**Section 1250.20 Standards**

Depending upon an examination of the factual circumstances, applicable law and financial situation of the company involved, the following standards, either singly or a combination of two or more, may be considered by the Director to determine whether the continued operation of any insurer transacting an insurance business in this State might be deemed to be hazardous to the policyholders, creditors or the general public which could warrant the Director issuing a corrective order:

a) adverse findings reported in financial and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries;

b) information from the NAIC Insurance Regulatory Information System and NAIC's other financial analysis solvency tools and reports;

c) whether the insurer has made adequate provision, according to Actuarial Standards of Practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to reserves and related actuarial items, including, but not limited to, the investment earnings on assets and the considerations anticipated to be received and retained under the insurer's policies and contracts;

d) the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written, as well as the financial condition of the assuming reinsurer;

e) whether the insurer's operating loss in the last 12 month period or any shorter period of time, including, but not limited to, net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than 50% of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

f) whether the insurer operating loss in the last 12 month period or any shorter period of time, excluding net capital gains, is greater than 20% of the insurer's remaining surplus as regards to policyholders in excess of the minimum required;

g) whether a reinsurer, obligor or any entity within the insurer's insurance holding company system is insolvent, threatened with insolvency, or delinquent in the payment of its obligations, if, in the opinion of the Director, that condition may affect the solvency of the insurer;

h) whether contingent liabilities, pledges or guarantees that, either individually or collectively, involve a total amount that, in the opinion of the Director, may affect the solvency of the insurer;

i) whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;

j) the age and collectibility of its receivables;

k) whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in that position;

l) whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

m) whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the Director;

n) whether management of an insurer either has filed a false or misleading sworn financial statement, or has released a false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;

o) whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;

p) whether the insurer has experienced or will experience in the foreseeable future cash flow and/or liquidity problems;

q) whether management has established reserves that do not comply with minimum standards established by State insurance laws, regulations, statutory accounting standards, sound actuarial principles and Actuarial Standards of Practice;

r) whether management persistently engages in material under reserving that results in adverse development;

s) whether transactions among affiliates, subsidiaries or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;

t) any other finding determined by the Director to be hazardous to the insurer's policyholders, creditors or general public, including those of a nonfinancial nature.

(Source: Amended at 36 Ill. Reg. 869, effective January 3, 2012)