

2. HAS IN THE PRECEDING CALENDAR YEAR IN EXCESS OF 75% OF ITS GROSS DIRECT WRITTEN PREMIUM IN PERSONAL LINES HOMEOWNERS INSURANCE, PRIVATE PASSENGER AUTOMOBILE LIABILITY INSURANCE, AND PRIVATE PASSENGER AUTOMOBILE PHYSICAL DAMAGE INSURANCE.

(II) EXTRAORDINARY DIVIDEND OR DISTRIBUTION INCLUDES ANY DIVIDEND OR DISTRIBUTION OF CASH OR OTHER PROPERTY, NOT TO EXCEED THE AMOUNT OF THE INSURER'S EARNED SURPLUS AND, BUT NOT INCLUDING PRO RATA DISTRIBUTIONS OF ANY CLASS OF THE INSURER'S OWN SECURITIES, WHOSE FAIR MARKET VALUE TOGETHER WITH THAT OF OTHER DIVIDENDS OR DISTRIBUTIONS MADE WITHIN THE PRECEDING 12 MONTHS EXCEEDS THE GREATER OF:

1. 10% OF THE INSURER'S SURPLUS AS REGARDS POLICYHOLDERS AS OF THE 31ST DAY OF DECEMBER NEXT PRECEDING; OR

2. FOR THE 12-MONTH PERIOD ENDING THE 31ST DAY OF DECEMBER NEXT PRECEDING, THE NET GAIN FROM OPERATION OF THE INSURER, IF THE INSURER IS A LIFE INSURER, OR THE NET INCOME IF THE INSURER IS NOT A LIFE INSURER.

(c) Notwithstanding any other provision of law, an insurance company subject to a registration under § 495 may declare an extraordinary dividend or distribution conditional upon the Commissioner's approval thereof, and the declaration confers no rights upon shareholders until:

(1) The Commissioner has approved the payment of the dividend or distribution, or

(2) The Commissioner has not disapproved the payment within the thirty-day period referred to above.

(D) AN INSURANCE COMPANY SUBJECT TO REGISTRATION UNDER § 495 OF THIS ARTICLE MAY NOT PAY ANY DIVIDEND OR MAKE ANY DISTRIBUTION TO ITS SHAREHOLDERS UNLESS THE INSURER HAS NOTIFIED THE COMMISSIONER OF THE PAYMENT WITHIN 5 BUSINESS DAYS FOLLOWING DECLARATION AND AT LEAST 10 DAYS PRIOR TO THE PAYMENT DATE. THE NOTICE SHALL BE KEPT CONFIDENTIAL UNTIL THE PAYMENT DATE OF THE DIVIDEND. THE COMMISSIONER MAY ORDER THAT A DIVIDEND NOT BE PAID IF HE FINDS THAT THE SURPLUS OF THE INSURANCE COMPANY AS REGARDS POLICYHOLDERS FOLLOWING THE PAYMENT TO SHAREHOLDERS WOULD BE INADEQUATE OR COULD LEAD THE INSURANCE COMPANY TO A HAZARDOUS FINANCIAL CONDITION.

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(a) In this subtitle the following terms have the meanings indicated.

(c) "Control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, through the ownership of securities convertible into voting securities, by contract other than a commercial contract for goods or nonmanagement