

TITLE 41
INSURANCE

CHAPTER 54
RISK-BASED CAPITAL (RBC) FOR INSURERS ACT

41-5401. DEFINITIONS. As used in this chapter, these terms shall have the following meanings:

(1) "Adjusted RBC report" means an RBC report which has been adjusted by the director in accordance with section [41-5402](#) (5), Idaho Code.

(2) "Corrective order" means an order issued by the director specifying corrective actions which the director has determined are required.

(3) "Domestic insurer" means any insurer domiciled in this state.

(4) "Foreign insurer" means any insurer not domiciled in this state.

(5) "Health organization" means any hospital service corporation or professional service corporation licensed under [chapter 34, title 41](#), Idaho Code.

(6) "Insurer" means any insurance company authorized to transact insurance business in this state and includes a fraternal benefit society and a health organization unless the context otherwise requires.

(7) "Life and/or health insurer" means any insurer licensed under [chapter 3, title 41](#), Idaho Code, to transact life, disability, accident and/or health insurance and includes any managed care organization within the scope of section [41-3921](#) (1), Idaho Code, or a licensed property and casualty insurer writing only disability or accident and health insurance.

(8) "NAIC" means the national association of insurance commissioners.

(9) "Negative trend" means, with respect to a life and/or health insurer or a fraternal benefit society, a negative trend over a period of time, as determined in accordance with the "Trend Test Calculation" included in the life or fraternal RBC instructions.

(10) "Property and casualty insurer" means any insurer licensed under [chapter 3, title 41](#), Idaho Code, to transact property and casualty insurance, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers, title insurers, farm and county mutuals and domestic reciprocal insurers with fewer than seven (7) subscribers which insure only worker's compensation risk in this state and which only issue fully assessable policies.

(11) "RBC" means risk-based capital.

(12) "RBC instructions" means the RBC report, including risk-based capital instructions adopted by the NAIC, as such RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(13) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC where:

(a) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

(b) "Company action level RBC" means, with respect to any insurer, the product of 2.0 and its authorized control level RBC;

(c) "Mandatory control level RBC" means the product of .70 and the authorized control level RBC;

(d) "Regulatory action level RBC" means the product of 1.5 and its authorized control level RBC.

(14) "RBC plan" means a comprehensive financial plan containing the elements specified in section [41-5403](#)(2), Idaho Code. If the director rejects the RBC plan and it is revised by the insurer, with or without the director's recommendation, the plan shall be called the "revised RBC plan."

(15) "RBC report" means the report required in section [41-5402](#), Idaho Code.

(16) "Total adjusted capital" means the sum of:

- (a) An insurer's statutory capital and surplus as determined in accordance with the statutory accounting applicable to the annual financial statements required to be filed under section [41-335](#), [41-3225](#) or [41-3425](#), Idaho Code; and
- (b) Such other items, if any, as the RBC instructions may provide.

[41-5401, added 1996, ch. 96, sec. 1, p. 283; am. 2004, ch. 255, sec. 1, p. 726; am. 2014, ch. 319, sec. 1, p. 785.]

41-5402. RBC REPORTS. (1) Every domestic insurer shall, on or prior to each March 1 (the "filing date"), prepare and submit to the director a report of its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, every domestic insurer shall file its RBC report:

- (a) With the NAIC in accordance with the RBC instructions; and
- (b) With the insurance director in any state in which the insurer is authorized to do business, if the insurance director has notified the insurer of its request in writing, in which case the insurer shall file its RBC report not later than the later of:
 - (i) Fifteen (15) days from the receipt of notice to file its RBC report with that state; or
 - (ii) The filing date.

(2) A life and health insurer's or fraternal benefit society's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take into account, and may adjust for the covariance between, the following factors determined in each case by applying the factors in the manner set forth in the RBC instructions:

- (a) The risk with respect to the insurer's assets;
- (b) The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;
- (c) The interest rate risk with respect to the insurer's business; and
- (d) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(3) A property and casualty insurer's or health organization's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take the following into account, and may adjust for the covariance between, determined in each case by applying the factors in the manner set forth in the RBC instructions:

- (a) Asset risk;
- (b) Credit risk;
- (c) Underwriting risk; and
- (d) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(4) An excess of capital over the amount produced by the risk-based capital requirements contained in this chapter and the formulas, schedules and instructions referenced in this chapter is desirable in the business of insurance. Accordingly, insurers should seek to maintain capital above the

RBC levels required by this chapter. Additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in, or affecting, the business of insurance and not accounted for or only partially measured by the risk-based capital requirements contained in this chapter.

(5) If a domestic insurer files an RBC report which in the judgment of the director is inaccurate, then the director shall adjust the RBC report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBC report as so adjusted is referred to as an "adjusted RBC report."

[41-5402, added 1996, ch. 96, sec. 1, p. 284; am. 2014, ch. 319, sec. 2, p. 786.]

41-5403. COMPANY ACTION LEVEL EVENT. (1) "Company action level event" means any of the following events:

- (a) The filing of an RBC report by an insurer which indicates that:
 - (i) The insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC; or
 - (ii) If a life and/or health insurer that completes the life annual statement for the reporting year or fraternal benefit society, the insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and has a negative trend; or
 - (iii) If a property or casualty insurer, health organization or health insurer that completes the health annual statement for the reporting year, the insurer has total adjusted capital which is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty or health RBC instructions;
- (b) The notification by the director to the insurer of an adjusted RBC report that indicates an event in paragraph (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under section [41-5407](#), Idaho Code; or
- (c) If, pursuant to section [41-5407](#), Idaho Code, an insurer challenges an adjusted RBC report that indicates the event in paragraph (a) of this subsection, the notification by the director to the insurer that the director has, after a hearing, rejected the insurer's challenge.

(2) In the event of a company action level event, the insurer shall prepare and submit to the director an RBC plan which shall:

- (a) Identify the conditions which contribute to the company action level event;
- (b) Contain proposals of corrective actions which the insurer intends to take and would be expected to result in the elimination of the company action level event;
- (c) Provide projections of the insurer's financial results in the current year and at least the four (4) succeeding years, and for managed care organizations and health organizations for at least the two (2) succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including

projections of statutory operating income, net income, capital and surplus. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense and benefit component;

(d) Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and

(e) Identify the quality of, and problems associated with, the insurer's business, including but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business and use of reinsurance, if any, in each case.

(3) The RBC plan shall be submitted:

(a) Within forty-five (45) days of the company action level event; or

(b) If the insurer challenges an adjusted RBC report pursuant to section [41-5407](#), Idaho Code, within forty-five (45) days after notification to the insurer that the director has, after a hearing, rejected the insurer's challenge.

(4) Within sixty (60) days after the submission by an insurer of an RBC plan to the director, the director shall notify the insurer whether the RBC plan shall be implemented or is, in the judgment of the director, unsatisfactory. If the director determines the RBC plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions which will render the RBC plan satisfactory, in the judgment of the director. Upon notification from the director, the insurer shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by the director, and shall submit the revised RBC plan to the director:

(a) Within forty-five (45) days after the notification from the director; or

(b) If the insurer challenges the notification from the director under section [41-5407](#), Idaho Code, within forty-five (45) days after a notification to the insurer that the director has, after a hearing, rejected the insurer's challenge.

(5) In the event of a notification by the director to an insurer that the insurer's RBC plan or revised RBC plan is unsatisfactory, the director may, at the director's discretion, subject to the insurer's right to a hearing under section [41-5407](#), Idaho Code, specify in the notification that the notification constitutes a regulatory action level event.

(6) Every domestic insurer that files an RBC plan or revised RBC plan with the director shall file a copy of the RBC plan or revised RBC plan with the insurance director in any state in which the insurer is authorized to do business if:

(a) Such state has an RBC provision substantially similar to section [41-5408](#)(1), Idaho Code; and

(b) The insurance director of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the RBC plan or revised RBC plan in that state no later than the later of:

(i) Fifteen (15) days after the receipt of notice to file a copy of its RBC plan or revised RBC plan with the state; or

(ii) The date on which the RBC plan or revised RBC plan is filed under subsections (3) and (4) of this section.

41-5404. REGULATORY ACTION LEVEL EVENT. (1) "Regulatory action level event" means, with respect to any insurer, any of the following events:

(a) The filing of an RBC report by the insurer which indicates that the insurer'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 director to an insurer of an adjusted RBC report that indicates the event in paragraph (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under section [41-5407](#), Idaho Code;

(c) If, pursuant to section [41-5407](#), Idaho Code, the insurer challenges an adjusted RBC report that indicates the event in paragraph (a) of this subsection, the notification by the director to the insurer that the director has, after a hearing, rejected the insurer's challenge;

(d) The failure of the insurer to file an RBC report by the filing date, unless the insurer has provided an explanation for such failure which is satisfactory to the director and has cured the failure within ten (10) days after the filing date;

(e) The failure of the insurer to submit an RBC plan to the director within the time period set forth in section [41-5403](#) (3), Idaho Code;

(f) Notification by the director to the insurer that:

(i) The RBC plan or revised RBC plan submitted by the insurer is, in the judgment of the director, unsatisfactory; and

(ii) Such notification constitutes a regulatory action level event with respect to the insurer, provided the insurer has not challenged the determination under section [41-5407](#), Idaho Code;

(g) If, pursuant to section [41-5407](#), Idaho Code, the insurer challenges a determination by the director under paragraph (f) of this subsection, the notification by the director to the insurer that the director has, after a hearing, rejected such challenge;

(h) Notification by the director to the insurer that the insurer has failed to adhere to its RBC plan or revised RBC plan, but only if such failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its RBC plan or revised RBC plan and the director has so stated in the notification, provided the insurer has not challenged the determination under section [41-5407](#), Idaho Code; or

(i) If, pursuant to section [41-5407](#), Idaho Code, the insurer challenges a determination by the director under paragraph (h) of this subsection, the notification by the director to the insurer that the director has, after a hearing, rejected the challenge.

(2) In the event of a regulatory action level event the director shall:

(a) Require the insurer to prepare and submit an RBC plan or, if applicable, a revised RBC plan;

(b) Perform such examination or analysis as the director deems necessary of the assets, liabilities and operations of the insurer including a review of its RBC plan or revised RBC plan; and

(c) Subsequent to the examination or analysis, issue an order specifying such corrective actions as the director shall determine are required (a "corrective order").

(3) In determining corrective actions, the director may take into account such factors as are deemed relevant with respect to the insurer based upon the director's examination or analysis of the assets, liabilities and operations of the insurer, including, but not limited to, the results of any

sensitivity tests undertaken pursuant to the RBC instructions. The RBC plan or revised RBC plan shall be submitted:

(a) Within forty-five (45) days after the occurrence of the regulatory action level event;

(b) If the insurer challenges an adjusted RBC report pursuant to section [41-5407](#), Idaho Code, and the challenge is not frivolous in the judgment of the director, within forty-five (45) days after the notification to the insurer that the director has, after a hearing, rejected the insurer's challenge; or

(c) If the insurer challenges a revised RBC plan pursuant to section [41-5407](#), Idaho Code, and the challenge is not frivolous in the judgment of the director, within forty-five (45) days after the notification to the insurer that the director has, after a hearing, rejected the insurer's challenge.

(4) The director may retain actuaries and investment experts and other consultants as may be necessary in the judgment of the director to review the insurer's RBC plan or revised RBC plan, examine or analyze the assets, liabilities and operations of the insurer and formulate the corrective order with respect to the insurer. The fees, costs and expenses relating to consultants shall be borne by the affected insurer or such other party as directed by the director.

[41-5404, added 1996, ch. 96, sec. 1, p. 287.]

41-5405. AUTHORIZED CONTROL LEVEL EVENT. (1) "Authorized control level event" means any of the following events:

(a) The filing of an RBC report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory control level RBC but less than its authorized control level RBC;

(b) The notification by the director to the insurer of an adjusted RBC report that indicates the event in paragraph (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under section [41-5407](#), Idaho Code;

(c) If, pursuant to section [41-5407](#), Idaho Code, the insurer challenges an adjusted RBC report that indicates the event in paragraph (a) of this subsection, notification by the director to the insurer that the director has, after a hearing, rejected the insurer's challenge;

(d) The failure of the insurer to respond, in a manner satisfactory to the director, to a corrective order, provided the insurer has not challenged the corrective order under section [41-5407](#), Idaho Code; or

(e) If the insurer has challenged a corrective order under section [41-5407](#), Idaho Code, and the director has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer to respond, in a manner satisfactory to the director, to the corrective order subsequent to rejection or modification by the director.

(2) In the event of an authorized control level event with respect to an insurer, the director shall:

(a) Take such actions as are required under section [41-5404](#), Idaho Code, regarding an insurer with respect to which a regulatory action level event has occurred; or

(b) If the director deems it to be in the best interests of the policyholders and creditors of the insurer and of the public, take such actions as are necessary to cause the insurer to be placed under regulatory control pursuant to [chapter 33, title 41](#), Idaho Code. In the

event the director takes such actions, the authorized control level event shall be deemed sufficient grounds for the director to take action pursuant to [chapter 33, title 41](#), Idaho Code, and the director shall have the rights, powers and duties with respect to the insurer as are set forth in [chapter 33, title 41](#), Idaho Code. In the event the director takes actions under this paragraph pursuant to an adjusted RBC report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of section [41-3309](#), Idaho Code, pertaining to summary proceedings.

[41-5405, added 1996, ch. 96, sec. 1, p. 288.]

41-5406. MANDATORY CONTROL LEVEL EVENT. (1) "Mandatory control level event" means any of the following events:

- (a) The filing of an RBC report that indicates that the insurer's total adjusted capital is less than its mandatory control level RBC;
- (b) Notification by the director to the insurer of an adjusted RBC report that indicates the event in paragraph (a) of this subsection, provided the insurer does not challenge the adjusted RBC report under section [41-5407](#), Idaho Code; or
- (c) If, pursuant to section [41-5407](#), Idaho Code, the insurer challenges an adjusted RBC report that indicates the event in paragraph (a) of this subsection, notification by the director to the insurer that the director has, after a hearing, rejected the insurer's challenge.

(2) In the event of a mandatory control level event:

- (a) With respect to a life and/or health insurer that completes the life annual statement for the reporting year or fraternal benefit society, the director shall take such actions as are necessary to place the insurer under regulatory control pursuant to [chapter 33, title 41](#), Idaho Code. In that event, the mandatory control level event shall be deemed sufficient grounds for the director to take action pursuant to [chapter 33, title 41](#), Idaho Code, and the director shall have the rights, powers and duties with respect to the insurer as are set forth in [chapter 33, title 41](#), Idaho Code. If the director takes actions pursuant to an adjusted RBC report, the insurer shall be entitled to the protections of section [41-3309](#), Idaho Code, pertaining to summary proceedings. Notwithstanding any of the foregoing, the director may forgo action for up to ninety (90) days after the mandatory control level event if the director finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety (90) day period.
- (b) With respect to a property and casualty insurer, health organization or health insurer that completes the health annual statement for the reporting year, the director shall take such actions as are necessary to place the insurer under regulatory control pursuant to [chapter 33, title 41](#), Idaho Code, or, in the case of an insurer which is writing no business and which is running off its existing business, may allow the insurer to continue its run off under the supervision of the director. In either event, the mandatory control level event shall be deemed sufficient grounds for the director to take action pursuant to [chapter 33, title 41](#), Idaho Code, and the director shall have the rights, powers and duties with respect to the insurer as are set forth in [chapter 33, title 41](#), Idaho Code. If the director takes actions pursuant to an adjusted RBC report, the insurer shall be entitled to the protections of section [41-3309](#), Idaho Code, pertaining to summary

proceedings. Notwithstanding any of the foregoing, the director may forgo action for up to ninety (90) days after the mandatory control level event if the director finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety (90) day period.

[41-5406, added 1996, ch. 96, sec. 1, p. 289; am. 2014, ch. 319, sec. 4, p. 788.]

41-5407. HEARINGS. Upon any of the following the insurer shall have the right to a confidential departmental hearing, on a record, at which the insurer may challenge any determination or action by the director. The insurer shall notify the director of its request for a hearing within five (5) days after the notification by the director under subsection (1), (2), (3) or (4) of this section. Upon receipt of the insurer's request for a hearing, the director shall set a date for the hearing, which date shall be no less than ten (10) nor more than thirty (30) days after the date of the insurer's request.

- (1) Notification to an insurer by the director of an adjusted RBC report; or
- (2) Notification to an insurer by the director that:
 - (a) The insurer's RBC plan or revised RBC plan is unsatisfactory; and
 - (b) Such notification constitutes a regulatory action level event with respect to such insurer; or
- (3) Notification to any insurer by the director that the insurer has failed to adhere to its RBC plan or revised RBC plan and that such failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event with respect to the insurer in accordance with its RBC plan or revised RBC plan; or
- (4) Notification to an insurer by the director of a corrective order with respect to the insurer.

[41-5407, added 1996, ch. 96, sec. 1, p. 290.]

41-5408. CONFIDENTIALITY -- PROHIBITION ON ANNOUNCEMENTS, PROHIBITION ON USE IN RATEMAKING. (1) All RBC reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and RBC plans, including the results or report of any examination or analysis of an insurer performed pursuant hereto and any corrective order issued by the director pursuant to examination or analysis, with respect to any domestic insurer or foreign insurer which are filed with the director, constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential by the director and shall be considered privileged. Notwithstanding the provisions of [chapter 1, title 74](#), Idaho Code, this information shall not be made public or be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. However, the director is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the director's official duties.

(2) Neither the director nor any person who received documents, materials or other information while acting under the authority of the director shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information obtained or provided pursuant to subsection (1) of this section.

(3) In order to assist in the performance of his duties under this chapter, the director may:

(a) Share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (1) of this section, with other states, federal and international regulatory agencies, with the NAIC and its affiliates and subsidiaries and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(b) Receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any document, material or information received with notice of or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(c) Enter into agreements governing the sharing and use of information consistent with the provisions of this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information referenced in this section shall occur as a result of disclosure to the director under this section or as a result of sharing as authorized in subsection (3) of this section.

(5) It is the judgment of the legislature that the comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool which may indicate the need for possible corrective action with respect to the insurer, and is not intended as a means to rank insurers generally. Therefore, except as otherwise required under the provisions of this chapter, the making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing an assertion, representation or statement with regard to the RBC levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; provided however, that if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its RBC levels, or any of them, or an inappropriate comparison of any other amount to the insurers' RBC levels is published in any written publication and the insurer is able to demonstrate to the director with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

(6) It is the further judgment of the legislature that the RBC instructions, RBC reports, adjusted RBC reports, RBC plans and revised RBC plans are intended solely for use by the director in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers and shall not be used by the director for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the director to calculate or

derive any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or any affiliate is authorized to write.

[41-5408, added 1996, ch. 96, sec. 1, p. 291; am. 2014, ch. 319, sec. 5, p. 789; am. 2015, ch. 141, sec. 116, p. 465.]

41-5409. SUPPLEMENTAL PROVISIONS -- RULES -- EXEMPTION. (1) The provisions of this chapter are supplemental to any other provisions of the laws of this state, and shall not preclude or limit any other powers or duties of the director under such laws, including, but not limited to, [chapter 33, title 41](#), Idaho Code, and rules adopted by the department of insurance relating to the director's authority for companies deemed to be in hazardous financial condition.

(2) The director may adopt reasonable rules necessary for the implementation of this chapter in accordance with the provisions of [chapter 52, title 67](#), Idaho Code.

(3) Upon written application, the director may exempt from compliance with this chapter, for a specified period or periods, any domestic property and casualty insurer, domestic managed care organization or domestic health organization which:

- (a) Writes direct business only in this state; and
- (b) Writes direct annual premiums of two million dollars (\$2,000,000) or less; and
- (c) Assumes no reinsurance in excess of five percent (5%) of direct premium written; or
- (d) Is a managed care organization offering only a limited managed care plan, a hospital service corporation or a professional service corporation that covers less than two thousand (2,000) lives.

[41-5409, added 1996, ch. 96, sec. 1, p. 292; am. 2014, ch. 319, sec. 6, p. 791.]

41-5410. FOREIGN INSURERS. (1) Any foreign insurer shall, upon the written request of the director, submit to the director an RBC report as of the end of the calendar year just ended the later of:

- (a) The date an RBC report would be required to be filed by a domestic insurer under this chapter; or
- (b) Fifteen (15) days after the request is received by the foreign insurer.

Any foreign insurer shall, at the written request of the director, promptly submit to the director a copy of any RBC plan that is filed with the insurance director of any other state.

(2) In the event of a company action level event, regulatory action level event or authorized control level event with respect to any foreign insurer as determined under the RBC statute applicable in the state of domicile of the insurer (or, if no RBC statute is in force in that state, under the provisions of this chapter), if the insurance director of the state of domicile of the foreign insurer fails to require the foreign insurer to file an RBC plan in the manner specified under that state's RBC statute (or, if no RBC statute is in force in that state, under section [41-5403](#), Idaho Code), the director may require the foreign insurer to file an RBC plan with the director. In such event, the failure of the foreign insurer to file an RBC plan with the director shall be grounds to order the insurer to cease and desist from writing new insurance business in this state.

(3) In the event of a mandatory control level event with respect to any foreign insurer, if no domiciliary receiver has been appointed with respect to the foreign insurer under the rehabilitation and liquidation statute applicable in the state of domicile of the foreign insurer, the director may make application to the district court for Ada county, state of Idaho, as permitted under [chapter 33, title 41](#), Idaho Code, with respect to the liquidation of property of foreign insurers found in this state, and the occurrence of the mandatory control level event shall be considered adequate grounds for the application.

[41-5410, added 1996, ch. 96, sec. 1, p. 292.]

41-5411. IMMUNITY. There shall be no liability on the part of, and no cause of action shall arise against, the director or the insurance department or its employees or agents for any action taken by them in the performance of their powers and duties under this chapter.

[41-5411, added 1996, ch. 96, sec. 1, p. 293.]

41-5412. NOTICES. All notices by the director to an insurer which may result in regulatory action hereunder shall be effective upon dispatch if transmitted by registered or certified mail, or in the case of any other transmission shall be effective upon the insurer's receipt of such notice.

[41-5412, added 1996, ch. 96, sec. 1, p. 293.]

41-5413. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

[41-5413, added 1996, ch. 96, sec. 1, p. 293.]