

2. for the immediately preceding calendar year, the net gain from operation of an insurer that is a life insurer or the net income of an insurer other than a life insurer.

(d) Before paying an extraordinary dividend or making an extraordinary distribution, an insurer subject to registration under Subtitle 6 of this title shall notify the Commissioner of its intent to pay the extraordinary dividend or make the extraordinary distribution.

(e) The insurer shall notify the Commissioner under subsection (d) of this section at least 30 days before the extraordinary dividend is to be paid or the extraordinary distribution is to be made.

(f) The insurer may pay an extraordinary dividend or make an extraordinary distribution to its shareholders only if, within 30 days after the Commissioner receives the notice, the Commissioner either approves the payment or distribution, or does not disapprove the payment or distribution.]

(A) (B) IN THIS SECTION, "EXTRAORDINARY DIVIDEND" OR "EXTRAORDINARY DISTRIBUTION" INCLUDES ANY DIVIDEND OR DISTRIBUTION OF CASH OR OTHER PROPERTY WITH A FAIR MARKET VALUE, THAT WHEN COMBINED WITH THE FAIR MARKET VALUE OF ANY OTHER DIVIDENDS OR DISTRIBUTIONS MADE IN THE PRECEDING 12 MONTHS EXCEEDS THE LESSER OF:

(1) 10% OF THE INSURER'S SURPLUS AS REGARDS POLICYHOLDERS AS OF DECEMBER 31 OF THE PRECEDING YEAR; OR

(2) (I) FOR A LIFE INSURER, THE NET GAIN FROM OPERATIONS OF THE INSURER NOT INCLUDING:

1. REALIZED CAPITAL GAINS FOR THE 12-MONTH PERIOD ENDING DECEMBER 31 OF THE PRECEDING YEAR; AND

2. PRO RATA DISTRIBUTIONS OF ANY CLASS OF THE INSURER'S OWN SECURITIES; OR

(II) FOR AN INSURER THAT IS NOT A LIFE INSURER, THE NET INVESTMENT INCOME OF THE INSURER NOT INCLUDING:

1. REALIZED CAPITAL GAINS FOR THE 12-MONTH PERIOD ENDING DECEMBER 31 OF THE PRECEDING YEAR; AND

2. PRO RATA DISTRIBUTIONS OF ANY CLASS OF THE INSURER'S OWN SECURITIES.

(B) (C) (1) IN DETERMINING WHETHER A DIVIDEND OR DISTRIBUTION IS EXTRAORDINARY UNDER THIS SECTION, AN INSURER THAT IS NOT A LIFE INSURER MAY CARRY FORWARD NET INVESTMENT INCOME FROM THE 2 3 CALENDAR YEARS PRIOR TO THE PRECEDING CALENDAR YEAR THAT HAS NOT ALREADY BEEN PAID OUT AS DIVIDENDS.