



**Commissioner Nathan Houdek
Chair, Financial Condition (E) Committee
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1000
Kansas City, MO 64106-2197**

September 23, 2026

Re: Referral to Life RBC (E) Working Group Regarding Reinsurance Recapture and Counterparty Risk

Dear Commissioner Houdek:

The Cayman International Reinsurance Companies Association (CIRCA) writes regarding the Financial Condition (E) Committee's (the Committee) referral directing the Life RBC (E) Working Group (the Working Group) to develop new risk based capital requirements addressing reinsurance recapture and counterparty recoverability.

CIRCA supports rigorous examination of these risks and effective supervision to protect policyholders. We recognize the important role of adequate capital and strongly support the state based system of insurance regulation.

Our concern is not whether regulators should examine reinsurance recapture and counterparty recoverability risk. They should. Our concern is that the referral selects additional RBC as the regulatory response before a transparent technical process has established whether a material capital deficiency exists, whether existing regulatory protections are inadequate, and whether additional capital is the most effective and proportionate regulatory tool.

CIRCA respectfully requests that the Committee revise or supplement the referral before implementation proceeds further so that the policy outcome remains open to the evidence. The threshold governance question is straightforward: Where is the open proceeding in which stakeholders can test the underlying evidence, challenge whether a material capital deficiency exists, consider alternative supervisory responses, and influence the policy determination while the outcome remains genuinely open?

The Referral Directs the Remedy Before Establishing the Need

The Committee's referral does not ask the Working Group to determine whether additional capital is warranted. It directs the Working Group to develop the capital response.

The distinction became particularly clear when the Working Group considered the referral on August 26. The Working Group subsequently exposed the referral for comment, but expressly stated that it does not have authority to change directives from its parent committee and instructed interested parties to focus their comments on implementation rather than attempting to modify or override those directives.

CIRCA does not fault the Working Group for recognizing the limits of its authority. The Working Group received a directive from its parent committee and has explained its understanding of that directive. But that leaves a fundamental question unanswered.

Exposing implementation of a decision is not the same as exposing the decision itself. The NAIC's public process should permit stakeholders to address not merely the calibration of a predetermined remedy, but also the predicate for that remedy.

The appropriate analytical sequence should be straightforward: identify the risk, establish its materiality, evaluate existing safeguards, quantify the residual exposure, consider the available regulatory tools, and then determine which regulatory response is most effective and proportionate.

The referral appears to reverse that sequence by selecting additional RBC first and directing the technical process toward implementation.

Confidential Supervision and Public Policymaking Serve Different Purposes

CIRCA recognizes that the concerns underlying the referral may have originated through confidential supervisory work, including examinations, Valuation Analysis (E) Working Group (VAWG) regulator-only deliberations, AG 55 reviews and other regulator discussions. We do not question the legitimacy or importance of confidential supervision, nor do we seek disclosure of protected company information.

But confidential supervision and the development of generally applicable regulatory policy serve different purposes. Confidential supervisory processes can identify emerging concerns and individual company or transaction risks. When those observations become the basis for a generally applicable capital requirement, however, the policy proposition should be supported by a public analytical record sufficient to permit interested parties to understand and test the rationale.

That record can be developed without compromising supervisory confidentiality through aggregated findings, anonymized transaction examples, disclosed assumptions and stress scenarios, materiality analysis, comparison to existing safeguards, and an explanation of any residual risk after those safeguards are considered. We do not believe that public analytical record has yet been developed here.

Establish the Risk Before Selecting the Regulatory Tool

A supervisory concern does not, by itself, establish an RBC deficiency. A material risk does not necessarily require an additional capital factor. Additional capital can provide protection against many

financial risks, but that observation does not establish that capital is the most appropriate regulatory response to every identified concern.

Regulators already possess a substantial supervisory toolkit, including statutory reserves, collateral requirements, Credit for Reinsurance requirements, existing RBC, financial surveillance, examinations, actuarial analysis, ORSA, holding company supervision and transaction review. The necessary first step is to determine where those protections fall short and what residual risk remains after they are considered.

If the concern involves asset quality, concentration, collateral accessibility, transaction structure, governance, counterparty strength or insufficient regulatory visibility, a targeted supervisory response may address the concern more directly than a generally applicable capital factor.

This is not an argument against additional RBC. It is an argument that the analysis should determine whether RBC is appropriate rather than beginning from the assumption that it is.

The Referral Appears to Run Ahead of RBC Model Governance

The sequencing of the referral is particularly difficult to reconcile with the NAIC's ongoing RBC Model Governance initiative. Model Governance is currently examining potential gaps in the RBC framework and developing disciplines around materiality, prioritization, consistency and the relationship between policy judgments and technical analysis.

Those are precisely the disciplines that should apply here. Identification of a potential gap is not itself a determination that a material RBC deficiency exists. Nor does identification of a material risk establish that a new capital factor is necessarily the appropriate regulatory response.

Yet while Model Governance continues evaluating potential RBC gaps, the Committee has already directed the Working Group to develop the capital remedy for this particular issue. In practical terms, Model Governance is still examining the question while the Committee referral has already prescribed the answer.

If this issue presents circumstances sufficiently urgent or unique to warrant proceeding ahead of the Model Governance process, the public record should explain why.

The Procedural Precedent Extends Far Beyond Life Reinsurance

CIRCA's concern with the procedural precedent is not limited to offshore reinsurance or the interests of CIRCA members. This flawed procedure should not be used in the future to establish capital requirements affecting property and casualty insurers, health insurers, investments or other business practices.

Stakeholders may disagree strongly about the merits of any particular regulatory proposal while sharing an interest in a process that permits evidence and technical analysis to influence the outcome before the policy determination is settled.

That principle is especially important to those who strongly support state based insurance regulation and share a common interest in ensuring that the processes supporting it are transparent, disciplined and capable of withstanding scrutiny.

The Implementation Objective Should Follow the Analysis

The referral also establishes a year end 2027 implementation objective. CIRCA appreciates the value of establishing regulatory priorities and reasonable timetables. But the timetable should follow the analysis rather than influence its outcome.

A predetermined implementation objective should not create pressure to produce a capital factor regardless of what the technical inquiry ultimately demonstrates. If additional RBC is warranted, the process should provide adequate time for quantitative analysis, impact testing, consideration of mitigants, assessment of unintended consequences and meaningful public comment.

Requested Action

CIRCA respectfully requests that the Financial Condition (E) Committee adopt a process that allows the analysis to precede the remedy by taking the following actions:

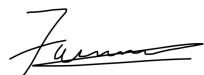
1. Revise or supplement the referral to keep the policy outcome open and permit an evaluation of whether a material residual capital deficiency exists and whether additional RBC is the appropriate regulatory response. The analysis should be capable of concluding that RBC is warranted, that another supervisory response would more effectively address the identified risk, or that existing protections adequately address the concern.
2. Identify an accountable public forum in which interested parties may examine the evidence, assumptions, materiality, existing protections, residual risks and alternative supervisory tools while the policy outcome remains open.
3. Coordinate the inquiry with RBC Model Governance so that the materiality, prioritization and analytical disciplines being developed through that initiative apply to this work.
4. Allow the analysis, rather than a predetermined implementation date, to determine the outcome and timetable, including sufficient opportunity for quantitative assessment, impact testing and public comment before any capital requirement becomes effective.

Permitting interested parties to argue for a smaller factor, or even a factor of zero, does not resolve the underlying concern. Calibration of a predetermined requirement is different from determining whether the requirement should exist.

CIRCA will engage constructively if the analysis demonstrates that additional RBC is appropriate. We ask only that the process remain capable of reaching a different conclusion if the evidence warrants one.

Our request is straightforward: establish the need, evaluate the alternatives, and allow the analysis to determine the outcome.

Respectfully submitted,



Faramarz Romer
Chairman of the Board
Cayman International Reinsurance Companies Association

cc: Executive (EX) Committee
Life RBC (E) Working Group