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**Vermont Department of Financial Regulation**  
**Captive Insurance Division**

**June 15, 2015**

**Bulletin No. C-2015-01**

**Maintaining Regulatory Minimum Capital & Surplus Requirements**

**Purpose:**

Vermont captive statutes have long required that the regulatory minimum capital and surplus of each captive be unimpaired and maintained at all times in the form of cash, a trust in favor of the Commissioner, or an irrevocable letter of credit. On May 7, 2015, Governor Peter Shumlin signed Act 20, which enacted several changes to Vermont's captive law, including adding "marketable securities" to the list of options for maintaining the minimum capital and surplus. The intent of this legislation was to allow Vermont captive insurers the flexibility to manage their own liquidity, without an arbitrary cash requirement that limits prudent investment opportunities.

The purpose of this bulletin is to provide detailed guidance regarding what constitutes "marketable securities" for the satisfaction of minimum capital per 8 V.S.A. Chapter 141, Section 6004(c).

**Applicability:**

The following standards apply to all captives and risk retention groups domiciled in Vermont.

**Minimum Capital and Surplus:**

The regulatory minimum capital and surplus requirement can now be satisfied with:

**Cash:**

Checking Accounts;  
Savings Accounts;  
Money Market funds;  
Certificates of Deposit (with original maturity dates of one year or less);  
Treasury Bills.



Letters of Credit:

Must be in the exact form prescribed by the Commissioner and issued by a bank on the NAIC-Approved list, or a member of the Federal Reserve. The NAIC bank list is updated monthly and may be downloaded at no cost at:

[http://www.naic.org/prod\\_serv\\_svo\\_products.htm](http://www.naic.org/prod_serv_svo_products.htm)

The letter of credit form may be downloaded at:

[http://www.dfr.vermont.gov/sites/default/files/LOC-letter\\_0.pdf](http://www.dfr.vermont.gov/sites/default/files/LOC-letter_0.pdf)

Note: "Member FDIC" is not equivalent to being a member bank of the Federal Reserve.

Trust:

As approved by the Commissioner and of which the Commissioner is the sole beneficiary.

Marketable Securities:

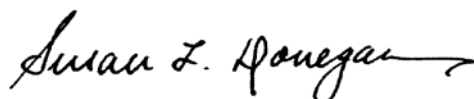
Any investment or portfolio of investments in compliance with the investment restrictions of 8 V.S.A. Chapter 101, Sections 3461 through 3472 (collectively, the "Investment Code"). Section 3463a of this title shall apply to such investments or portfolio of investments except to the extent it is inconsistent with approved accounting standards in use by the company.

Any restriction on the amount or type of investment contained in the Investment Code shall be applicable to: (i) the entire investment portfolio of a risk retention group, association captive insurance company or sponsored captive insurance company inclusive of the regulatory minimum capital and surplus and (ii) only to the regulatory minimum capital and surplus of a pure captive insurance company or industrial insured captive insurance company, provided that the diversification requirements contained in the Investment Code shall be applied to the entire assets and capital and surplus of a pure captive insurance company or industrial insured captive insurance company.

**Summary:**

In essence, companies such as risk retention groups, association captives, or sponsored captives that were already subject to the Investment Code must now have their entire portfolio in compliance with the Investment Code, and no longer have a specific minimum cash requirement. Pure captives or industrial insured captives need only be mindful of maintaining their minimum capital in a form that satisfies the Investment Code, if not held in cash or letter of credit. The balance of their portfolios remains unrestricted, provided that as always, the commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the captive.

DFR will provide reporting guidance in advance of the 2015 annual statement filing season.



Susan L. Donegan, Commissioner