

CLIENT ALERT

Update on Potential Reinsurance Risk-Based Capital and Reporting Changes

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As we reported [here](#), the Financial Condition (E) Committee (the “[\(E\) Committee](#)”) of the National Association of Insurance Commissioners (the “[NAIC](#)”) has two projects underway that could result in increased capital and regulatory disclosure requirements for certain reinsurance transactions. First, in August 2026, the (E) Committee sent a two-part referral to the Life Risk-Based Capital (E) Working Group (the “[Life RBC WG](#)”) to (1) develop a reinsurance recapture risk-based capital (“[RBC](#)”) factor for ceded reserves and modified coinsurance balances outside reciprocal jurisdictions, reflecting the additional capital needed if recapture occurs; and (2) align the life risk-based capital reinsurance credit-risk methodology with the property and casualty RBC approach, in order to reflect counterparty risk for reinsurers with lower financial strength ratings.

The Life RBC WG is currently focused on part 1 of the referral. At a meeting on October 29, 2026, the (E) Committee shared a letter with additional background for the requested recapture factor. The letter states that review of insurer reports pursuant to *Actuarial Guideline LV* (“[AG 55](#)”) indicated that “approximately 70% of life insurers ceding to non-reciprocal jurisdictions have portfolios of comparatively riskier assets supporting very generous annuity guarantees that raise significant concerns about the ability to pay future claims under reasonable economic scenarios.” The (E) Committee has posted its letter [here](#) for interested party comment until November 12, 2026.

The Life RBC WG plans to release a formal proposal in advance of the upcoming NAIC [Fall National Meeting](#). The proposal is expected to involve a factor approach where a new RBC charge would be applied to ceded reserves and modified coinsurance balances to approximate the additional capital required upon recapture (assuming a 100% probability of recapture), reduced for overcollateralization. The Life RBC WG indicated that it intends to turn to part 2 of the referral shortly, since the (E) Committee has prioritized both of the reinsurance-related RBC changes for year-end 2027 implementation.

The (E) Committee is also considering revising the reporting thresholds for reinsurance transactions in the *Disclosure of Material Transactions Model Act* (#285) ("[Model 285](#)"). Model 285 currently provides for post-closing reporting of specified transactions including material nonrenewals, cancellations or revisions of ceded reinsurance agreements or new ceded reinsurance agreements affecting in force life insurance business, where material is generally defined for property and casualty insurers as more than 50% of an insurer's total ceded written premium or indemnity and loss adjustment reserves, and for life insurers as more than 50% of the total reserve credit taken for business ceded, on an annualized basis. At its October 29 meeting, the (E) Committee heard preliminary comments from interested parties, who requested consistency with reporting under AG 55 and the NAIC's credit for reinsurance requirements, and consideration of any changes to Model 285 in coordination with the Life RBC WG's work. The (E) Committee is seeking input for an additional 60-day comment period ending December 28, 2026 before deciding whether to reopen Model 285 for revision.

If you have any questions regarding this client alert or the developments above, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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