(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;

(ii) the aggregate statement value of options, caps, and floors written in hedging transactions does not exceed 3% of its admitted assets; and

(iii) the aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed 6.5% of its admitted assets.

(4) An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of § 5–507 of this subtitle.

(5) Each derivative instrument shall be:

(i) traded on a securities exchange;

(ii) entered into with, or guaranteed by, a business entity;

(iii) issued or written by or entered into with the issuer of the underlying interest on which the derivative instrument is based; or

(iv) in the case of futures, traded through a broker that is registered as a futures commission merchant under the Commodity Exchange Act or that has received exemptive relief from registration under Rule 30.10 adopted under the Commodity Exchange Act.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2003.

Approved May 22, 2003.