

(2) (I) AN INSURER MAY USE DERIVATIVE INSTRUMENTS UNDER THIS SUBSECTION TO ENGAGE IN HEDGING TRANSACTIONS ~~AND INCOME GENERATION TRANSACTIONS.~~

~~(II) AN INSURER SHALL BE ABLE TO DEMONSTRATE TO THE COMMISSIONER THE INTENDED HEDGING CHARACTERISTICS AND THE ONGOING EFFECTIVENESS OF THE DERIVATIVE TRANSACTION OR COMBINATION OF THE TRANSACTIONS THROUGH CASH FLOW TESTING OR OTHER APPROPRIATE ANALYSES.~~

~~(III) THE COMMISSIONER MAY ADOPT REASONABLE REGULATIONS FOR INVESTMENTS AND TRANSACTIONS UNDER THIS SUBSECTION, INCLUDING REGULATIONS TO IMPOSE FINANCIAL SOLVENCY STANDARDS, VALUATION STANDARDS, AND REPORTING REQUIREMENTS.~~

(II) PRIOR TO ENTERING INTO ANY DERIVATIVE TRANSACTION, THE BOARD OF DIRECTORS OF THE INSURER SHALL APPROVE A DERIVATIVE USE PLAN THAT:

1. DESCRIBES INVESTMENT OBJECTIVES AND RISK CONSTRAINTS, SUCH AS COUNTERPARTY EXPOSURE AMOUNTS;

2. DEFINES PERMISSIBLE TRANSACTIONS IDENTIFYING THE RISKS TO BE HEDGED, THE ASSETS OR LIABILITIES BEING REPLICATED; AND

3. REQUIRES COMPLIANCE WITH INTERNAL CONTROL PROCEDURES THAT DEMONSTRATE THE INTENDED HEDGING CHARACTERISTICS AND THE ONGOING EFFECTIVENESS OF THE DERIVATIVE TRANSACTION OR COMBINATION OF THE TRANSACTIONS THROUGH CASH FLOW TESTING OR OTHER APPROPRIATE ANALYSES.

~~(IV) (III) WHENEVER THE DERIVATIVE TRANSACTIONS ENTERED INTO UNDER THIS SUBSECTION ARE NOT IN COMPLIANCE WITH THIS SUBSECTION OR, IF CONTINUED, MAY NOW OR SUBSEQUENTLY, CREATE A HAZARDOUS FINANCIAL CONDITION TO THE INSURER THAT AFFECTS ITS POLICYHOLDERS, CREDITORS, OR THE GENERAL PUBLIC, THE COMMISSIONER MAY, AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, ORDER THE INSURER TO TAKE ANY ACTION AS MAY BE REASONABLY NECESSARY TO:~~

~~1. RECTIFY A HAZARDOUS FINANCIAL CONDITION; OR~~

~~2. PREVENT AN IMPENDING HAZARDOUS FINANCIAL CONDITION FROM OCCURRING.~~

(3) AN INSURER MAY ENTER INTO HEDGING TRANSACTIONS UNDER THIS SUBSECTION IF, AS A RESULT OF AND AFTER GIVING EFFECT TO THE TRANSACTION:

(I) THE AGGREGATE STATEMENT VALUE OF OPTIONS, CAPS, FLOORS, AND WARRANTS NOT ATTACHED TO ANOTHER FINANCIAL INSTRUMENT PURCHASED AND USED IN HEDGING TRANSACTIONS DOES NOT EXCEED 7.5% OF ITS ADMITTED ASSETS;