as holding companies. This update to the rule tells RRGs how to comply with changes made in Subchapter 13 of Title 8, Act 101 by Act 110 (H.659) of 2024. The amended statute permits exempting RRGs from certain filing requirements and requires certain terms in RRG management agreements, in each case based on Department rules. This update provides those rules. The update also explains what it means for a non-U.S. jurisdiction

to "recognize and accept" a group capital calculation under 8 V.S.A. § 3684(m)(2)(D). Lastly, this update provides administrative changes and technical corrections to the rule.

**15. EXPLANATION OF WHY THE RULE IS NECESSARY:**

Vermont's insurance holding company system law, as modified by Act 110 (H.659) of 2024, includes a requirement to file an annual financial report called a group capital calculation, unless exempted by rule. 8 V.S.A. § 3684(m)(2)(F). The holding company system law also includes a requirement that insurance holding company management or cost sharing agreements include terms required by rule. 8 V.S.A. § 3685(a)(1)(B). This rule update is needed to provide those criteria and terms. The rule update is also needed to provide an explanation and clarification for a specific phrase in the insurance holding company system law. 8 V.S.A. § 3684(m)(2)(D)(ii).

Vermont's insurance holding company system law, including recent changes, are closely based on model laws developed by the National Association of Insurance Commissioners (NAIC). The Risk Retention Group Holding Company System Rule is based on NAIC accreditation standard. The update is needed to keep the rule consistent with NAIC standards.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

The changes in the rule are not arbitrary because they are tailored to provide criteria for certain filing exemptions and to provide certain requirement terms for management agreements, in each case where terms in statute call for more information to be provided by rule. The rule also provides explanation and clarification of what it means for a non-U.S. jurisdiction to "recognize and accept" a group capital calculation under 8 V.S.A. § 3684(m)(2)(D). The changes in the rule are based on standards developed by the NAIC through a working group of industry stakeholders and state regulators. The Department and RRGs impacted by the rule benefit from having a regulatory structure that is consistent with insurance holding company system rules that are consistent with rules widely accepted and adopted by other states. The

administrative and technical changes in the rule are tailored to the needs of the Department to facilitate administration of the rule.

**17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:**

The modification to the rule affects entities that are part of risk retention group holding company systems that transact business in Vermont. The modification to the rule also benefits consumers and the Department.

**18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

The entities impacted by this rule are risk retention groups and other entities in a risk retention group holding company system. The economic cost of the modifications to the rule are anticipated to be limited because the filings and other compliance requirements to which this rule update relates are established in Subchapter 13 of Title 8, Act 101, as modified by Act 110 (H.659) of 2024. The updates to the rule set out criteria for exempting RRG holding company systems from a group capital calculation filing, which may result in lower compliance costs for entities exempt from filing. The additional required terms in cost sharing and management services agreements may impose additional cost. Changes to provide explanation and clarification of the statute and changes to improve the administration of the rule are expected to impose minimal additional costs. The updates reflect changes made in the NAIC accreditation standard and widely-accepted NAIC model rule, which benefits the Department.

**19. A HEARING WAS HELD.**

**20. HEARING INFORMATION**

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 11/21/2025

Time: 09:00 AM

Street Address: Virtual (MS teams) only

Zip Code:

URL for Virtual: [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MTRjZDNmNGYtNTZlNy00NTk4LTlmMDAtNDQwOGQxYTkyNTg4%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%228e6e8bee-36f6-4255-a55d-f61857ec6e87%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTRjZDNmNGYtNTZlNy00NTk4LTlmMDAtNDQwOGQxYTkyNTg4%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%228e6e8bee-36f6-4255-a55d-f61857ec6e87%22%7d)

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Date:  
Time: AM  
Street Address:  
Zip Code:  
URL for Virtual:

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Date:  
Time: AM  
Street Address:  
Zip Code:  
URL for Virtual:

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Date:  
Time: AM  
Street Address:  
Zip Code:  
URL for Virtual:

**21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):**

11/28/2025

**KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).**

Risk retention group  
Risk retention group holding company system  
Group capital calculation  
Insurance

## Adopting Page

### Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:

**Risk Retention Group Holding Company Systems**

2. ADOPTING AGENCY:

Department of Financial Regulation

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Regulation C-2012-02 (Revised) - Risk Retention Holding Company Systems; 16P-067; effective December 31, 2016.

# Interagency Committee on Administrative Rules (ICAR) Minutes

**Date/Time:** October 13, 2025, 2:02 PM

**Location:** Virtually via Microsoft Teams

**Members Present:** John Kessler (acting Chair), Diane Sherman, Jared Adler, Jennifer Mojo, John Kessler, Natalie Weill, Michael Obuchowski, Nicole Dubuque

**Members Absent:** Nick Kramer

**Minutes By:** Chrissy Gilhuly

- ▶ 2:02 p.m. meeting called to order.
- ▶ Review and approval of minutes from the September 8 [meeting](#).
- ▶ No additions/deletions to agenda. Agenda approved as drafted.
- ▶ No public comments were made.
- ▶ Presentation of Proposed Rule with recommended changes on pages to follow:
  - 1) Department of Financial Regulation
    - a. Update to the Risk Retention Group Holding Company System Rule that sets out reporting, organizational and operational requirements for Risk Retention Groups (RRG) organized as holding companies.
      - i. This update to the rule tells RRGs how to comply with changes made in Subchapter 13 of Title 8, Act 101 by Act 110 (H.659) of 2024
    - b. Vermont Securities Regulations
      - i. Changes to the rule requirements for issuing securities in Vermont and regulating those who provide investment advice and offer and sell securities to the public.
  - 2) Office of the State Treasurer
    - a. Vermont Saves Program Proposed Rule Change:
      - i. This Rule proposes to make two amendments to the Rules implemented in 2024 pursuant to 3 V.S.A. Chapter 18, consistent with the legislative intent to establish a State auto-IRA program for “the purpose of increasing financial security for Vermonters by providing access to an IRA for Vermont employees of companies that do not currently offer a retirement savings program.”
- ▶ Next scheduled meeting is October 27, time TBD.
- ▶ 2:58 p.m. meeting adjourned.

# Vermont Agency of Administration

**Proposed Rule: Update to the Risk Retention Group Holding Company System Rule that sets out reporting, organizational and operational requirements for Risk Retention Groups (RRG) organized as holding companies**

**Presented By: Russ McCracken, Department of Financial Regulation**

Motion made to accept the rule by Jennifer Mojo, seconded by Natalie Weill, and passed unanimously, with the following recommendations:

- 1) Proposed Filing – Coversheet:
  - a. #7: Capitalize the word Title (7 rows down)
  - b. #8: Correct typo, rule to rules
  - c. #8, 10 & 12: Expand on “term(s)” in these sections
  - d. #9: Correct typo, need to needed (bottom of page)
- 2) Public Input Maximization Plan
  - a. #4: Expand, list individual and entities specifically that will be contacted
- 3) Incorporation by Reference
  - a. #5: Add contact information; email and phone number

## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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#### 1. TITLE OF RULE FILING:

**Risk Retention Group Holding Company Systems**

#### 2. ADOPTING AGENCY:

Department of Financial Regulation

#### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

The entities impacted by this rule are risk retention groups and other entities in a risk retention group holding company system. The economic cost of the modifications to the rule are anticipated to be limited because the filings and other compliance requirements to which this rule update relates are established in Subchapter 13 of Title 8, Act 101, as modified by Act

110 (H.659) of 2024. The updates to the rule set out criteria for exempting RRG holding company systems from a group capital calculation filing, which may result in lower compliance costs for entities exempt from filing. The additional required terms in cost sharing and management services agreements may impose additional cost. Changes to provide explanation and clarification of the statute and changes to improve the administration of the rule are expected to impose minimal additional costs.

The updates reflect changes made in the widely-adopted NAIC accreditation standard, which benefits the Department. Additionally, the Department has adopted changes to its traditional insurance holding company systems rule that generally correspond to these changes, and the Department will benefit from having consistency across its insurance holding company system rules.

**4. IMPACT ON SCHOOLS:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

The modification to the rule is not expected to have an impact on schools.

**5. ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.**

Because the modification to the rule is not expected to have an impact on schools, alternatives were not considered.

**6. IMPACT ON SMALL BUSINESSES:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

The modifications to the rule are not anticipated to impact small businesses directly.

**7. SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.**

The modifications to the rule only impact entities that are part of risk retention group holding company systems, and therefore are not anticipated to impose compliance requirements on small businesses.

**8. COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

The modifications to the rule are prompted by changes adopted by the National Association of Insurance Commissioners (NAIC) to its accreditation standard and to the widely-adopted model rule established by the NAIC, in addition to changes to Vermont's insurance holding company statute. Consistency with the NAIC accreditation standard is important for Vermont to maintain a consistent regulatory framework with other states, most of which have or will adopt rules that follow the NAIC accreditation standard or NAIC model rule. A rule consistent with the accreditation standard also makes compliance easier for risk retention group holding companies because the rule is consistent with requirements adopted across the country. Alternatives to the changes in the rule, or not having a rule, would make compliance more difficult because it could impose unique requirements on risk retention group, or it could result in additional burdens particularly on domestic Vermont risk retention groups because the Department's regulation of those entities might not satisfy the standards of other states in which those entities operate.

**9. SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.**

The Department reviewed the changes to the rule, the changes to the NAIC accreditation standard and model rule, and the analysis of the changes developed by NAIC in connection with adopting the changes to the model rule.

## Environmental Impact Analysis

### **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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1. **TITLE OF RULE FILING:**

**Risk Retention Group Holding Company Systems**

2. **ADOPTING AGENCY:**

Department of Financial Regulation

3. **GREENHOUSE GAS:** *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*  
No impact.

4. **WATER:** *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*  
No impact.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*  
No impact.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*  
No impact.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

No impact.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

No impact.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The revision to the rule is not anticipated to have any environmental impact, therefore the analysis is sufficient.



**State of Vermont**  
**Department of Financial Regulation**  
89 Main Street  
Montpelier, VT 05620-3101

For consumer assistance:  
[Banking] 888-568-4547  
[Insurance] 800-964-1784  
[Securities] 877-550-3907  
[www.dfr.vermont.gov](http://www.dfr.vermont.gov)

December 1, 2025

**Re: Public Comments and Responsiveness Summary for Dept. of Financial Regulation  
Risk Retention Group Holding Company System Rule, 25P037**

The Department of Financial Regulation (“DFR”) is proposing a revision to DFR’s Risk Retention Group Holding Company Systems Rule. DFR made the proposed rule filing with the Secretary of State on October 17, 2025, and the filing was posted October 20, 2025. DFR held a public comment hearing for the rule on November 21, 2025. DFR continued to accept any public comment through November 28, 2025.

To date, DFR has not received any public comments on the rule, either in writing or at the public comment hearing. DFR did not make any changes to the rule between the proposed rule filing and the final proposed rule filing.

Sincerely,

Russ McCracken  
Assistant General Counsel  
Department of Financial Regulation



*Banking*  
802-828-3307

*Insurance*  
802-828-3301

*Captive Insurance*  
802-828-3304

*Securities*  
802-828-3420

## Public Input Maximization Plan

### Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

**Risk Retention Group Holding Company Systems**

2. ADOPTING AGENCY:

Department of Financial Regulation

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The modifications to the rule are based on the the National Association of Insurance Commissioners (NAIC) accreditation standard. The NAIC accreditation standard, and its accompanying model rule, was developed by a NAIC working group based on a multi year process to develop the changes to the proposed rule. The NAIC standard and model rule was subject to multiple rounds of public comment before being adopted by the NAIC.

The Department plans to send a notice to its captive insurance division stakeholders, which includes risk retention groups potentially impacted by the change to the rule, notifying them of the change and where to find the proposed rule, these forms, and instruction for submitting public comment.

In addition to the posting the rule revisions on the Department's website and the other APA required steps, the Department plans to hold a public hearing on the revisions to the rule.

## Public Input

The proposed rule is available on the Department's website, and a paper copy of the proposed rule can be obtained by contacting the Department at (802) 828-3301, or by mail addressed to Russ McCracken, Vermont Dept. of Financial Regulation, Legal Division, 89 Main Street, Montpelier, VT 05620-3101.

### **4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:**

The modifications to the rule were developed by the NAIC through a process involving state regulators, representatives of the insurance industry, and federal regulators.

The Department plans to send a notice to its captive insurance division stakeholders, which includes risk retention groups.

## Incorporation by Reference

**THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:**

### **Instructions:**

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

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#### 1. TITLE OF RULE FILING:

**Risk Retention Group Holding Company Systems**

#### 2. ADOPTING AGENCY:

Department of Financial Regulation

#### 3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

Forms A, B, C, D, and F are incorporated by reference. These forms are model forms prepared by the National Association of Insurance Commissioners (NAIC). The forms are widely-accepted and used by insurance holding companies.

#### 4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

Insurance Holding Company Systems Regulation with Reporting Forms and Instructions, NAIC Model Rule 450, Forms A, B, C, D, and F.

#### 5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

The Department will provide copies of the forms at no cost. Please contact the Department at (802) 828-3301, or by email addressed to Russ McCracken at russ.mccracken@vermont.gov. Additionally, the

electronic copies of the forms are available through the NAIC website at no cost.

6. **MODIFICATIONS** (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

None.

Run Spell Check

Vermont Department of Financial Regulation

Regulation C-2012-2 (Revised) Captive Insurance Division

Risk Retention Group Holding Company Systems

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**Section 1: Authority**

This regulation is promulgated under the authority granted to the commissioner by Title 8 V.S.A. § 15, Title 8 V.S.A. § 6015, and Title 8 V.S.A. § 6052(e), to implement the provisions of the Vermont Insurance Holding Companies Act, Title 8 V.S.A. Chapter 101, Subchapter 13, §§ 3681 et. seq. (the “Holding Companies and Subsidiaries Act” or “Act”), with respect to risk retention groups chartered in Vermont.

**Section 2: Scope and purpose of regulation**

- (a) The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of 8 V.S.A. chapter 101,

Subchapter 13, which relates to holding companies and subsidiaries with respect to risk retention groups chartered in this state.

- (b) This regulation applies to risk retention groups chartered in this State unless specifically exempted under subsection (c) set forth below or as otherwise provided in the Act. Except as specifically incorporated by reference into this regulation, risk retention groups are not subject to ~~Regulation the Department's Insurance Holding Company Systems Rule (I-1971-02)~~, or to any successor regulation or order, which are in effect as of the effective date of this regulation. Any exemption provided in this regulation shall not be construed to exempt, limit, or modify a risk retention group's obligations to comply with the provisions of 8 V.S.A. Chapters 141 and 142 and any regulation or order of the commissioner applicable to risk retention groups, and this regulation shall not be construed to limit or modify the commissioner's powers to enforce such provisions with respect to any risk retention group.
- (c) The commissioner may exempt:
  - (1) Any risk retention group or class of risk retention groups from any provision of this regulation, when the commissioner deems the exemption consistent with the purposes of this regulation; or
  - (2) Upon request of the person required to supply information or perform an act, that person from any provision of this regulation when the commissioner deems the exemption consistent with the purposes of this regulation; or
  - (3) Any risk retention group not otherwise exempt or excepted from the requirements of 8 V.S.A. § 3684 pursuant to a written request by such risk retention group to the commissioner, setting forth its reasons for requesting exemption. Any such exemption given by the commissioner may, at a later date, be withdrawn by the commissioner by giving written notice to the risk retention group, provided the risk retention group is not otherwise exempt under the law.
- (d) The purposes of this regulation include:
  - (1) Exercising surveillance over the acquisition of a risk retention group, to ensure that in the process of making it part of an insurance holding company system, the interests of policyholders, shareholders, and the public are not subject to undue risk; and
  - ~~(1)~~(2) Providing the regulatory monitoring of those intercorporate relationships and transactions among affiliates within an insurance holding company system that may affect the solvency of risk retention groups.

**Section 3: Severability clause**

If any provision of these regulations, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of these regulations

which can be given effect without the invalid provision or application, and to that end the provisions of these regulations are severable.

#### **Section 4: Forms - general requirements**

Any reference in this regulation to "Form A," "Form B," "Form C," "Form D," or "Form F" shall mean such forms as ~~described in Regulation 71-2 and as promulgated by the Department adopted by the National Association of Insurance Commissioners (NAIC) as part of its Insurance Holding Company System Model Regulation. Such forms are adopted by reference in this rule.~~

(a) Forms A, B, C, D, and F are intended to be guides in the preparation of the statements required by 8 V.S.A. Chapter 101, Subchapter 13. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) One copy of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the commissioner electronically, as a single unsecured Adobe PDF file sent via email to CaptiveMail@state.vt.us or by other electronic filing method specified by the Commissioner, or if directed by the Commissioner by personal delivery or mail addressed to: Captive Insurance Division of the State of Vermont, Department of Financial Regulation, 89 Main Street, Montpelier, VT 05620-3101, ~~or as a single unsecured Adobe PDF file sent via email to CaptiveMail@state.vt.us~~. A copy of Form C shall be filed in each state in which a risk retention group has registered to do business, if the Commissioner of that state has notified the risk retention group of its request in writing, in which case the risk retention group has 30 days from receipt of the notice to file such form. The statement shall be signed in the manner prescribed on the form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement.

(c) Statements should be prepared on paper 8-1/2" x 11" or 8-1/2" x 14" in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency.

#### **Section 5: Forms - incorporation by reference, summaries and omissions**

(a) Information required by any item of Form A, Form B, Form D, or Form F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B Form D, or Form F provided such information substantially satisfies the requirements of Form A, Form B, Form D, or Form F, and provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the commissioner which were filed within three (3) years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

(b) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to the statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the commissioner which was filed within three (3) years and may be qualified in its entirety by such reference. In any case where two (2) or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of the documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents, a copy of which is filed. The commissioner may at any time in his or her discretion require the filing of copies of any omitted documents.

**Section 6: Forms - information unknown or unavailable and extension of time to furnish**

If it is impractical to furnish any required information, document or report at the time it is required to be filed, there shall be filed with the Commissioner a separate document:

- A. Identifying the information, document, or report in question;
- B. Stating why the filing thereof at the time required is impractical; and
- C. Requesting an extension of time for filing the information, document, or report to a specified date.

**Section 7: Forms - additional information and exhibits**

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, and Form F, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, D, or F shall include on the top of the cover page the phrase: Change No.[insert number] to and shall indicate the date of the change and not the date of the original filing.

**Section 8: Definitions**

As used in this regulation and for purposes of preparing any filing on Forms A, B, C D, or F,:

(a) All definitions set forth in 8 V.S.A. § 3681, as amended from time to time, are incorporated into this regulation, unless specifically defined otherwise in this regulation.

(b) “Association” has the meaning set forth in 15 U.S.C. § 3901(a)(4)(E)(ii).

(c) “Controlled unaffiliated business” means any person:

(1) that is not in the corporate system of any member of the risk retention group or such member’s affiliates;

(2) that has an existing contractual relationship with a member of the risk retention group or one of such member’s affiliates; and

(3) whose risks are managed by a risk retention group in accordance with 8 V.S.A. § 6019.

(d) For purposes of the definition of “control” as set forth in 8 V.S.A. § 3681(3):

(1) a risk retention group’s authorized captive insurance management company, and any employee of such management company, shall not be deemed to have any control with respect to a risk retention group if such management company does not own any voting security in the risk retention group.

(2) if any person, acting alone, has the power (either directly or through control of an association that is the sole member/owner of the risk retention group) to elect or remove a majority or more of the members of a risk retention group’s governing board, such person shall be deemed to have control with respect to the risk retention group.

(3) any person who owns less than 10% of the voting securities of a risk retention group shall not be deemed to have control of the risk retention group, unless such person otherwise has the power to direct or cause the direction of the management of the risk retention group other than by virtue of the person’s position as a member of the governing board or as an officer of the risk retention group.

(4) if an association is the sole member/owner of a risk retention group, and no single person has control of the association, the association shall not be deemed to control the risk retention group.

(e) “Enterprise Risk” means any activity, circumstance, event or series of events involving one or more affiliates of a risk retention group that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the risk retention group or its insurance holding company system as a whole, including, but not limited to, anything that

would cause the risk retention group's Risk-Based Capital to fall into company action level as set forth in 8 V.S.A. § 8301(12)(A) or would cause the risk retention group to be in hazardous financial condition (as set forth in Regulation 93-2).

(f) "Executive officer" means any individual charged with active management and control in an executive capacity, including a president, vice president, treasurer, secretary, controller, and any other individual performing for a person, whether incorporated or unincorporated, functions corresponding to those performed by the foregoing officers.

(g) "Foreign insurer" includes an alien insurer except where clearly noted otherwise.

(h) "Governing board" of a risk retention group means:

- (1) in the case of a stock corporation or a mutual corporation, the board of directors;
- (2) in the case of a manager-managed limited liability company, the individuals elected or appointed as managers; or
- (3) in the case of a reciprocal risk retention group, the subscribers advisory committee.

(i) "Member" of a risk retention group means:

- (1) in the case of a stock corporation, a shareholder of the corporation;
- (2) in the case of a mutual corporation formed as a nonprofit corporation, a member of the corporation, and in the case of a mutual corporation formed as a mutual insurance company, a policyholder of the company;
- (3) in the case of a limited liability company, a member of the company;
- (4) in the case of a reciprocal insurer, a subscriber to the insurer; and
- (5) in the case of a risk retention group owned by an association, each of the member/owners of said association.

(j) "Voting securities" of a risk retention group means:

- (1) in the case of a stock corporation, any stock or other security that includes the right to vote in the election of any member of the governing board, or to vote for the removal of any member of the governing board;

- (2) in the case of a limited liability company, an ownership interest that includes the right to vote in the election of any member of the governing board, or to vote for the removal of any member of the governing board;
- (3) in the case of a mutual corporation, as defined in 8 V.S.A. § 6001(12), an ownership interest that includes the right to vote in the election of any member of the governing board, or to vote for the removal of any member of the governing board;
- (4) in the case of a reciprocal risk retention group, a subscriber interest that includes the right to vote in the election of a member of the governing board, or to vote for the removal of any member of the governing board.

The number of voting securities owned by a person shall be determined based on the number of votes that such person is entitled to cast in the election of each member of the risk retention group's governing board. The determination shall be made without regard to such person's rights to operating or liquidating distributions by the risk retention group. An individual who has the power to appoint or elect an officer of the risk retention group pursuant to his or her position as an officer of the risk retention group shall not be deemed to own voting securities of the risk retention group solely because of such office.

(k) "Ultimate controlling person" means that person within an insurance holding company system which is not controlled by any other person.

#### **Section 9: Subsidiaries of domestic risk retention groups**

The authority to invest in the types of subsidiaries set forth in 8 V.S.A. § 3682(a) is in addition to any authority to invest in subsidiaries as set forth in 8 V.S.A. § 3682(b) or as set forth in other provisions of the law applicable to insurance companies.

#### **Section 10: Obtaining Commissioner's approval to invest in subsidiaries**

Any domestic insurance company which proposes to invest in any security of a subsidiary pursuant to 8 V.S.A. § 3682(b)(4) shall request in writing the commissioner's approval to make such investment. Such request shall be made at least sixty (60) days prior to the date it is proposed that such investment be made and shall set forth complete facts concerning the proposed investment, which shall include, but not be limited to, complete financial information about the corporation, the securities of which are to be acquired and a pro forma balance sheet of the acquiring insurance company showing the effect of such investment. The commissioner may require such additional information as he or she may deem necessary to make a determination hereunder.

#### **Section 11: Acquisition of control - statement filing**

A person required to file a statement pursuant to 8 V.S.A. § 3683, acquisition of control of, or merger with, domestic risk retention group, shall furnish the required information on Form A, hereby made a part of this regulation.

**Section 12: Amendments to Form A**

The applicant shall, within seven days after it learns of any change in the information so furnished, advise the commissioner of any such changes arising subsequent to the date upon which such information was furnished, but prior to the commissioner's disposition of the application.

**Section 13: Registration of risk retention groups - annual statement filing** Any risk retention group required to file a statement pursuant to 8 V.S.A. § 3684, and not exempted from registration pursuant to the regulation or 8 V.S.A. § 3684(h), shall furnish the required information on Form B, hereby made a part of these regulations.

**Section 14: Summary of registration - statement filing**

Any risk retention group required to file an annual registration statement pursuant to 8 V.S.A. § 3684 is also required to furnish information required on Form C.

**Section 15: Amendments to Form B**

(a) An amendment to Form B shall be filed within fifteen 15 days after the end of any month in which the following occurs:

- (1) there is a change in the control of the registrant, in which case the entire Form B shall be made current;
- (2) there is a material change in the information given in Item 5 or Item 6 of Form B in which case the respective item shall be made current.

(b) Amendments shall be filed in the Form B format with only those items which are being amended reported. Each such amendment shall include at the top of the cover page Amendment No. [insert number] to Form B for [insert year] and shall indicate the date of the change and not the date of the original filings.

**Section 16: Alternative and consolidated registration**

Any risk retention group may file a registration statement on behalf of any affiliated risk retention group or risk retention groups which are required to register under 8 V.S.A. § 3684. A registration statement may include information regarding any risk retention group in the insurance holding company system even if such risk retention group is not registered in this State. In lieu of filing a registration statement on Form B, the risk retention group may file a copy of the registration statement or similar report which it is required to file in its State of domicile, provided the statement or report contains substantially similar information required to be furnished on Form B.

**Section 17: Disclaimers and termination of registration**

(a) A disclaimer of affiliation pursuant to 8 V.S.A. § 3684(i) or a request for termination of registration pursuant to 8 V.S.A. § 3684(e) claiming that a person does not, or shall not upon the taking of some proposed action, control another person (hereinafter referred to as the subject) shall contain the following information:

- (1) the number of authorized, issued and outstanding voting securities of the subject;
- (2) with respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;
- (3) all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person; and
- (4) a statement explaining why such person should not be considered to control the subject.

(b) A request for termination of registration shall be deemed to have been granted unless the commissioner, within ten (10) days after receiving the request, notifies the registrant otherwise.

(c) The Commissioner shall require any risk retention group chartered in this state, which has been granted a disclaimer of affiliation pursuant to 8 V.S.A. § 3684(i), to file a copy of the disclaimer as a change in plan of operation with all other states in which the risk retention group is registered.

#### **Section 18: Transactions subject to prior notice**

(a) Any risk retention group required to give notice of a proposed transaction pursuant to 8 V.S.A. § 3685 shall furnish the required information on Form D, hereby made a part of these regulations. Notwithstanding the provisions of 8 V.S.A. § 3685, no risk retention group domiciled in Vermont shall pay any dividend or make any distribution to its shareholders or policyholders without the prior written consent of the commissioner.

(b) Agreements for cost sharing services and management services shall at a minimum and as applicable:

- (1) Identify the person providing services and the nature of such services;
- (2) Set forth the methods to allocate costs;
- (3) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the NAIC Accounting Practices and Procedures Manual;
- (4) Prohibit advancement of funds by the risk retention group to the affiliate except to pay for services defined in the agreement;
- (5) State that the risk retention group will maintain oversight for functions provided to the risk retention group by the affiliate and that the risk retention group will monitor services annually for quality assurance;
- (6) Define ~~books and~~ records and data of the risk retention group to include all ~~books and~~ records and data developed or maintained under or related to the agreement that are otherwise the property of the risk retention group, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel

records, financial records or similar records within the possession, custody or control of the affiliate;

~~(7)~~ Specify that all ~~books and~~ records and data of the risk retention group are and remain the property of the risk retention group and are subject to control of the risk retention group, and;

A. Are subject to control of the risk retention group;

B. Are identifiable; and

~~A.C.~~ Are segregated from all other persons' records and data, or are readily capable of segregation at no additional cost to the risk retention group;

~~(7)~~~~(8)~~ State that all funds and invested assets of the risk retention group are the exclusive property of the risk retention group, held for the benefit of the risk retention group and are subject to the control of the risk retention group;

~~(8)~~~~(9)~~ Include standards for termination of the agreement with and without cause;

~~(9)~~~~(10)~~ Include provisions for indemnification of the risk retention group in the event of gross negligence or willful misconduct on the part of the affiliate providing the services and for any actions by the affiliate that violate provisions of the agreement required in Subsections 19(b)(11), 19(b)(12), 19(b)(13), 19(b)(14) and 19(b)(15) of this rule;

~~(10)~~~~(11)~~ Specify that, if the risk retention group is placed in ~~receivership or seized by the Commissioner under supervision, seizure, conservatorship or receivership pursuant to~~ 8 V.S.A. chapter 145:

A. ~~a~~All of the rights of the risk retention group under the agreement extend to the receiver or Commissioner to the extent permitted by 8 V.S.A. chapter 145; and,

~~B. All records and data of the risk retention group shall be identifiable, and segregated from all other persons' records and data or readily capable of segregation at no additional cost to the receiver or the Commissioner; all books and records will immediately be made available to the receiver or the Commissioner, and shall be turned over to the receiver or Commissioner immediately upon the receiver or the Commissioner's request;~~

~~C. A complete set of all books and records and data of the risk retention group will immediately be made available to the receiver or the Commissioner, shall be made available in a usable format, and shall be turned over to the receiver or Commissioner immediately upon the receiver or the Commissioner's request; and the cost to transfer data to the receiver or the Commissioner shall be fair and reasonable; and,~~

~~B.D.~~ The affiliated person(s) will make available all employees essential to the operations of the risk retention group and the services associated therewith for the

immediate continued performance of the essential services ordered or directed by the receiver or Commissioner;

- (12) Specify that the affiliate has no automatic right to terminate the agreement if the risk retention group is placed into supervision, seizure, conservatorship or receivership pursuant to 8 V.S.A. chapter 145; and
- (13) Specify that the affiliate will provide the essential services for a minimum period of time after termination of the agreement, if the risk retention group is placed into supervision, seizure, conservatorship or receivership pursuant to 8 V.S.A. chapter 145, as ordered or directed by the receiver or Commissioner. Performance of the essential services will continue to be provided without regard to pre-receivership unpaid fees, so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Commissioner or supervising court;
- (14) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure, notwithstanding supervision, seizure, conservatorship or receivership pursuant to 8 V.S.A. chapter 145, and will make them available to the receiver or Commissioner as ordered or directed by the receiver or Commissioner, for so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Commissioner or supervising court; and,
- ~~(11)~~(15) Specify that, in furtherance of the cooperation between the receiver and the affected guaranty association(s) and subject to the receiver's authority over the risk retention group, if the risk retention group is placed into supervision, seizure, conservatorship or receivership pursuant to 8 V.S.A. chapter 145, and portions of the risk retention group's policies or contracts are eligible for coverage by one or more guaranty associations, the affiliate's commitments under Subsections 19(b)(11), 19(b)(12), 19(b)(13) and 19(b)(14) of this regulation will extend to such guaranty association(s).
- ~~(12)~~ Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the Commissioner under 8 V.S.A. chapter 145, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

### **Section 19: Enterprise Risk Report**

The ultimate controlling person of a risk retention group required to file an enterprise risk report pursuant to 8 V.S.A. § 3684(m) shall furnish the required information on Form F, hereby made a part of these regulations. The Commissioner shall require any risk retention group chartered in this state, which is a member of a holding company system, in cases in which this state is not the lead state, to furnish a copy of Form F filed by such risk retention group chartered in this state. The lead state commissioner of the insurance company holding system is as determined by the

procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

## **Section 20: Group Capital Calculation**

(a) The lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination that the insurance holding company system meets all of the following criteria:

- (1) Has annual direct written and unaffiliated assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000;
- (2) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
- (3) Has no banking, depository or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;
- (4) The holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group; and
- (5) The non-insurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

(b) The lead state commissioner has the discretion to accept in lieu of the group capital calculation a limited group capital filing if:

- (1) The insurance holding company system has annual direct written and unaffiliated assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000; and all of the following additional criteria are met:
  - A. Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
  - B. Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and
  - C. The holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred

and the non-insurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations.

(c) For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant Section 20(a)A or 20(b)B of this regulationrule, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

(1) Any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in 8 V.S.A. Chapter 159: Risk-Based Capital for Insurers or a similar standard for a non-U.S. insurer; or

(2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in Regulation I-1993-02: Defining Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition; or

(3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

(a)(d) A non-U.S. jurisdiction is considered to "recognize and accept" the group capital calculation if it satisfies the following criteria:

(1) With respect to the 8 V.S.A. § 3684(m)(2)(D) ~~insert cross-reference to Section 4L(2)(d) of the Model Act~~

A. The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

B. Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in Section 20~~D~~(d)(1)(a) of this rule.

(2) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.

(b)(e) A list of non-U.S. jurisdictions that “recognize and accept” the group capital calculation will be published through the NAIC Committee Process:

(1) A list of jurisdictions that “recognize and accept” the group capital calculation pursuant to 8 V.S.A. § 3684(m)(2)(D) ~~insert cross-reference to Sections 4L(2)(d)~~, is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under 8 V.S.A. § 3684(m)(2)(D) ~~insert cross-reference to Sections 4L(2)(d)~~. To assist with a determination under 8 V.S.A. § 3684(m)(2)(E) ~~4L(2)(e)~~, the list will also identify whether a jurisdiction that is exempted under either 8 V.S.A. § 3684(m)(2)(C) and 8 V.S.A. § 3684(m)(2)(D) ~~insert cross-reference to Sections 4L(2)(c) and 4L(2)(d)~~ requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.

(2) For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of Section 20~~D~~(d)(1)(b) of this rule will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC Committee Process.

(3) If the lead state commissioner makes a determination pursuant to 8 V.S.A. § 3684(m)(2)(D) ~~Section 4L(2)(d)~~ that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

~~(1)~~(4) Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to “recognize and accept” the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that “recognize and accepts” the group capital calculation.

**Section ~~20~~21. Adequacy of Surplus**

The factors set forth in 8 V.S.A. § 3685(b) are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer’s surplus, no single factor is necessarily controlling. The Commissioner instead will consider the net effect of all of the factors specified in 8 V.S.A. § 3685(b), as well as other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

**Section 22. Effective Date**

**A. This rule shall become effective \_\_\_\_\_.**

**B. Prior versions of this rule became effective December 31, 2016, and July 17, 2012.**

**Vermont Department of Financial Regulation**

**Captive Insurance Division**

**Risk Retention Group Holding Company Systems**

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**Section 22. Effective Date**

**Section 1: Authority**

This regulation is promulgated under the authority granted to the commissioner by Title 8 V.S.A. § 15, Title 8 V.S.A. § 6015, and Title 8 V.S.A. § 6052(e), to implement the provisions of the Vermont Insurance Holding Companies Act, Title 8 V.S.A. Chapter 101, Subchapter 13, §§ 3681 et. seq. (the “Holding Companies and Subsidiaries Act” or “Act”), with respect to risk retention groups chartered in Vermont.

**Section 2: Scope and purpose of regulation**

- (a) The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of 8 V.S.A. chapter 101,

Subchapter 13, which relates to holding companies and subsidiaries with respect to risk retention groups chartered in this state.

- (b) This regulation applies to risk retention groups chartered in this State unless specifically exempted under subsection (c) set forth below or as otherwise provided in the Act. Except as specifically incorporated by reference into this regulation, risk retention groups are not subject to the Department's Insurance Holding Company Systems Rule (I-1971-02), or to any successor regulation or order, which are in effect as of the effective date of this regulation. Any exemption provided in this regulation shall not be construed to exempt, limit, or modify a risk retention group's obligations to comply with the provisions of 8 V.S.A. Chapters 141 and 142 and any regulation or order of the commissioner applicable to risk retention groups, and this regulation shall not be construed to limit or modify the commissioner's powers to enforce such provisions with respect to any risk retention group.
- (c) The commissioner may exempt:
  - (1) Any risk retention group or class of risk retention groups from any provision of this regulation, when the commissioner deems the exemption consistent with the purposes of this regulation; or
  - (2) Upon request of the person required to supply information or perform an act, that person from any provision of this regulation when the commissioner deems the exemption consistent with the purposes of this regulation; or
  - (3) Any risk retention group not otherwise exempt or excepted from the requirements of 8 V.S.A. § 3684 pursuant to a written request by such risk retention group to the commissioner, setting forth its reasons for requesting exemption. Any such exemption given by the commissioner may, at a later date, be withdrawn by the commissioner by giving written notice to the risk retention group, provided the risk retention group is not otherwise exempt under the law.
- (d) The purposes of this regulation include:
  - (1) Exercising surveillance over the acquisition of a risk retention group, to ensure that in the process of making it part of an insurance holding company system, the interests of policyholders, shareholders, and the public are not subject to undue risk; and
  - (2) Providing the regulatory monitoring of those intercorporate relationships and transactions among affiliates within an insurance holding company system that may affect the solvency of risk retention groups.

### **Section 3: Severability clause**

If any provision of these regulations, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of these regulations

which can be given effect without the invalid provision or application, and to that end the provisions of these regulations are severable.

#### **Section 4: Forms - general requirements**

Any reference in this regulation to "Form A," "Form B," "Form C," "Form D," or "Form F" shall mean such forms as adopted by the National Association of Insurance Commissioners (NAIC) as part of its Insurance Holding Company System Model Regulation. Such forms are adopted by reference in this rule.

(a) Forms A, B, C, D, and F are intended to be guides in the preparation of the statements required by 8 V.S.A. Chapter 101, Subchapter 13. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) One copy of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the commissioner electronically, as a single unsecured Adobe PDF file sent via email to [CaptiveMail@state.vt.us](mailto:CaptiveMail@state.vt.us) or by other electronic filing method specified by the Commissioner, or if directed by the Commissioner by personal delivery or mail addressed to: Captive Insurance Division of the State of Vermont, Department of Financial Regulation, 89 Main Street, Montpelier, VT 05620-3101.. A copy of Form C shall be filed in each state in which a risk retention group has registered to do business, if the Commissioner of that state has notified the risk retention group of its request in writing, in which case the risk retention group has 30 days from receipt of the notice to file such form. The statement shall be signed in the manner prescribed on the form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement.

(c) Statements should be prepared on paper 8-1/2" x 11" or 8-1/2" x 14" in size and preferably bound at the top or the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency.

#### **Section 5: Forms - incorporation by reference, summaries and omissions**

(a) Information required by any item of Form A, Form B, Form D, or Form F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B Form D, or Form F provided such information substantially satisfies the requirements of Form A, Form B, Form D, or Form F, and provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the commissioner which were filed within three (3) years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

(b) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to the statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the commissioner which was filed within three (3) years and may be qualified in its entirety by such reference. In any case where two (2) or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of the documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents, a copy of which is filed. The commissioner may at any time in his or her discretion require the filing of copies of any omitted documents.

**Section 6: Forms - information unknown or unavailable and extension of time to furnish**

If it is impractical to furnish any required information, document or report at the time it is required to be filed, there shall be filed with the Commissioner a separate document:

- A. Identifying the information, document, or report in question;
- B. Stating why the filing thereof at the time required is impractical; and
- C. Requesting an extension of time for filing the information, document, or report to a specified date.

**Section 7: Forms - additional information and exhibits**

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, and Form F, there shall be added such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, D, or F shall include on the top of the cover page the phrase: Change No.[insert number] to and shall indicate the date of the change and not the date of the original filing.

**Section 8: Definitions**

As used in this regulation and for purposes of preparing any filing on Forms A, B, C D, or F:

- (a) All definitions set forth in 8 V.S.A. § 3681, as amended from time to time, are incorporated into this regulation, unless specifically defined otherwise in this regulation.
- (b) “Association” has the meaning set forth in 15 U.S.C. § 3901(a)(4)(E)(ii).
- (c) “Controlled unaffiliated business” means any person:
- (1) that is not in the corporate system of any member of the risk retention group or such member’s affiliates;
  - (2) that has an existing contractual relationship with a member of the risk retention group or one of such member’s affiliates; and
  - (3) whose risks are managed by a risk retention group in accordance with 8 V.S.A. § 6019.
- (d) For purposes of the definition of “control” as set forth in 8 V.S.A. § 3681(3):
- (1) a risk retention group’s authorized captive insurance management company, and any employee of such management company, shall not be deemed to have any control with respect to a risk retention group if such management company does not own any voting security in the risk retention group.
  - (2) if any person, acting alone, has the power (either directly or through control of an association that is the sole member/owner of the risk retention group) to elect or remove a majority or more of the members of a risk retention group’s governing board, such person shall be deemed to have control with respect to the risk retention group.
  - (3) any person who owns less than 10% of the voting securities of a risk retention group shall not be deemed to have control of the risk retention group, unless such person otherwise has the power to direct or cause the direction of the management of the risk retention group other than by virtue of the person’s position as a member of the governing board or as an officer of the risk retention group.
  - (4) if an association is the sole member/owner of a risk retention group, and no single person has control of the association, the association shall not be deemed to control the risk retention group.
- (e) “Enterprise Risk” means any activity, circumstance, event or series of events involving one or more affiliates of a risk retention group that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the risk retention group or its insurance holding company system as a whole, including, but not limited to, anything that

would cause the risk retention group's Risk-Based Capital to fall into company action level as set forth in 8 V.S.A. § 8301(12)(A) or would cause the risk retention group to be in hazardous financial condition (as set forth in Regulation 93-2).

- (f) "Executive officer" means any individual charged with active management and control in an executive capacity, including a president, vice president, treasurer, secretary, controller, and any other individual performing for a person, whether incorporated or unincorporated, functions corresponding to those performed by the foregoing officers.
- (g) "Foreign insurer" includes an alien insurer except where clearly noted otherwise.
- (h) "Governing board" of a risk retention group means:
  - (1) in the case of a stock corporation or a mutual corporation, the board of directors;
  - (2) in the case of a manager-managed limited liability company, the individuals elected or appointed as managers; or
  - (3) in the case of a reciprocal risk retention group, the subscribers advisory committee.
- (i) "Member" of a risk retention group means:
  - (1) in the case of a stock corporation, a shareholder of the corporation;
  - (2) in the case of a mutual corporation formed as a nonprofit corporation, a member of the corporation, and in the case of a mutual corporation formed as a mutual insurance company, a policyholder of the company;
  - (3) in the case of a limited liability company, a member of the company;
  - (4) in the case of a reciprocal insurer, a subscriber to the insurer; and
  - (5) in the case of a risk retention group owned by an association, each of the member/owners of said association.
- (j) "Voting securities" of a risk retention group means:
  - (1) in the case of a stock corporation, any stock or other security that includes the right to vote in the election of any member of the governing board, or to vote for the removal of any member of the governing board;

- (2) in the case of a limited liability company, an ownership interest that includes the right to vote in the election of any member of the governing board, or to vote for the removal of any member of the governing board;
- (3) in the case of a mutual corporation, as defined in 8 V.S.A. § 6001(12), an ownership interest that includes the right to vote in the election of any member of the governing board, or to vote for the removal of any member of the governing board;
- (4) in the case of a reciprocal risk retention group, a subscriber interest that includes the right to vote in the election of a member of the governing board, or to vote for the removal of any member of the governing board.

The number of voting securities owned by a person shall be determined based on the number of votes that such person is entitled to cast in the election of each member of the risk retention group's governing board. The determination shall be made without regard to such person's rights to operating or liquidating distributions by the risk retention group. An individual who has the power to appoint or elect an officer of the risk retention group pursuant to his or her position as an officer of the risk retention group shall not be deemed to own voting securities of the risk retention group solely because of such office.

(k) "Ultimate controlling person" means that person within an insurance holding company system which is not controlled by any other person.

#### **Section 9: Subsidiaries of domestic risk retention groups**

The authority to invest in the types of subsidiaries set forth in 8 V.S.A. § 3682(a) is in addition to any authority to invest in subsidiaries as set forth in 8 V.S.A. § 3682(b) or as set forth in other provisions of the law applicable to insurance companies.

#### **Section 10: Obtaining Commissioner's approval to invest in subsidiaries**

Any domestic insurance company which proposes to invest in any security of a subsidiary pursuant to 8 V.S.A. § 3682(b)(4) shall request in writing the commissioner's approval to make such investment. Such request shall be made at least sixty (60) days prior to the date it is proposed that such investment be made and shall set forth complete facts concerning the proposed investment, which shall include, but not be limited to, complete financial information about the corporation, the securities of which are to be acquired and a pro forma balance sheet of the acquiring insurance company showing the effect of such investment. The commissioner may require such additional information as he or she may deem necessary to make a determination hereunder.

#### **Section 11: Acquisition of control - statement filing**

A person required to file a statement pursuant to 8 V.S.A. § 3683, acquisition of control of, or merger with, domestic risk retention group, shall furnish the required information on Form A, hereby made a part of this regulation.

**Section 12: Amendments to Form A**

The applicant shall, within seven days after it learns of any change in the information so furnished, advise the commissioner of any such changes arising subsequent to the date upon which such information was furnished, but prior to the commissioner's disposition of the application.

**Section 13: Registration of risk retention groups - annual statement filing** Any risk retention group required to file a statement pursuant to 8 V.S.A. § 3684, and not exempted from registration pursuant to the regulation or 8 V.S.A § 3684(h), shall furnish the required information on Form B, hereby made a part of these regulations.

**Section 14: Summary of registration - statement filing**

Any risk retention group required to file an annual registration statement pursuant to 8 V.S.A. § 3684 is also required to furnish information required on Form C.

**Section 15: Amendments to Form B**

(a) An amendment to Form B shall be filed within fifteen 15 days after the end of any month in which the following occurs:

- (1) there is a change in the control of the registrant, in which case the entire Form B shall be made current;
- (2) there is a material change in the information given in Item 5 or Item 6 of Form B in which case the respective item shall be made current.

(b) Amendments shall be filed in the Form B format with only those items which are being amended reported. Each such amendment shall include at the top of the cover page Amendment No. [insert number] to Form B for [insert year] and shall indicate the date of the change and not the date of the original filings.

**Section 16: Alternative and consolidated registration**

Any risk retention group may file a registration statement on behalf of any affiliated risk retention group or risk retention groups which are required to register under 8 V.S.A. § 3684. A registration statement may include information regarding any risk retention group in the insurance holding company system even if such risk retention group is not registered in this State. In lieu of filing a registration statement on Form B, the risk retention group may file a copy of the registration statement or similar report which it is required to file in its State of domicile, provided the statement or report contains substantially similar information required to be furnished on Form B.

**Section 17: Disclaimers and termination of registration**

(a) A disclaimer of affiliation pursuant to 8 V.S.A. § 3684(i) or a request for termination of registration pursuant to 8 V.S.A. § 3684(e) claiming that a person does not, or shall not upon the taking of some proposed action, control another person (hereinafter referred to as the subject) shall contain the following information:

- (1) the number of authorized, issued and outstanding voting securities of the subject;
  - (2) with respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares concerning which there is a right to acquire, directly or indirectly;
  - (3) all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person; and
  - (4) a statement explaining why such person should not be considered to control the subject.
- (b) A request for termination of registration shall be deemed to have been granted unless the commissioner, within ten (10) days after receiving the request, notifies the registrant otherwise.
- (c) The Commissioner shall require any risk retention group chartered in this state, which has been granted a disclaimer of affiliation pursuant to 8 V.S.A. § 3684(i), to file a copy of the disclaimer as a change in plan of operation with all other states in which the risk retention group is registered.

**Section 18: Transactions subject to prior notice**

- (a) Any risk retention group required to give notice of a proposed transaction pursuant to 8 V.S.A. § 3685 shall furnish the required information on Form D, hereby made a part of these regulations. Notwithstanding the provisions of 8 V.S.A. § 3685, no risk retention group domiciled in Vermont shall pay any dividend or make any distribution to its shareholders or policyholders without the prior written consent of the commissioner.
- (b) Agreements for cost sharing services and management services shall at a minimum and as applicable:
- (1) Identify the person providing services and the nature of such services;
  - (2) Set forth the methods to allocate costs;
  - (3) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the NAIC Accounting Practices and Procedures Manual;
  - (4) Prohibit advancement of funds by the risk retention group to the affiliate except to pay for services defined in the agreement;
  - (5) State that the risk retention group will maintain oversight for functions provided to the risk retention group by the affiliate and that the risk retention group will monitor services annually for quality assurance;
  - (6) Define records and data of the risk retention group to include all records and data developed or maintained under or related to the agreement that are otherwise the property of the risk retention group, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files,

premium records, rate books, underwriting manuals, personnel records, financial records or similar records within the possession, custody or control of the affiliate;

- (7) Specify that all records and data of the risk retention group are and remain the property of the risk retention group and are subject to control of the risk retention group, and;
  - A. Are subject to control of the risk retention group;
  - B. Are identifiable; and
  - C. Are segregated from all other persons' records and data, or are readily capable of segregation at no additional cost to the risk retention group;
- (8) State that all funds and invested assets of the risk retention group are the exclusive property of the risk retention group, held for the benefit of the risk retention group and are subject to the control of the risk retention group;
- (9) Include standards for termination of the agreement with and without cause;
- (10) Include provisions for indemnification of the risk retention group in the event of gross negligence or willful misconduct on the part of the affiliate providing the services and for any actions by the affiliate that violate provisions of the agreement required in Subsections 19(b)(11), 19(b)(12), 19(b)(13), 19(b)(14) and 19(b)(15) of this rule;
- (11) Specify that, if the risk retention group is placed in supervision, seizure, conservatorship or receivership pursuant to 8 V.S.A. chapter 145:
  - A. All of the rights of the risk retention group under the agreement extend to the receiver or Commissioner to the extent permitted by 8 V.S.A. chapter 145; and,
  - B. All records and data of the risk retention group shall be identifiable, and segregated from all other persons' records and data or readily capable of segregation at no additional cost to the receiver or the Commissioner;
  - C. A complete set of all books and records and data of the risk retention group will immediately be made available to the receiver or the Commissioner, shall be made available in a usable format, and shall be turned over to the receiver or Commissioner immediately upon the receiver or the Commissioner's request; and the cost to transfer data to the receiver or the Commissioner shall be fair and reasonable; and,
  - D. The affiliated person(s) will make available all employees essential to the operations of the risk retention group and the services associated therewith for the immediate continued performance of the essential services ordered or directed by the receiver or Commissioner;

- (12) Specify that the affiliate has no automatic right to terminate the agreement if the risk retention group is placed into supervision, seizure, conservatorship or receivership pursuant to 8 V.S.A. chapter 145;
- (13) Specify that the affiliate will provide the essential services for a minimum period of time after termination of the agreement, if the risk retention group is placed into supervision, seizure, conservatorship or receivership pursuant to 8 V.S.A. chapter 145, as ordered or directed by the receiver or Commissioner. Performance of the essential services will continue to be provided without regard to pre-receivership unpaid fees, so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Commissioner or supervising court;
- (14) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure, notwithstanding supervision, seizure, conservatorship or receivership pursuant to 8 V.S.A. chapter 145, and will make them available to the receiver or Commissioner as ordered or directed by the receiver or Commissioner, for so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Commissioner or supervising court; and,
- (15) Specify that, in furtherance of the cooperation between the receiver and the affected guaranty association(s) and subject to the receiver's authority over the risk retention group, if the risk retention group is placed into supervision, seizure, conservatorship or receivership pursuant to 8 V.S.A. chapter 145, and portions of the risk retention group's policies or contracts are eligible for coverage by one or more guaranty associations, the affiliate's commitments under Subsections 19(b)(11), 19(b)(12), 19(b)(13) and 19(b)(14) of this regulation will extend to such guaranty association(s).

### **Section 19: Enterprise Risk Report**

The ultimate controlling person of a risk retention group required to file an enterprise risk report pursuant to 8 V.S.A. § 3684(m) shall furnish the required information on Form F, hereby made a part of these regulations. The Commissioner shall require any risk retention group chartered in this state, which is a member of a holding company system, in cases in which this state is not the lead state, to furnish a copy of Form F filed by such risk retention group chartered in this state. The lead state commissioner of the insurance company holding system is as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

### **Section 20: Group Capital Calculation**

- (a) The lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination that the insurance holding company system meets all of the following criteria:

- (1) Has annual direct written and unaffiliated assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000;
  - (2) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
  - (3) Has no banking, depository or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;
  - (4) The holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group; and
  - (5) The non-insurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.
- (b) The lead state commissioner has the discretion to accept in lieu of the group capital calculation a limited group capital filing if:
- (1) The insurance holding company system has annual direct written and unaffiliated assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000; and all of the following additional criteria are met:
    - A. Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
    - B. Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and
    - C. The holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred and the non-insurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations.
- (c) For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant Section 20(a) or 20(b) of this rule, the lead state commissioner may require at any time the ultimate controlling person to file an annual group

capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

- (1) Any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in 8 V.S.A. Chapter 159: Risk-Based Capital for Insurers or a similar standard for a non-U.S. insurer; or
  - (2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in Regulation I-1993-02: Defining Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition; or
  - (3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.
- (d) A non-U.S. jurisdiction is considered to "recognize and accept" the group capital calculation if it satisfies the following criteria:
- (1) With respect to the 8 V.S.A. § 3684(m)(2)(D)
    - A. The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or
    - B. Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in Section 20(d)(1)(a) of this rule.

- (2) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.
- (e) A list of non-U.S. jurisdictions that “recognize and accept” the group capital calculation will be published through the NAIC Committee Process:
- (1) A list of jurisdictions that “recognize and accept” the group capital calculation pursuant to 8 V.S.A. § 3684(m)(2)(D), is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under 8 V.S.A. § 3684(m)(2)(D). To assist with a determination under 8 V.S.A. § 3684(m)(2)(E), the list will also identify whether a jurisdiction that is exempted under either 8 V.S.A. § 3684(m)(2)(C) and 8 V.S.A. § 3684(m)(2)(D) requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.
  - (2) For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of Section 20(d)(1)(b) of this rule will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC Committee Process.
  - (3) If the lead state commissioner makes a determination pursuant to 8 V.S.A. § 3684(m)(2)(D) that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.
  - (4) Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to “recognize and accept” the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that “recognize and accepts” the group capital calculation.

**Section 21. Adequacy of Surplus**

The factors set forth in 8 V.S.A. § 3685(b) are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus, no single factor is necessarily controlling. The Commissioner instead will consider the net effect of all of the factors specified in 8 V.S.A. § 3685(b), as well as other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

**Section 22. Effective Date**

A. This rule shall become effective \_\_\_\_\_.

B. Prior versions of this rule became effective December 31, 2016, and July 17, 2012.

# The Vermont Statutes Online

The Statutes below include the actions of the 2025 session of the General Assembly.

**NOTE:** The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

## **Title 8 : Banking and Insurance**

### **Chapter 001 : Policy and Administration**

(Cite as: **8 V.S.A. § 15**)

#### **§ 15. Rules, orders, and administrative interpretations**

(a) In addition to other powers conferred by this title and 18 V.S.A. chapter 221, the Commissioner may adopt rules and issue orders as shall be authorized by or necessary to the administration of this title and of 18 V.S.A. chapter 221, and to carry out the purposes of such titles.

(b) The Commissioner may, whether or not requested by any person, issue written advisory interpretations, advisory opinions, non-objection letters, and no action letters under this title and regulations issued under it, including interpretations of the applicability of any provision of this title and regulations issued under it. Such interpretations shall be presumed to be correct unless found to be clearly erroneous by a court of competent jurisdiction. The Commissioner may make public all or a portion of an advisory interpretation.

(c) The Commissioner may waive the requirements of 15 V.S.A. § 795(b) as the Commissioner deems necessary to permit the Department to participate in any national licensing or registration systems with respect to any person or entity subject to the jurisdiction of the Commissioner under this title, Title 9, or 18 V.S.A. chapter 221.

(d) Upon written request by the Office of Child Support and after notice and opportunity for hearing to the licensee as required under any applicable provision of law, the Commissioner may revoke or suspend any license or other authority to conduct a trade or business (including a license to practice a profession) issued to any person under this title, 9 V.S.A. chapter 150, and 18 V.S.A. chapter 221, if the Commissioner finds that the applicant or licensee is subject to a child support order and is not in good standing with respect to that order or is not in full compliance with a plan to pay any and all child support payable under a support order as of the date the application is filed or as of the date of the commencement of revocation proceedings, as applicable. For

purposes of such findings, the written representation to that effect by the Office of Child Support to the Commissioner shall constitute prima facie evidence. The Office of Child Support shall have the right to intervene in any hearing conducted with respect to such license revocation or suspension. Any findings made by the Commissioner based solely upon the written representation with respect to that license revocation or suspension shall be made only for the purposes of that proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from that license revocation or suspension. Any license or certificate of authority suspended or revoked under this section shall not be reissued or renewed until the Department receives a certificate issued by the Office of Child Support that the licensee is in good standing with respect to a child support order or is in full compliance with a plan to pay any and all child support payable under a support order. (Added 1999, No. 153 (Adj. Sess.), § 1, eff. Jan. 1, 2001; amended 2009, No. 42, § 33a; 2013, No. 73, § 58, eff. June 5, 2013; 2015, No. 63, § 3, eff. June 17, 2015; 2019, No. 20, § 106.)

# The Vermont Statutes Online

The Statutes below include the actions of the 2025 session of the General Assembly.

**NOTE:** The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

## **Title 8 : Banking and Insurance**

### **Chapter 141 : Captive Insurance Companies**

#### **Subchapter 001 : GENERAL PROVISIONS**

(Cite as: **8 V.S.A. § 6015**)

#### **§ 6015. Rules and regulations**

The Commissioner may adopt and from time to time amend such rules relating to captive insurance companies as are necessary to enable the Commissioner to carry out the provisions of this chapter. (Added 1981, No. 28; amended 2003, No. 55, § 7.)

# The Vermont Statutes Online

The Statutes below include the actions of the 2025 session of the General Assembly.

**NOTE:** The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

## **Title 8 : Banking and Insurance**

### **Chapter 142 : Risk Retention Groups and Purchasing Groups**

(Cite as: **8 V.S.A. § 6052**)

#### **§ 6052. Risk retention groups chartered in this State**

(a) Pursuant to the provisions of chapter 141 of this title, a risk retention group shall be chartered and licensed to write only liability insurance pursuant to this chapter, must comply with all of the laws, rules, regulations, and requirements applicable to such insurers chartered and licensed in this State under chapter 141 of this title, and with subdivisions 6053(4), (5), (7), and (8) of this title. A risk retention group chartered in this State may provide coverage for payment of punitive damages, the multiplied portion of multiple damages, or other penalties in the nature of compensatory damages, and any such coverage shall be enforceable against such risk retention group in accordance with its terms.

(b) Before it may offer insurance in any state, each risk retention group shall also submit for approval to the Commissioner of this State a plan of operation and feasibility study that includes a description of the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer, together with such additional information as the Commissioner may reasonably require. In considering and approving the risk retention group's plan of operation and any subsequent amendments thereto, the Commissioner may limit the net amount of risk retained by a risk retention group. The risk retention group shall submit for approval by the Commissioner an appropriate revision in the event of any subsequent material change in any item of the plan of operation or feasibility study, including any material change in the information called for in subsection (c) of this section, but excluding the identity of policyholders and any changes in rates or rating classification systems. The group shall not offer any additional kinds of liability insurance, in this State or in any other state, until a revision of such plan or study is approved by the Commissioner. The risk retention group shall inform the Commissioner of any material changes in rates or rating classification systems within 30 days of the adoption of such change.

(c)(1) At the time of filing its application for charter, the risk retention group shall provide to the Commissioner in summary form the following information:

(A) the identity of the initial policyholders or members of the group or if the identity is not known or cannot be determined, a description of who is eligible to be a policyholder or a member;

(B) the identity of the persons that organized the group;

(C) the identity of any persons that will act as a managing general agent or reinsurance intermediary for, provide other significant administrative services to, or otherwise influence or control the activities of the group;

(D) summary descriptions of the services, described in subdivision (C) of this subdivision (1), and of any contracts under which the services are to be performed, including the method of compensation therefor;

(E) the amount and nature of initial capitalization;

(F) plans for the payment of dividends or other distributions of members' capital and surplus; and

(G) the states in which the group intends to file.

(2) Information submitted pursuant to this subsection, including any subsequent updates, amendments, or revisions of or to such information, shall be and remain confidential and may not be made public by the Commissioner or an employee or agent of the Commissioner without the written consent of the company, except that:

(A) The Commissioner may, in the Commissioner's discretion, disclose or publish or authorize the disclosure or publication of any such record or report or any part thereof in the furtherance of legal or regulatory proceedings brought as a part of the Commissioner's official duties. The Commissioner may, in the Commissioner's discretion and in a manner the Commissioner deems proper, disclose or publish or authorize the disclosure or publication of any such record or report or any part thereof to criminal law enforcement authorities for use in the exercise of the authority's duties.

(B) The Commissioner may, in the Commissioner's discretion, disclose such information to a public officer having jurisdiction over the regulation of insurance and with other state, federal, or international agencies, provided that:

(i) such public official shall agree in writing to maintain the confidentiality of such information; and

(ii) the laws of the state or foreign government in which such public official serves require such information to be and remain confidential.

(C) The Commissioner may provide access to confidential application information with respect to risk retention groups to representatives of the National

Association of Insurance Commissioners to inspect, but not copy, such information in connection with accreditation examinations, provided the National Association of Insurance Commissioners agrees in writing to maintain the confidentiality of such information.

(D) Neither the Commissioner nor any person who received documents pursuant to this subsection, material, or information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, material, or information.

(E) Nothing in this subsection (c) shall excuse an applicant from making any required disclosure under the federal liability Risk Retention Act of 1986, this chapter, or chapter 141 of this title.

(d) The provisions of subsection 6008(c) and sections 3573 and 3574 of this title shall apply to risk retention groups chartered in this State, except that such provisions shall not apply to final examination reports relating to risk retention groups and except that the Commissioner may, in the Commissioner's discretion, grant access to any other examination information covered by subsection 6008(c) of this title to representatives of the National Association of Insurance Commissioners to inspect (but not copy) such information in connection with accreditation examinations, so long as the National Association of Insurance Commissioners agrees in writing to maintain the confidentiality of such information.

(e) The provisions of chapter 101, subchapter 13 of this title shall apply to risk retention groups chartered in this State. However, no existing rule, regulation, or order promulgated under section 3688 of this title shall apply to a risk retention group chartered in this State unless the rule, regulation, or order or a provision thereof is specific to risk retention groups. The Commissioner shall establish procedures to implement the provisions of chapter 101, subchapter 13 of this title as applied to risk retention groups chartered in this State by rule, regulation, or order.

(f) The provisions of chapter 159 of this title (risk based capital for insurers) shall apply to risk retention groups chartered in this State, except that the Commissioner may elect not to take regulatory action as otherwise required by sections 8303-8306 of chapter 159 of this title, provided at least one of the following conditions exist:

(1) The Commissioner determines that the risk retention group's members or sponsoring organization, or both, are sufficiently capitalized to support the operations of the risk retention group. As required by the Commissioner, the members or sponsoring organization, or both, shall provide evidence of:

(A) an investment grade credit rating from a nationally recognized statistical rating organization or rating of A- or better by the A. M. Best Company;

(B) an excess of assets over liabilities of at least \$100 million; or

(C) an excess of assets over liabilities of at least 10 times the risk retention group's largest net retained per occurrence limit.

(2) Each policyholder qualifies as an industrial insured under the law of his or her home state or under Vermont law, whichever the Commissioner determines to be more stringent.

(3) The risk retention group's certificate of authority was issued prior to January 1, 2011 and, based on a minimum of five years of solvent operation, is specifically exempted from the requirements for mandatory action in writing by the Commissioner.

(g) This subsection establishes governance standards for a risk retention group.

(1) As used in this subsection:

(A) "Board of directors" or "board" means the governing body of a risk retention group elected by risk retention group members to establish policy, elect or appoint officers and committees, and make other governing decisions.

(B) "Director" means a natural person designated in the articles of the risk retention group or designated, elected, or appointed by any other manner, name, or title to act as a member of the governing body of the risk retention group.

(C) "Independent director" means a director who does not have a material relationship with the risk retention group. A director has a material relationship with a risk retention group if the director, or a member of the director's immediate family:

(i) In any 12-month period, receives from the risk retention group, or from a consultant or service provider to the risk retention group, compensation or other item or items of value in an amount equal to or greater than five percent of the risk retention group's gross written premium or two percent of the risk retention group's surplus, as measured at the end of any fiscal quarter falling in such 12-month period, whichever is greater. This provision also applies to compensation or items of value received by any business with which the director is affiliated. Such material relationship shall continue for one year after receipt of the item or items of value or the compensation falls below the threshold established in this subdivision.

(ii) Has a relationship with an auditor as follows: Is affiliated with or employed in a professional capacity by a current or former internal or external auditor of the risk retention group. Such material relationship shall continue for one year after the affiliation or employment ends.

(iii) Is employed as an executive officer of another business entity that is affiliated with the risk retention group by virtue of common ownership and control, if such entity meets all of the following criteria:

(I) the entity is not an insured of the risk retention group;

(II) the entity has a contractual relationship with the risk retention group;

and

(III) the governing board of the entity includes executive officers of the risk retention group, unless a majority of the membership of such entity's governing board is composed of individuals who are members of the governing board of the risk retention group.

(IV) Such material relationship shall continue until the employment or service ends.

(iv) Notwithstanding subdivisions (i)–(iii) of this subdivision (g)(1)(C), a director who is a direct or indirect owner of the risk retention group is deemed to be independent; and an officer, director, or employee of an insured of the risk retention group is deemed to be independent, unless some other relationship of such officer, director, or employee qualifies as a material relationship.

(D) “Material service provider” includes a captive manager, auditor, accountant, actuary, investment advisor, attorney, managing general underwriter, or other person responsible for underwriting, determination of rates, premium collection, claims adjustment or settlement, or preparation of financial statements, whose aggregate annual contract fees are equal to or greater than five percent of the risk retention group's annual gross written premium or two percent of its surplus, whichever is greater. It does not mean defense counsel retained by a risk retention group, unless the defense counsel's annual fees have been equal to or greater than five percent of a risk retention group's annual gross premium or two percent of its surplus, whichever is greater, during three or more of the previous five years.

(2) The board shall have a majority of independent directors. The board of directors shall determine whether a director is independent; review such determinations annually; and maintain a record of the determinations, which shall be provided to the Commissioner annually. If the Commissioner disagrees with the board's determination regarding independence, the board, within six months, shall take such actions as are necessary in order to obtain written confirmation from the Commissioner that the board meets the independence requirements set forth in subdivision (1)(C) of this subsection.

(3) The term of any material service provider contract entered into with a risk retention group shall not exceed five years. The contract, or its renewal, requires approval of a majority of the risk retention group's independent directors. The board of directors has the right to terminate a contract at any time for cause after providing adequate notice, as defined in the terms of the contract.

(4) A risk retention group shall not enter into a material service provider contract without the prior written approval of the Commissioner.

(5) A risk retention group's business plan shall include written policies approved by its board of directors requiring the board to:

(A) provide evidence of ownership interest to each risk retention group member;

(B) develop governance standards applicable to the risk retention group;

(C) oversee the evaluation of the risk retention group's management, including the performance of its captive manager, managing general underwriter, or other person or persons responsible for underwriting, rate determination, premium collection, claims adjustment and settlement, or preparation of financial statements;

(D) review and approve the amount to be paid under a material service provider contract; and

(E) at least annually, review and approve:

(i) the risk retention group's goals and objectives relevant to the compensation of officers and material service providers;

(ii) the performance of officers and material service providers as measured against the risk retention group's goals and objectives;

(iii) the continued engagement of officers and material service providers.

(6) A risk retention group shall have an audit committee composed of at least three independent board members. A nonindependent board member may participate in the committee's activities, if invited to do so by the audit committee, but he or she shall not serve as a committee member. The Commissioner may waive the requirement of an audit committee if the risk retention group demonstrates to the Commissioner's satisfaction that having such committee is impracticable and the board of directors is able to perform sufficiently the committee's responsibilities. The audit committee shall have a written charter defining its responsibilities, which shall include:

(A) Assisting board oversight of the integrity of financial statements, compliance with legal and regulatory requirements, and qualifications, independence, and performance of the independent auditor or actuary.

(B) Reviewing quarterly financial statements and annual audited financial statements with management.

(C) Reviewing annual audited financial statements with its independent auditor and, if it deems advisable, the risk retention group's quarterly financial statements as well.

(D) Reviewing risk assessment and risk management policies.

(E) Meeting with management, either directly or through a designated representative of the committee.

(F) Meeting with independent auditors, either directly or through a designated representative of the committee.

(G) Reviewing with the independent auditor any audit problems and management's response.

(H) Establishing clear hiring policies applicable to the hiring of employees or former employees of the independent auditor by the risk retention group.

(I) Requiring the independent auditor to rotate the lead audit partner having primary responsibility for the risk retention group's audit so that no individual performs audit services for the risk retention group for more than five consecutive fiscal years. In a form and manner prescribed by the Commissioner, a risk retention group may request a waiver from the rotation requirement of this subdivision. In determining whether to grant a waiver request, the Commissioner may consider:

(i) the number and expertise of the independent auditor's partners;

(ii) the number of insurance clients the independent auditor has;

(iii) the premium volume of the risk retention group;

(iv) the number of jurisdictions in which the risk retention group transacts business; and

(v) any other factor deemed relevant by the Commissioner.

(J) Reporting regularly to the board of directors.

(7) The board of directors shall adopt governance standards, which shall be available to risk retention group members through electronic or other means, and provided to risk retention group members, upon request. The governance standards shall include:

(A) a process by which risk retention group members elect directors;

(B) director qualifications, responsibilities, and compensation;

(C) director orientation and continuing education requirements;

(D) a process allowing the board access to management and, as necessary and appropriate, independent advisors;

(E) policies and procedures for management succession; and

(F) policies and procedures providing for an annual performance evaluation of the board.

(8) The board of directors shall adopt a code of business conduct and ethics applicable to directors, officers, and employees of the risk retention group and criteria for waivers of code provisions, which shall be available to risk retention group members through electronic or other means, and provided to risk retention group members, upon request. Provisions of the code shall address:

(A) conflicts of interest;

(B) matters covered under the Vermont corporate opportunities doctrine;

(C) confidentiality;

(D) fair dealing;

(E) protection and proper use of risk retention group assets;

(F) standards for complying with applicable laws, rules, and regulations; and

(G) mandatory reporting of illegal or unethical behavior affecting operation of the risk retention group.

(9) The president or chief executive officer or, in the case of a risk retention group formed as a limited liability company or as a reciprocal insurer, an individual authorized by the board of directors of a risk retention group shall promptly notify the Commissioner in writing of any known material noncompliance with the governance standards established in this subsection.

(h) The provisions of chapter 101, subchapter 7A of this title (own risk and solvency assessment) shall apply to risk retention groups chartered in this State. (Added 1991, No. 249 (Adj. Sess.), § 23, eff. Dec. 31, 1992; amended 1993, No. 235 (Adj. Sess.), § 9i, eff. June 21, 1994; 1997, No. 49, § 17, eff. June 26, 1997; 1999, No. 38, § 20, eff. May 20, 1999; 2009, No. 42, §§ 29, 30, eff. May 27, 2009; 2011, No. 21, § 25; 2011, No. 78 (Adj. Sess.), § 41, eff. April 2, 2012; 2013, No. 103 (Adj. Sess.), § 9, eff. April 14, 2014; 2015, No. 20, § 9, eff. May 7, 2015; 2015, No. 74 (Adj. Sess.), § 6, eff. April 13, 2016; 2017, No. 12, § 10, eff. May 1, 2017; 2017, No. 90 (Adj. Sess.), § 6, eff. March 8, 2018; 2019, No. 3, § 9, eff. April 18, 2019; 2019, No. 110 (Adj. Sess.), § 11, eff. June 15, 2020; 2023, No. 110 (Adj. Sess.), § 16, eff. July 1, 2024; 2025, No. 23, § 14, eff. July 1, 2025.)



# Proposed Rules Postings

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#### Deadline For Public Comment

Deadline: Nov 28, 2025

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

#### Rule Details

Rule Number:	25P037
Title:	Risk Retention Group Holding Company Systems
Type:	Standard
Status:	Proposed
Agency:	Department of Financial Regulation
Legal Authority:	8 V.S.A. § 15(a); 8 V.S.A. § 6015; 8 V.S.A. § 6052(e) The Risk Retention Group Holding Company System Rule sets out reporting, organizational and operational requirements for Risk Retention Groups (RRG) organized as holding companies. This update to the rule tells RRGs how to comply with changes made in Subchapter 13 of Title 8, Act 101 by Act 110 (H.659) of 2024. The amended statute permits exempting RRGs from certain filing requirements and requires certain terms in RRG management agreements, in each case based on Department rules. This update provides those rules. The update also explains what it means for a non-U.S. jurisdiction to "recognize and accept" a group capital calculation under 8 V.S.A. § 3684(m)(2)(D). Lastly, this update provides administrative changes and technical corrections to the rule.
Summary:	
Persons Affected:	The modification to the rule affects entities that are part of risk retention group holding company systems that transact business in Vermont. The modification to the rule also benefits consumers and the Department.
Economic Impact:	The entities impacted by this rule are risk retention groups and other entities in a risk retention group holding company system. The economic cost of the modifications to the rule are anticipated to be limited because the filings and other compliance requirements to which this rule update relates are established in Subchapter 13 of Title 8, Act 101, as modified by Act 110 (H.659) of 2024. The updates to the rule set out criteria for exempting RRG holding company systems from a group capital calculation filing, which may result in lower compliance costs for entities exempt from filing. The additional required terms in cost sharing and management services agreements may impose additional cost. Changes to provide explanation and clarification of the statute and changes to improve the administration of the

rule are expected to impose minimal additional costs. The updates reflect changes made in the NAIC accreditation standard and widely-accepted NAIC model rule, which benefits the Department.

Posting date:

Oct 20,2025

## Hearing Information

### Information for Hearing # 1

Hearing date: 11-21-2025 09:00 AM [ADD TO YOUR CALENDAR](#)

Location: Virtually via MS Teams  
[https://teams.microsoft.com/l/meetupjoin/193ameeting\\_MTRjZDNmNGYtNTZINy00NTk4LTlmMDAtNDQwOGQxYTkyNTg440thread.v2/0?context7b22Tid223a2220b4933b-baad-433c-9c02-70edcc7559c6222c22Oid223a228e6e8bee-36f6-4255-a55d-f61857ec6e87227d](https://teams.microsoft.com/l/meetupjoin/193ameeting_MTRjZDNmNGYtNTZINy00NTk4LTlmMDAtNDQwOGQxYTkyNTg440thread.v2/0?context7b22Tid223a2220b4933b-baad-433c-9c02-70edcc7559c6222c22Oid223a228e6e8bee-36f6-4255-a55d-f61857ec6e87227d)

Address: [https://teams.microsoft.com/l/meetupjoin/193ameeting\\_MTRjZDNmNGYtNTZINy00NTk4LTlmMDAtNDQwOGQxYTkyNTg440thread.v2/0?context7b22Tid223a2220b4933b-baad-433c-9c02-70edcc7559c6222c22Oid223a228e6e8bee-36f6-4255-a55d-f61857ec6e87227d](https://teams.microsoft.com/l/meetupjoin/193ameeting_MTRjZDNmNGYtNTZINy00NTk4LTlmMDAtNDQwOGQxYTkyNTg440thread.v2/0?context7b22Tid223a2220b4933b-baad-433c-9c02-70edcc7559c6222c22Oid223a228e6e8bee-36f6-4255-a55d-f61857ec6e87227d)

City: n/a  
State: VT  
Zip: n/a

Hearing Notes: [https://teams.microsoft.com/l/meetupjoin/193ameeting\\_MTRjZDNmNGYtNTZINy00NTk4LTlmMDAtNDQwOGQxYTkyNTg440thread.v2/0?context7b22Tid223a2220b4933b-baad-433c-9c02-70edcc7559c6222c22Oid223a228e6e8bee-36f6-4255-a55d-f61857ec6e87227d](https://teams.microsoft.com/l/meetupjoin/193ameeting_MTRjZDNmNGYtNTZINy00NTk4LTlmMDAtNDQwOGQxYTkyNTg440thread.v2/0?context7b22Tid223a2220b4933b-baad-433c-9c02-70edcc7559c6222c22Oid223a228e6e8bee-36f6-4255-a55d-f61857ec6e87227d)

## Contact Information

### Information for Primary Contact

**PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.**

Level: Primary  
Name: Russ McCracken  
Agency: Department of Financial Regulation  
Address: 89 Main Street  
City: Montpelier  
State: VT  
Zip: 05620  
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Email: [russ.mccracken@vermont.gov](mailto:russ.mccracken@vermont.gov) [SEND A COMMENT](#)

Website Address: <https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment> [VIEW WEBSITE](#)

## Keyword Information

Keywords:

Risk retention group  
Risk retention group holding company system  
Group capital calculation

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PROPOSED STATE RULES

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To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

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Risk Retention Group Holding Company Systems

Vermont Proposed Rule: 25P037

AGENCY: Department of Financial Regulation

CONCISE SUMMARY: The Risk Retention Group Holding Company System Rule sets out reporting, organizational and operational requirements for Risk Retention Groups (RRG) organized as holding companies. This update to the rule tells RRGs how to comply with changes made in Subchapter 13 of Title 8, Act 101 by Act 110 (H.659) of 2024. The amended statute permits exempting RRGs from certain filing requirements and requires certain terms in RRG management agreements, in each case based on Department rules. This update provides those rules. The update also explains what it means for a non-U.S. jurisdiction to "recognize and accept" a group capital calculation under 8 V.S.A. § 3684(m)(2)(D). Lastly, this update provides administrative changes and technical corrections to the rule.

FOR FURTHER INFORMATION, CONTACT: Russ McCracken, Department of Financial Regulation, 89 Main Street, Montpelier, VT 05620, Tel: 802-828-3301, Email: [russ.mccracken@vermont.gov](mailto:russ.mccracken@vermont.gov) URL: <https://dfr.vermont.gov/about-us/legal-general-counsel/proposed-rules-and-public-comment>.

FOR COPIES: Dan Petterson, Department of Financial Regulation, 89 Main Street, Montpelier, VT 05620, Tel: 802-828-3304, Email: [dan.petterson@vermont.gov](mailto:dan.petterson@vermont.gov).

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