

**31A-17-604 Regulatory action level event.**

- (1) "Regulatory action level event" means with respect to any insurer or health organization, any of the following events:
- (a) the filing of an RBC report by the insurer or health organization that indicates that the insurer's or health organization's total adjusted capital is greater than or equal to its authorized control level RBC but less than its regulatory action level RBC;
  - (b) the notification by the commissioner to an insurer or health organization of an adjusted RBC report that indicates the event in Subsection (1)(a), provided the insurer or health organization does not challenge the adjusted RBC report under Section 31A-17-607;
  - (c) if, pursuant to Section 31A-17-607, the insurer or health organization challenges an adjusted RBC report that indicates the event in Subsection (1)(a), the notification by the commissioner to the insurer or health organization that after a hearing the commissioner rejects the insurer's or health organization's challenge;
  - (d) the failure of the insurer or health organization to file an RBC report by March 1, unless the insurer or health organization has:
    - (i) provided an explanation for the failure that is satisfactory to the commissioner; and
    - (ii) cured the failure within 10 days after March 1;
  - (e) the failure of the insurer or health organization to submit an RBC plan to the commissioner within the time period set forth in Subsection 31A-17-603(3);
  - (f) notification by the commissioner to the insurer or health organization that:
    - (i) the RBC plan or revised RBC plan submitted by the insurer or health organization is unsatisfactory; and
    - (ii) the notification constitutes a regulatory action level event with respect to the insurer or health organization, provided the insurer has not challenged the determination under Section 31A-17-607;
  - (g) if, pursuant to Section 31A-17-607, the insurer or health organization challenges a determination by the commissioner under Subsection (1)(f), the notification by the commissioner to the insurer or health organization that after a hearing the commissioner rejects the challenge; or
  - (h) notification by the commissioner to the insurer or health organization that the insurer or health organization has failed to adhere to its RBC plan or revised RBC plan, but only if:
    - (i) the failure has a substantial adverse effect on the ability of the insurer or health organization to eliminate the company action level event in accordance with its RBC plan or revised RBC plan; and
    - (ii) the commissioner has so stated in the notification, provided the insurer or health organization has not challenged the determination under Section 31A-17-607; or
    - (iii) if, pursuant to Section 31A-17-607, the insurer or health organization challenges a determination by the commissioner under Subsection (1)(h), the notification by the commissioner to the insurer or health organization that after a hearing the commissioner rejects the challenge.
- (2) In the event of a regulatory action level event the commissioner shall:
- (a) require the insurer or health organization to prepare and submit an RBC plan or, if applicable, a revised RBC plan;
  - (b) perform any examination or analysis the commissioner considers necessary of the assets, liabilities, and operations of the insurer or health organization, including a review of its RBC plan or revised RBC plan; and
  - (c) subsequent to the examination or analysis, issue a corrective order specifying the corrective action the commissioner determines is required.

- (3) In determining a corrective action, the commissioner may take into account such factors the commissioner considers relevant with respect to the insurer or health organization based upon the commissioner's examination or analysis of the assets, liabilities, and operations of the insurer or health organization, including the results of any sensitivity tests undertaken pursuant to the RBC instructions. The RBC plan or revised RBC plan shall be submitted:
- (a) within 45 days after the occurrence of the regulatory action level event;
  - (b) if the insurer or health organization challenges an adjusted RBC report pursuant to Section 31A-17-607 and the commissioner determines the challenge is not frivolous, within 45 days after the notification to the insurer or health organization that after a hearing the commissioner rejects the insurer's or health organization's challenge; or
  - (c) if the insurer or health organization challenges a revised RBC plan pursuant to Section 31A-17-607 and the commissioner determines the challenge is not frivolous, within 45 days after the notification to the insurer or health organization that after a hearing the commissioner rejects the insurer's or health organization's challenge.

Amended by Chapter 116, 2001 General Session