Life Company RBC

MBA supports reasonable risk-based capital requirements for mortgage and real estate investments.

BACKGROUND

Life insurance companies are subject to regulation by state insurance regulators. That regulatory framework includes Risk-Based Capital (RBC) standards. RBC standards specify the minimum amount of capital a life company must hold on its balance sheet for various categories of business activities.

State insurance regulators' RBC standards generally are identical to model standards established by the National Association of Insurance Commissioners (NAIC). Therefore, MBA actively works with the NAIC to foster risk-based capital rules that appropriately enable life companies to continue to be a stable source of capital for commercial real estate.

REAL ESTATE INVESTMENTS PROPOSAL

On May 27, 2021, the NAIC Life Risk-Based Capital Working Group voted to reduce RBC charges for life company investments in real estate. The Working Group adopted a proposal to reduce the RBC factor for direct investments from 15% to 11% and to reduce the factor for indirect investments from 23% to 13%. The Working Group also adopted technical changes to the treatment of encumbrances. These changes will be in effect for 2021 year-end reporting.

As expected, the Working Group deferred consideration of a proposal to adjust those factors to reflect a portion of the difference between book value and market value. However, the Working Group left the door open for future consideration after some of the practical issues of determining market values are resolved.

This proposal has a long history. The American Council of Life Insurers (ACLI) initiated this proposal in 2013, and MBA has worked closely with ACLI to actively support it throughout the lengthy approval process. MBA will continue to work with ACLI on the future consideration of the market-value adjustment.

COVID RBC RELIEF

Through a combination of interagency statements, the CARES Act, and NAIC actions on life company accounting and risk-based capital, life companies have received relief from Troubled Debt Restructurings (TDR) treatment that would have impaired their ability to make prudent loan modifications for borrowers temporarily affected by the pandemic.

A series of interagency statements, with the acquiescence of staff of the Financial Accounting Standards Board (FASB) provide a flexibility interpretation of the TDR accounting standards.

For more information, visit mba.org or call (202) 557-2700.
On the congressional side, the March 2020 CARES Act included a provision to provide Troubled Debt Restructurings (TDR) relief for “financial institutions.” Unfortunately, that provision did not provide sufficiently clarity for some auditors that it was intended to apply to life companies. Following substantial MBA advocacy, that CARES Act provision was amended December 27, 2020, to explicitly apply to “insurance companies,” and it extended the coverage of that provision to January 1, 2022.

On the NAIC front, MBA worked closely with ACLI to obtain TDR and other RBC reporting relief to address the impacts of the pandemic. This included both accounting and TDR relief that was extended several times and now applies through January 1, 2022, consistent with the CARES Act TDR provision.

MBA and ACLI were also successful in obtaining NAIC flexibility in the reporting of mortgages with construction paused as a result of a government directive, reporting of contemporaneous property valuations, and reporting of 2020 Net Operating Income (NOI) (which affects 2022-2024 reporting).

Resources

- **CARES Act Section 4013**

- **Interagency Statements**
  - Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised) (April 7, 2020)

- **NAIC Life RBC and Accounting relief**
  - COVID-19 RBC Guidance from E Committee (March 27, 2020)
    - Q&A on E Committee Guidance (June 12, 2020)
    - Additional Guidance for Life RBC (Revised Feb. 11, 2021)
  - INT 20-03: Troubled Debt Restructuring Due to COVID-19
  - INT 20-07: Troubled Debt Restructuring of Certain Debt Instruments Due to COVID-19

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