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DIVISION OF INSURANCE

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**NAIC ACCREDITATION REQUIREMENTS FOR
RISK RETENTION GROUP CAPTIVES**

The purpose of this Regulatory Bulletin is to provide notification of new National Association of Insurance Commissioners' (NAIC) accreditation requirements applicable to risk retention group captives (RRG captives) domiciled in Nevada. This Bulletin relates **solely** to requirements for RRG captives and does not apply to any other captive insurers.

The NAIC adopted new accreditation requirements applicable to RRG captives. The Nevada Division of Insurance ("DOI") must implement these requirements by **no later than January 1, 2011**, or risk losing its NAIC accreditation. The DOI believes that the majority of the NAIC's new accreditation requirements are already applicable to Nevada's RRG captives pursuant to current existing statutes, rules, procedures or policies.

Under the new NAIC accreditation requirements, RRG captives are subject to the following reporting requirements:

Statement of Actuarial Opinion and Actuarial Opinion Memorandum (Summary):

Property and Casualty Actuarial Opinion Model Law (# 745) -- Model # 745 became an accreditation standard for traditional insurers effective Jan. 1, 2010, and RRG captive insurers effective Jan. 1, 2011. Sections 2A, 2B, 3A and 3B(1) of the model are the significant elements required for accreditation. These four sections require annual submission of a Statement of Actuarial Opinion (SAO) and an Actuarial Opinion Summary (AOS), as well as require that the SAO is treated as a public document, while various documents related to the Actuarial Report or AOS are confidential by law. These sections were incorporated into Nevada law thru the *Adopted Regulation of the Commissioner of Insurance LCB File No. R072-10*, and will eventually be codified into Chapter 681B of the Nevada Administrative Code.

Annual Financial Reporting Model Regulation:

Annual Financial Reporting Model Regulation (# 205) -- Revisions were made to model # 205 in both 2001 and 2006, and became significant elements required for traditional insurers effective Jan. 1, 2008 and Jan. 1, 2010, respectively; and RRG captive insurers effective Jan. 1, 2011. The 2001 revisions indicate that a qualified independent certified public accountant may not enter into indemnification agreements in regards to the audit of an insurer. The 2006 revisions are numerous and are related to auditor independence, corporate governance, and internal control over financial reporting. The revisions were incorporated into Nevada law thru the *Adopted Regulation of the Commissioner of Insurance LCB File No. R 205-08A* and will eventually be codified into Chapter 680A of the Nevada Administrative Code.

Insurance Holding Company Systems statutes:

Insurance Holding Company System Regulatory models (#440 and #450) -- RRG captive insurers are subject to the Insurance Holding Company Systems statutes effective Jan. 1, 2011. (See Chapters 692C of the Nevada Revised Statutes and the Nevada Administrative Code.) An “Insurance holding company system” means a combination of two or more affiliated persons, one or more of which is an insurer. For the purposes of the NAIC Accreditation process, an “insurer” includes a RRG captive. If it is determined necessary, the DOI will pursue legislation to implement any changes to the statute that may need to be done in order to maintain its NAIC accreditation.

Producer Controlled Insurance statutes:

Business Transacted with Producer Controlled Property/Casualty Insurers Model Act (#325) -- RRG captive insurers are subject to the Producer Controlled Insurance statutes effective Jan. 1, 2011, for Accreditation purposes only. (See Nevada Administrative Code §§ 693A.600 through 693A.770). A “Controlled insurer” means a licensed insurer which is domiciled in this state or an insurer which is domiciled in a state that is not an accredited state and which is controlled by a broker. The term does not include: 1. Risk retention groups covered by 15 U.S.C. § 3902, 42 U.S.C. § 9673 and [chapter 695E](#) of NRS; 2. Residual market pools; 3. Joint underwriting authorities or associations; and 4. Captive insurers.

Please note that we currently have no producer controlled RRG captive insurers operating in Nevada, so no change in operations will be required for compliance with Nevada Administrative Code §§ 693A.600 through 693A.770. If it is determined necessary, the DOI will pursue legislation to implement any changes to the statute that may need to be done in order to maintain its NAIC accreditation.

Capital and Surplus Requirements:

The Risk-Based Capital for Insurers Model Act (#312) is currently not applicable to RRG captive insurers. The Act is not applicable due to the utilization by the RRG captives of an accounting basis that differs from statutory accounting principles (SAP). The current RBC formulas established by NAIC may produce RBC amounts that differ dramatically had SAP been strictly used by the RRG captive. Over the last several years, there have been substantial discussions by the Risk Retention Group (E) Task Force at the NAIC National meetings suggesting that, in order for the RBC process to be applicable to RRG captives, the current RBC formula must be adjusted to address the assumed levels of risk of RRG captive insurers. Recently, the RRG Task Force released information that, based on discussions about the unique accounting issues that affect RRG captives and an analysis of the 2009 RRG RBC filing, if items related to general accepted accounting principles (GAAP) (including letters of credit) are

included in the RBC calculations, then the RBC conclusions relating to the GAAP-based assets and liabilities may not be unreasonably distorted. It has been acknowledged (as noted above) that applying SAP to the GAAP basis financials may, however, produce significantly different RBC amounts. As a result, the overall conclusion is that the RBC still appears to be a meaningful capital standard and the results are not overly distorted for most RRG captives.

At the 2011 Fall National NAIC meeting, the RRG Task Force recommended that RRG captives must comply with the annual RBC filing requirements.

A majority of Nevada's RRG captive insurers already provide RBC reports and the DOI reviews these reports with an understanding that the formula may not be a true representation of a RRG captive's risk capital due to the RRG captive utilizing an accounting basis other than SAP. The report does, however, allow the DOI to review and compare the RRG captive insurers' capital over a period of years which allows for adequate monitoring of changes to the individual insurer's capital and surplus. The DOI appreciates the RRG captive's assistance by continuing to file the RBC Report. It is anticipated that the Risk-Based Capital for Insurers Model Act (#312) will become applicable to RRG captives at a later date; at such time, the DOI will pursue legislation to implement any changes to statute that may need be necessary to maintain its NAIC accreditation.

Reinsurance Ceded:

Credit for Reinsurance Model Law and Regulations: (#775, #786) -- RRG captive insurers are subject to the Credit for Reinsurance statutes and regulations effective Jan. 1, 2011. (See Nevada Revised Statutes §§ 681A.100 through .580, and Nevada Administrative Code §§ 681A.050 through .380.) The NAIC Accreditation Standards follow the Model Law and Regulation through the various reinsurance scenarios with the assuming insurer being identified within the scenarios as meeting the requirements which allows the RRG captive insurer to take the credit for the reinsurance ceded. All of the identified scenarios apply to RRG captive insurers as of Jan. 1, 2011. Additional information or requirements apply to the RRG captive insurer in the following two scenarios:

- Credit allowed for reinsurance ceded to a licensed insurer (NRS 681A.150). If the assuming reinsurer is licensed as a risk retention group, then the ceding risk retention group or its members must qualify for membership with the risk retention group acting as the reinsurer.
- Credit allowed for reinsurance ceded to an insurer not meeting the requirements of a licensed insurer in an amount not exceeding the liabilities and only in the amount of acceptable forms of security (NRS 681A.240). Although not required for accreditation, Nevada's statutes and regulations allow RRGs licensed as captive insurers to take credit for reinsurance without posting collateral in circumstances not completed by the Models. In order for the NAIC and Accreditation to address this lack of collateral, the Accreditation Interlineations include "Reinsurance Guidelines for Risk Retention Groups Licensed as Captive Insurers", and Nevada's statutes and regulations must comply with these guidelines in order to be considered substantially similar with the Models and this accreditation standard.

“Reinsurance Guidelines for Risk Retention Groups Licensed as Captive Insurers” is a handout from the NAIC and is attached to this bulletin. Additional copies can be requested from the DOI.

An RRG captive’s cedants as of Jan 1, 2011, are grandfathered in as acceptable without meeting the Reinsurance Guidelines. The requirements in the Reinsurance Guidelines should be used for new cedants with which business is placed after Jan 1, 2011.

NAIC Accounting Practices and Procedures:

NAIC Annual Statement Blank and Instructions are applicable to RRG captives. (See Nevada Revised Statutes 694C.400, Nevada Administrative Code 694C.090 and 694C.200.) However, some parts of the Annual Statement Instructions are not applicable due to the RRG captive utilizing an accounting basis other than SAP. Specific Annual Statement Schedules and Exhibits had been identified in the original drafting of NRS 694C and NAC 694C as being required or waived. Changing conditions in the regulatory environment may require the filing of an exhibit or schedule that had previously been waived.

NAIC Accounting Practices and Procedures Manual is applicable to RRG captives. However, another form of accounting basis may be prescribed or permitted (such as GAAP or modified GAAP). If another form of accounting is used, a reconciliation to the SAP basis must be included in the Notes to the Financials.

Additional Requirement of the Nevada DOI: As a clarification to the NAIC Annual Statement Blank and Instructions, the following schedules and exhibits must be included in the Annual Statement filings of a RRG captive.

- Actuarial Opinion
 - Statement of Actuarial Opinion, and
 - Actuarial Opinion Summary
- Annual Audited Financial Reports (due date 6/30 of each year)
 - Report and Opinion of the Independent Certified Public Accountant, which must include
 - *A balance sheet reporting admitted assets, liabilities, capital and surplus,*
 - *A statement of operations,*
 - *A statement of cash flow,*
 - *A statement of changes in capital and surplus,*
 - *A summary of the ownership and relationships of the insurer and each of its affiliated companies, and*
 - *All Notes of the Financial Statements required by the appropriate NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual. The notes must include a reconciliation of differences, if any, between the annual Audited Financial Report and the NAIC Annual Statement, with a written description of the nature of these differences.*
 - Communication of Matters relating to Internal Control Noted in an Audit,
 - Management Report of Internal Controls over Financial Report,
 - Accountant’s Letter of Qualification, and
 - Notification of Adverse Financial Condition.
- Management Discussion and Analysis

- NAIC Annual Statement, which must include
 - Jurat Page,
 - Assets,
 - Liabilities, Surplus and Other Funds,
 - Statement of Income and Capital and Surplus Account,
 - Cash Flow,
 - Underwriting and Investment Exhibit, which must include
 - Part 1 – Premiums Earned,
 - Part 1A – Recapitulation of All Premiums,
 - Part 1B – Premiums Written,
 - Part 2 – Losses Paid and Incurred,
 - Part 2A – Unpaid Losses and Loss Adjustment Expenses and
 - Part 3 – Expenses.
 - Exhibit of Net Investment Income,
 - Exhibit of Capital Gains (Losses),
 - Notes to the Financial Statements,
 - General Interrogatories,
 - Five-Year Historical Data,
 - Exhibit of Premiums and Losses – State Page,
 - Schedule F – Ceded and Assumed Reinsurance Data,
 - Schedule P – Analysis of Losses and Loss Expenses,
 - Schedule T – Exhibit of Premiums Written,
 - Schedule Y – Information Concerning Activities of Insurer Members of a Holding Company Group,
 - Investment Schedules, which must include
 - Summary Investment Schedule,
 - Schedule A – Real Estate,
 - Schedule B – Mortgage Loans,
 - Schedule BA – Other Long-Term Investments,
 - Schedule D – Bonds and Stocks,
 - Schedule DA – Short-Term Investments,
 - Schedule DB – Options, Caps, Floors, Collars, Swaps, Forwards and Futures, and
 - Schedule E –Cash / Cash Equivalents.

Extensions for filing the Annual and Quarterly Financial Statements, the Audited Financial Report, the Management Discussion and Analysis and the Actuarial Opinion and Summary should be submitted to the Commissioner at least 10 business days prior to the due date.

Waivers for filing the Audited Financial Report and the Actuarial Opinion and Summary should be submitted to the Commissioner at least 30 days prior to the year end for the reporting year.

In addition, pursuant to Nevada Revised Statute 694C.240, RRG captives are required to submit their business plan to the Commissioner with their initial application and with their annual renewal. The business plan must be reflective of the current operations of the captive. If the current operations are not reflective of the business plan, the business plan must be revised accordingly. The business plan also needs to reflect the expected results of the RRG captive's operations for the upcoming year.

If the RRG captive makes any changes to the business plan, it must submit those changes to the Commissioner as soon as possible. In general, the RRG captive should file any changes to the business plan at the same time it files the annual and quarterly financial statements.

After January 1, 2011, the DOI requests that currently licensed RRG captives voluntarily comply with all of the new NAIC accreditation requirements until such time as the necessary legislation passes and is effective.¹

It is the intent of the DOI that this Bulletin provides RRG captives a complete and thorough listing of the documents that are required for financial statement reporting under NAIC Accreditation Standards.


SCOTT J. KIPPER
Commissioner of Insurance

¹ It is the DOI's intention to require RRG captives to comply with all of the NAIC RRG accreditation requirements. This Bulletin is intended to provide you with notice regarding those Title 57 provisions that may be new requirements for Nevada RRG captives. It is the DOI position that all NAIC RRG accreditation requirements that are not listed herein are already applicable to Nevada RRG captives.