October 30, 2026
Via Electronic Submission

Commissioner Jon Godfread, Chair
Commissioner Doug Ommen, Co-Vice Chair
Commissioner Nathan Houdek, Co-Vice Chair
Risk-Based Capital Model Governance (EX) Task Force
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, Missouri 64106

Re: Proposed Financial Policy Steering Function, Revised List of RBC Gaps, and Aspirational RBC Model Risk Management Guidelines – Request for Binding Evidentiary, Transparency, and Independence Safeguards Before the Fall National Meeting

Dear Chair Godfread, Co-Vice Chairs Ommen and Houdek, and Members of the Task Force:

Pinpoint Policy Institute is a nonpartisan, pro-growth 501(c)(4) nonprofit organization dedicated to promoting free markets, limited government, and the rule of law.[1] We submit these comments on three related items before the Risk-Based Capital Model Governance (EX) Task Force ("Task Force"): the proposed commissioner-level steering function ("Possible Structures");[2] the list of RBC gaps and inconsistencies the Task Force will revise and vote on ("Gap List");[3] and the Aspirational RBC Model Risk Management Guidelines exposed on October 8 ("Guidelines").[4] The Task Force expects to make its final recommendation at the Fall National Meeting in Dallas on November 16.[5]

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[1]Pinpoint Policy Institute is a 501(c)(4) organization (EIN 99-2037033). *See* Pinpoint Policy Institute, *About*, https://pinpointpolicyinstitute.org/about.

[2]NAIC, Risk-Based Capital Model Governance (EX) Task Force, *Commissioner-Level Governance Options* (exposed Aug. 13, 2026) [hereinafter "Possible Structures"], https://content.naic.org/sites/default/files/inline-files/august-13-exposure-of-possible-structures.pdf.

[3]NAIC, Risk-Based Capital Model Governance (EX) Task Force, *RBC Initiatives, Gaps & Inconsistencies* (presented Oct. 8, 2026) [hereinafter "Gap List"]; *see also* NAIC, *August 13 Exposure of List of Potential Gaps* (Aug. 13, 2026), https://content.naic.org/sites/default/files/inline-files/august-13-exposure-of-list-of-potential-gaps.pdf.

[4]Memorandum from NAIC to Interested Regulators and Interested Parties of the Risk-Based Capital Model Governance (EX) Task Force, *Aspirational Model Governance Exposure* (Oct. 8, 2026), *attaching* Bridgeway Analytics, *Aspirational Risk-Based Capital Model Risk Management Guidelines* (Draft for Discussion) [hereinafter "Exposure Memo" and "Guidelines"], https://content.naic.org/sites/default/files/inline-files/draft-rbc-mrm-guidelines_0.pdf.

[5]NAIC, Risk-Based Capital Model Governance (EX) Task Force, *2026 Fall National Meeting* (Nov. 16, 2026), https://content.naic.org/committees/ex/rbc-model-governance-tf; Possible Structures, *supra* note 2, at 6–7 (Dallas as "the final recommendation and handoff meeting").

The Task Force has asked a fair question: who should decide which changes to the risk-based capital ("RBC") formula matter most, and in what order. RBC determines how much capital every U.S. insurer must hold, thereby directly shaping what insurers invest in and by extension how much American families pay for annuities, life insurance, and retirement products. Changes the NAIC adopts take effect in most states without further action, because state RBC statutes incorporate NAIC-adopted solvency rules as the NAIC may amend them "from time to time."[6] Failure to adopt such rules would result in punitive treatment of insurers domiciled in that state by the other states. In other words, whoever controls the RBC agenda sets national insurance capital rules without any meaningful input or approval from governors, legislators, or other interested stakeholders. RBC rules adopted by the NAIC are effective in states even where that state has objected to the change. While this system raises questions about extraterritorial application of laws, at a minimum it requires that robust governance protocols apply to all NAIC activity to change RBC.

The proposal outlined in Possible Structures would place substantial control in a new standing body of commissioners charged with maintaining a rolling two-year agenda, recommending sequencing and timing, and "[d]efin[ing] the policy objective, scope, and key parameters before substantial technical work begins."[7] All of these charges are undeniably outcome-determining decisions, yet the proposal does not require the body to publish a problem statement, show evidence of a solvency deficiency, estimate costs to policyholders, meet in public, or explain its choices in writing. It does not even require the body to apply the Task Force's own RBC Principles, and more discouragingly, the exposure reminds commenters that "the ultimate decision is an internal NAIC governance matter."[8]

The October 08 meeting highlighted the importance of these questions. Task Force members split on where the steering function should sit. Former chairs of the Financial Condition (E) Committee and the current technical chairs favored keeping it within E Committee, and some members questioned whether a new body is needed at all.[9] The Task Force exposed the Guidelines but asked commenters to address "only" the path for building a model inventory, and NAIC staff noted that even a limited pilot would require new industry funding through database fees.[10] None of this changed the core design. The steering body still has no evidentiary gate, the Gap List still applies an uneven standard of proof, and the process still lacks the safeguards needed to guard against capture and conflicts.

This is the wrong posture for a decision of this weight. We respectfully urge the Task Force to (i) defer recommending a structure until binding evidentiary, transparency, and conflict-of-interest

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[6] *See* NAIC, *Risk-Based Capital (RBC) for Insurers Model Act* (#312) § 1 (definition of "RBC Instructions"); *see, e.g.*, Cal. Ins. Code § 739; 215 Ill. Comp. Stat. 5/35A-5; Va. Code Ann. § 38.2-5501.

[7] Possible Structures, *supra* note 2, at 1 (Common Charge Under Either Structure).

[8] *Id.* at 5 (Issues for Exposure).

[9] NAIC, Risk-Based Capital Model Governance (EX) Task Force, Interim Meeting (Oct. 8, 2026) (remarks of Task Force members and interested parties). Official minutes of the October 8 meeting had not been posted as of this letter's date.

[10] Exposure Memo, *supra* note 4, at 1.

requirements are written into the charge; (ii) make the core analytical elements of the Guidelines mandatory preconditions for any material RBC change; (iii) apply one evidentiary standard to every Gap List item and re-expose the revised list before any vote; (iv) adopt independence safeguards for the outside consultant supporting this work; (v) create an independent appeal process open to every state; and (vi) re-expose the complete charge for public comment before any recommendation advances.

Our concerns can be organized into three distinct categories, outlined below.

The proposal concentrates agenda setting power without an evidentiary gate. The Task Force has now written the right standard for evidentiary discipline twice, in its Principles and in the Guidelines, and made it binding neither time.

The Gap List applies an uneven standard of proof, as items advances qualify largely on the dollar volume of holdings, which measures size rather than riskiness, while stakeholder submissions are set aside for lack of a materiality assessment, including a calibration inconsistency that goes to the heart of the Task Force's "equal capital for equal risk" principle. Meanwhile, technical work on listed items is already moving far ahead of the governance meant to steer it.

The process lacks the accountability and independence needed to safeguard against regulatory capture and conflicts of interest. The NAIC's officers have endorsed a small body on which they would sit with control over the timing and magnitude of changes to the national capital agenda while the final decision would be allowed to be made in a closed session. Meanwhile, the Task Force's analytical work is led by a private third-party consultant that also serves industry clients, reserves the right to reuse commercial analysis, and is now charged with reviewing the framework it helped build.

We address each below and close with specific requested actions.

Policy Analysis and Considerations

The proposal concentrates agenda-setting power without an evidentiary gate.

Structure is not a substitute for evidence. Under either option, the steering body would apply four elevation standards (changes to RBC architecture, material policy choices, cross-discipline dependencies, and framework-wide principles), recommend priorities and sequencing, and define each initiative's policy objective, scope, and key parameters.[11] The only documentation required to elevate a matter is "a brief written statement identifying the applicable standard, the policy question, the assigned technical group, and any requested checkpoint."[12] Nothing requires the body to show that a regulatory gap exists; that RBC, rather than examination, disclosure, or enforcement, is the right tool; or that the expected benefit justifies the cost. The Task Force wants policy

[11] Possible Structures, *supra* note 2, at 1–2 (Common Charge; Elevation Standard).

[12] *Id.* at 2.

questions settled before technical groups invest years of work, but this approach of settling them without evidence simply moves the guesswork earlier.

The procedures beneath the proposal compound the problem. Under the Capital Adequacy (E) Task Force's governing procedures, an impact analysis is merely "preferred for any factor change." Initial exposures run "at least 30-days" unless a shorter period is approved, and a comment period may close as little as three business days before the meeting at which comments are considered.[13] A process that can increase capital requirements across the Life, P&C, and Health formulas should not treat impact analysis as optional or give regulators three business days to absorb public input. Changes in national RBC requirements require more.

The Task Force has already written the standard the proposal omits. Its RBC Principles, now part of the RBC Preamble, call for updates only when a change is material to the regulator's assessment of solvency risk; for "equal capital for equal risk," consistent in statistical safety levels and time horizons; for objectivity that avoids "the promotion or inhibition of objectives that are unrelated to assessing solvency risk"; for transparent documentation of methods and "supporting rationale"; and for model risk management, including validation.[14] The Guidelines now spell out how to meet those Principles, calling for empirical validation and back testing, impact assessment with regression and sensitivity testing, and a threshold test of whether a risk is material, not already captured, and measurable before RBC is used to address it.[15] They also call for an assessment of incentives, including effects on "pricing, product availability, or distribution" and "disproportionate impacts across identifiable insurer segments."[16]

That is the gate the steering body needs. Unfortunately, the Guidelines are expressly "aspirational," to be applied "with regulatory discretion and limited resource considerations in mind,"[17] and the exposure confines comment to the inventory question.[18] The steering body's charge never mentions either document. A body whose job is to set the RBC agenda should be bound to apply the core analytical elements of the Guidelines, in writing, to every matter it advances.

A framework that tells insurers what sound model governance requires, then exempts its own capital rules from those requirements, is not a governance framework.

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[13] NAIC, *Procedures of the Financial Condition (E) Committee's Capital Adequacy Task Force in Connection with Proposed Amendments to Risk-Based Capital Blanks and Instructions*, https://content.naic.org/sites/default/files/inline-files/rbc_procedures07172024_without%20Track%20changes.pdf.

[14] NAIC, *Risk-Based Capital Preamble*, § G, *Principles for RBC Requirements*, Principles 3, 4, 5, 9, and 10 (revised Preamble adopted June 18, 2026) [hereinafter "Preamble"].

[15] Guidelines, *supra* note 4, §§ 4.3 (Model Validation), 4.4 (Impact Assessment), 4.5 (An Assessment of Incentives), 5.1 & fig. 1 (RBC Adjustment Process Flowchart).

[16] *Id.* § 4.5.

[17] *Id.* § 1 (guidelines are "aspirational for CATF and its Working Groups to apply, with regulatory discretion and limited-resource considerations in mind").

[18] Exposure Memo, *supra* note 4, at 1.

However, caution should be exercised with regard to one particular element of the Guidelines: for emerging risks, they state that "[t]he absence of credible data should not preclude inclusion of a risk in RBC" and that acceptance criteria may rely on "qualitative benchmarks" and "directional reasonableness" rather than statistical calibration.[19] Interim judgments are sometimes unavoidable. The Gap List illustrates how long they can last: several current charges still rest on no empirical study. Any charge adopted without credible data should be labeled as interim, carry a published data collection plan, and expire unless validated by a fixed date.

Chair Godfread said last month that capital rules "should not be assigned to pick winners and losers" and that good regulation should "create guardrails for strategy, not become the strategy."[20] We agree. A standing body that defines the objectives and parameters of capital charges, with no duty to show its evidence, is precisely the mechanism through which capital rules come to pick winners and losers.

The Gap List applies an uneven standard of proof.

Each Gap List item carries a "materiality benchmark." Most of those benchmarks measure the size of a holding, not whether the current charge misstates its risk: residential mortgages at roughly $150 billion; reserve credit and modified coinsurance at roughly $2.85 trillion; CMBS and RMBS at $148 billion and $133 billion.[21] Size is not risk. Under the Task Force's own Principle 3, materiality means a level at which updating RBC "could meaningfully impact the regulator's assessment of the solvency risk."[22] A large, well-performing asset class with an adequate charge is not a solvency gap. Ranking candidates by volume will steer the agenda toward whatever has grown fastest, not toward what is mispriced.

Stakeholder submissions faced a different test. The Task Force set several aside because they came with no "assessment of materiality," and said that stakeholders seeking an update "should provide" one.[23] One documented that Life RBC investment components are calibrated to different statistical safety levels: commercial mortgage factors at a 92% value-at-risk and C-1 bond factors at 96%, a gap the Task Force's own cited source shows can make bond factors roughly 40% to 80% higher.[24] This supposedly "peripheral concern" represents a direct test of RBC Principle 4, which requires consistent safety levels and time horizons absent "substantial differences in the nature of the risk in the context of the business model (e.g., life vs property & casualty)."[25] Regulators acknowledged the variation, pointed to deliberate past choices, and declined to prioritize it. A

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[19] Guidelines, *supra* note 4, § 4.2.1.

[20] Rob Leeming, *Insurers Need Investment Rules That Look Beyond Asset Labels Says Former Head of the NAIC*, Insurance Asset Risk (Sept. 29, 2026) (reporting remarks of Commissioner Jon Godfread at Insurance Risk & Capital Americas 2026).

[21] Gap List, *supra* note 3, at 2–3.

[22] Preamble, *supra* note 14, Principle 3.

[23] Gap List, *supra* note 3, at 6–7.

[24] *Id.* at 6 (citing Moody's Analytics, *2021 Revisions to the RBC C-1 Bond Factors*).

[25] Preamble, *supra* note 14, Principle 4.

process that makes outside parties prove materiality, while its own candidates qualify simply based on asset size, is clearly not applying one consistent standard.

The Gap List does reflect one sound instinct: it declined to use RBC for concentrated business practices of "an identifiable segment of companies," concluding those could be handled "by a state insurance department rather than by utilizing limited RBC resources."[26] We agree. Targeted issues call for targeted supervision, not formula-wide charges on every insurer and the steering body's charge should make that presumption explicit.

The process lacks the accountability and independence needed to guard against capture and conflicts.

In terms of structure, it is critical that an independent group of engaged commissioners review solvency-related priorities and act as an appellate body to review the work of "technical" groups. All too often, stakeholders are caught in a "heads they win, tails we lose" trap – either technical working groups assert that a parent group has already dictated instructions, so stakeholders may not challenge the wisdom of material changes, or parent groups argue that they are not in a position to challenge the work of technical groups as being closer to details. This is akin to an appellate court arguing it cannot overturn the work of a trial court that received a verdict in advance from the same appellate court. While the E Committee and its lower working groups technically hold public meetings, it is patently obvious that multiple major workstreams were effectively decided in advance, and public meetings merely serve as kabuki theater. This is not true transparency.

Pinpoint's transparency concern is not merely theoretical; at the NAIC's Spring 2026 meeting, industry representatives warned of "a growing perception that increasing amounts of deliberation are occurring in sessions that are not open to interested parties."[27] When Senator Elizabeth Warren asked the NAIC in September whether it would make its rulemaking more transparent, including who provides feedback and how it is used, the NAIC replied that meetings are "generally" public and that it "continually evaluates" its process. It committed to nothing.[28]

Concentration magnifies capture risk. A small body that controls the sequence and timing of capital initiatives controls the lever most valuable to any affected company. A body built to set timing for the entire RBC agenda must have transparency and good governance mechanisms from the start.

The NAIC's structure compounds these risks. A private corporation that has been excepted from filing IRS Form 990 since 1955, the Government Accountability Office reported in June that NAIC's public disclosures, while comparable to Form 990 in certain respects, do not report key employee compensation, and that its conflict-of-interest policy sets disclosure requirements for

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[26]Gap List, *supra* note 3, at 7.

[27]John Hilton, *NAIC Regulators Field Complaints About Transparency, Closed Meetings*, InsuranceNewsNet (Mar. 26, 2026) (quoting David Snyder, American Property Casualty Insurance Association).

[28]Letter from Sen. Elizabeth Warren, Ranking Member, S. Comm. on Banking, Housing, and Urban Affairs, to Jeffrey C. Johnston, Chief Executive Officer, NAIC (Sept. 10, 2026), at 4 (Question 10); Letter from Scott White, NAIC President, et al., to Sen. Elizabeth Warren (Sept. 24, 2026), at 19, https://content.naic.org/sites/default/files/government-affairs-letter-20260924-warren-exposure-private-credit-equity-funds.pdf.

members but not for key employees such as its chief executive.[29] By Pinpoint's analysis, the NAIC draws about 94 percent of its revenue from the industry it oversees.[30] The Guidelines exposure would add to that dependence: NAIC staff state that even a limited pilot "will require new funding from the industry via database fees."[31] NAIC rules are not subject to the procedural notice-and-comment requirements or to judicial review of the record behind them, and a state that votes against an RBC change is bound by it anyway through incorporation by reference. Any institution, much less a regulatory body, with such a deficient transparency profile should hold its own agenda setting to a higher standard of accountability, not a lower one.

Consultant independence must also be addressed directly. The NAIC engaged Bridgeway Analytics as the Task Force's outside consultant in May 2025, two months after Bridgeway filed its own comment letter on the Task Force's proposed charges.[32] Bridgeway has since developed the principles, summarized stakeholder comments, presented the Gap List, and authored the Guidelines now exposed. The Gap List measured the Task Force's process against those Guidelines months before the public could read them.[33] The Guidelines carry a statement that their content is "informed by extensive discussions with our client base" and "may contain analysis that Bridgeway Analytics had conducted as part of a commercial engagement and retains the right to reuse."[34] Further, Bridgeway sells a regulatory tracking platform to insurers and regulators, and its chief executive has published commentary favorable to the proposed steering function while it was out for comment.[35]

We do not question the quality of Bridgeway's work or the good faith of anyone involved. The point is structural – a consultant that serves industry clients, reserves the right to reuse commercial analysis, and drafts the standards against which its own prior work will be judged should operate under published engagement terms, conflict screening, and independent regulator review. The NAIC expects insurers to document vendor conflicts and validate models independently, it should meet the same standard.

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[29]U.S. Gov't Accountability Off., *National Association of Insurance Commissioners: Role with State Insurance Regulators and IRS Reporting Requirements*, GAO-26-107956 (June 2026), at Highlights.

[30]Pinpoint Policy Institute, *New GAO Report Confirms the NAIC Has an Accountability Problem* (July 25, 2026), https://pinpointpolicyinstitute.org/the-point/gao-report-naic-accountability-problem/.

[31]Exposure Memo, *supra* note 4, at 1; Interim Meeting, *supra* note 9 (remarks of NAIC staff).

[32]NAIC, Risk-Based Capital Model Governance (EX) Task Force, *Minutes* (Aug. 12, 2025), at 1, https://content.naic.org/sites/default/files/national_meeting/06_Minutes-RBCMGTF.pdf; Letter from Amnon Levy, Bridgeway Analytics, to the Risk-Based Capital Model Governance (EX) Task Force (Mar. 12, 2025).

[33]NAIC, Risk-Based Capital Model Governance (EX) Task Force, *Minutes* (Aug. 12, 2025), *supra* note 47; Possible Structures, *supra* note 2, at 5; *August 13 Exposure of List of Potential Gaps*, *supra* note 3, at 4 (process follows "the spirit of the formative RBC Model Risk Management Guidelines that Bridgeway compiled and reviewed with industry stakeholders"); Exposure Memo, *supra* note 4.

[34]Guidelines, *supra* note 4, at 19.

[35]Bridgeway Analytics, *Products & Services*, https://www.bridgewayanalytics.com/; Amnon Levy, *Comment: NAIC Lays the Foundation for Coordinating Solvency Policy and Investment Oversight*, Insurance Asset Risk (Sept. 3, 2026).

The model inventory should be public, and the pilot should test the factors most in doubt.

On the question the exposure poses, Pinpoint supports a limited pilot over a full operating inventory, with three conditions. First, the inventory should be public. As drafted, editing rights rest with NAIC staff and delegates, and the pilot focus group includes NAIC staff, regulators, and Academy and industry representatives but no consumer or independent participants.[36] An inventory that only insiders can see does not improve accountability. Second, the pilot should start with the components the Task Force has already identified as lacking an empirical basis or as inconsistent with Principle 4, not with models chosen for convenience. Third, any new database fee should be disclosed with a public budget, and the pilot's cost should be weighed against redirecting existing staff from new charges to documenting the ones already in force.

Requested Actions

Pinpoint Policy Institute respectfully urges the Task Force to take the following steps before making any recommendation at the Fall National Meeting:

1. Defer recommending a governance structure until the charge includes the binding requirements below and re-expose the complete charge for public comment for no less than 45 days.
2. Require, for every matter the steering body elevates and every material factor change, a published problem statement; a materiality finding under the Preamble (solvency impact, not asset volume); an analysis of whether examination, disclosure, or enforcement would address the concern; and a public cost-benefit, consumer impact, and incentive assessment. Make the validation, impact assessment, and threshold elements of the Guidelines mandatory, and amend the Capital Adequacy (E) Task Force procedures so that impact analysis is required, not "preferred."
3. Require that any charge adopted without credible data be labeled as interim, carry a published data collection plan, and expire unless validated by a fixed date.
4. Apply one evidentiary standard to every Gap List item, regardless of who raised it or which direction it would move capital. Address the statistical safety-level inconsistency the Task Force has acknowledged. Re-expose the revised list, showing for each item the work already underway and its evidentiary basis, before any vote.
5. Subject the steering body to the NAIC open meetings policy with no regulator-only exception for agenda-setting, prioritization, or timing decisions; publish agendas and materials at least seven business days before each meeting; and issue a written public rationale whenever an adopted priority, sequence, or timeline changes. Make the Executive Committee's final decision on the structure in open session.

[36] Exposure Memo, *supra* note 4, at 1; Guidelines, *supra* note 4, § 3 (inventory "[e]diting rights are limited to NAIC staff and any delegates").

6. Create an independent appeal process that allows any state to seek review of a material elevation, prioritization, or timing decision by a panel of commissioners not involved in that decision, with a written public disposition.
7. Adopt a conflict-of-interest and recusal policy for steering body members and supporting staff that covers financial interests and political contributions from affected entities, with public disclosure.
8. Publish the scope, deliverables, compensation, and selection process for any consultant supporting RBC governance work; screen and disclose conflicts; require recusal from evaluating the consultant's own prior work; and direct all public comments solely to the NAIC.
9. Make the model inventory public; begin the pilot with the components the Task Force has identified as lacking an empirical basis or as inconsistent with Principle 4; include consumer and independent participants; and publish the budget for any new database fee.
10. Create a reconsideration mechanism for material errors, post-implementation review of adopted changes against their stated objectives, and sunset review of the steering body itself.
11. Require that commissioners vote on any change to RBC, whether at a lower working group level, the E Committee, or any other relevant group below the plenary.

To be clear, the concerns outlined in this letter do not question the Task Force's objective. Pinpoint agrees that RBC changes should be coordinated, prioritized, and anchored in sound policy before technical work begins. "Equal capital for equal risk" is a sound principle, and it deserves an equally sound process. The Task Force has now written much of that process twice, in its Principles and in the Guidelines; the steering body's charge should make it binding.

Pinpoint therefore respectfully urges the Task Force to build these safeguards before it builds the new structure. We appreciate the opportunity to submit these comments and stand ready to continue engaging constructively as the process moves forward.

Sincerely,

Eric Ventimiglia

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Pinpoint Policy Institute