

304.37-010 Definitions for Subtitle 37.

As used in this subtitle, unless the context requires otherwise:

- (1) "Affiliate" or person "affiliated" with a specific person means a person that directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;
- (2) "Commissioner" means:
 - (a) The commissioner of insurance of this state; or
 - (b) When the context requires, the commissioner of insurance, or an equivalent official, of another state;
- (3) (a) "Control," "controlling," "controlled by," and "under common control with" mean 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, by contract other than a loan contract or commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.
 - (b) Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing, made in the manner provided by KRS 304.37-020(13), that control does not exist in fact. The commissioner may determine, after forwarding all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;
- (4) "Enterprise risk" means any activity, circumstance, event, or series of events involving one (1) or more affiliates of an insurer that, if not remedied promptly:
 - (a) Is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including but not limited to anything that would cause the insurer's risk-based capital to fall into company action level as set forth in KRS 304.3-125 and administrative regulations promulgated thereunder; or
 - (b) Would cause the insurer to be in hazardous financial condition in accordance with KRS 304.2-065;
- (5) "Groupwide supervisor" means the regulatory official authorized to engage in conducting and coordinating groupwide supervision activities in accordance with KRS 304.37-160;
- (6) "Insurance holding company system" means two (2) or more affiliated persons, one (1) or more of which is an insurer;
- (7) "Insurer" has the same meaning as in KRS 304.1-040, except it shall not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state

or political subdivision of a state;

- (8) "Internationally active insurance group" means an insurance holding company system that:
- (a) Includes an insurer registered under KRS 304.37-020; and
 - (b) Meets the following criteria:
 - 1. Has premiums written in at least three (3) countries;
 - 2. Has gross premiums written outside of the United States that are at least ten percent (10%) of the system's total gross written premiums; and
 - 3. Based on a three (3) year rolling average:
 - a. Has total assets that are at least fifty billion dollars (\$50,000,000,000); or
 - b. Has total gross written premiums that are at least ten billion dollars (\$10,000,000,000);
- (9) "NAIC" means the National Association of Insurance Commissioners;
- (10) "Person":
- (a) Means an individual, a corporation, a partnership, an association, a joint stock company, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert; and
 - (b) Shall not include any:
 - 1. Bank in its fiduciary capacity; or
 - 2. Securities broker performing no more than the usual and customary broker's function;
- (11) "Subsidiary" of a specified person means an affiliate controlled by the person directly or indirectly through one (1) or more intermediaries;
- (12) "Supervisory college" means a forum for cooperation and communication between the involved supervisors established for the fundamental purpose of facilitating the effectiveness of supervision of entities which belong to an insurance group and facilitating both the supervision of the group as a whole on a groupwide basis and improving the legal entity supervision of the entities within the insurance group; and
- (13) "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

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History: Amended 2022 Ky. Acts ch. 133, sec. 7, effective July 14, 2022. -- Amended 2019 Ky. Acts ch. 156, sec. 2, effective June 27, 2019. -- Amended 2012 Ky. Acts ch. 74, sec. 13, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 24, sec. 1472, effective July 15, 2010. -- Amended 1994 Ky. Acts ch. 92, sec. 4, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 267, sec. 7, effective July 14, 1992. -- Created 1972 Ky. Acts ch. 52, sec. 1, effective June 16, 1972.