

TAIC Guidance for Tribal Insurance Departments

Table of Contents



1. The Tribal Unfair Life, Accident and Health Claims Settlement Practices Model Regulation
2. TAIC Guidance to Tribal Insurance Departments
3. Core Responsibilities for Tribal Insurance Commissioners
4. TAIC Guidance for Tribal Insurance Department Audit – Cost Recovery

The Tribal Unfair Life, Accident and Health Claims Settlement Practices Model Regulation

The Tribal Unfair Life, Accident and Health Claims Settlement Practices Model Regulation establishes standards for the prompt good faith investigation and resolution of claims to protect Indian Country consumers from unfair practices by tribally-chartered insurers.

Purpose of the Regulation

The proposed of the regulation aims to set forth minimum standards for the good faith investigation and disposition of life, accident, and health claims arising under insurance policies issued by tribally-chartered insurers. It is designed to ensure that such insurers handle claims fairly and promptly, the thereby protecting the rights and interests of policyholders and claimants.

Key Provisions:

Standards of Good Faith Claims Handling: The regulation outlines specific procedures that insurers must follow when investigating and settling claims. This includes the timely communication with claimants and adherence to reasonable standards of prompt investigation, giving due consideration to the insurers and policyholders on equal footing with the interests of the insurers.

Prohibited Practices: The regulation identifies various unfair claims practices, such as:

1. Misrepresentation of policy provisions.
2. Failing to adopt reasonable standards for the prompt investigation of claims.
3. Delaying the investigation or payment of claims without valid reasons. Suspected fraud in an insurance application or claim is a valid reason for delayed investigation, so long as the tribally-chartered insurer can show proof to the Tribal Insurance Commissioner that the suspected fraud was reported to all appropriate authorities and efforts to investigate the fraud are documents.
4. Failure to conduct a good faith investigation and pay amounts reasonably due under the insurance policy. Good faith includes obtaining information from all reasonable and available sources and analyzing the information received and giving an insured an opportunity to contradict information that could lead to a denial of the claim.
5. Putting the tribally-chartered insurer's interests ahead of the policy holder or claimant.

Protection of Indian Country Consumers: Tribally-chartered insurers are required to provide clear communication regarding claims, including the reasons for any claim denials. Claimants must be informed of their rights and the processes available for appealing claims decisions.

No Private Cause of Action by an Indian Country Insured: The regulations clarifies that it does not create a private cause of action for violations, meaning that individuals and businesses cannot sue tribally-chartered insurers directly for non-compliance. Enforcement is typically handled by Tribal Insurance Commissioners.

Implications for Insurers:

Tribally-chartered insurers must comply with these regulations to avoid penalties and ensure fair treatment of Indian Country policyholders. The regulation serves as a framework for Tribal Departments of Insurance to monitor and enforce compliance, thereby promoting ethical and best practices within the tribal insurance industry and providing confidence in the insurance products available from tribally-chartered insurers.

TAIC GUIDANCE TO TRIBAL INSURANCE DEPARTMENTS

1. Core Responsibilities of a Tribal Insurance Commissioner

A. Licensing and Authorization

Ensure that all insurance companies operating under your tribe's jurisdiction are properly licensed.

Key steps:

- Define types of licenses (domestic insurers, domestic reinsurer, foreign insurer, foreign reinsurers, captive insurers, producers/agents, adjusters, TPAs).
- Require application submissions with detailed ownership, governance, and financial structure.
- Conduct background checks and fitness reviews
- Develop licensing fees and renewal schedules.

B. Financial Solvency Regulation

Monitoring solvency is one of your most critical functions. This ensures insurers can pay claims and meet long-term obligations.

1. Require insurers to file annual and quarterly financial statements, prepared under Statutory Accounting Principles (SAP), Financial Accounting Standards Board (FASB), IFRS or another approved framework.
2. Review capital and surplus requirements and set thresholds based on company type and exposure.
3. Implement risk-based capital (RBC) standards to track deteriorating financial positions.
4. Mandate independent audits and actuarial opinion filings.
5. Conduct financial examinations (at least every 3–5 years).

C. Market Conduct and Consumer Protection

Ensure that insureds and claimants are treated fairly.

- Adopt rules covering claims handling, unfair trade practices, and marketing standards.
- Establish procedures for consumer complaints, investigation, and enforcement. Post Complaint Forms on the tribe's website, similar to ones on the TAIC website, where policyholders can complain against companies licensed by the tribal insurance domiciles.
- Require policy form filings and rate review when appropriate.

D. Enforcement and Compliance

Your department should have clear enforcement powers.

- Authority to impose fines, suspensions, or revocations for violations.
 - Consider use of a Watch List and potential probation
- Ability to issue cease-and-desist orders or refer serious matters for tribal prosecution.
- Require corrective action plans for companies failing to maintain solvency standards.

2. Regulatory Infrastructure for a Tribal

Department of Insurance

A. Maintain Your Existing Tribal Insurance Ordinance, Statute, or Act

- Maintain provisions protecting tribal sovereignty and defining exclusive jurisdiction.

Include:

- Licensing and fee structure
- Solvency standards
- Market conduct
- Examinations and enforcement
- Administrative procedures and appeals

3. Mergers and Acquisitions

To regulate insurance company group ownership and changes in control.

Form A – Statement Regarding the Acquisition of Control

Submitted when there is an acquisition or merger that results in “control” (usually $\geq 10\%$ voting power).

It includes:

- Identity and background of acquiring parties
- Source and amount of consideration (funds)
- Future plans for the insurer (management, operations)
- Financial statements of acquiring entity
- Biographical affidavits of key officers/directors
- Anticipated effect on competition and consumers

Form B – Insurance Holding Company System Annual Registration Statement

Filed annually by insurers that are members of a holding company system.

It includes:

- Organizational chart of affiliates
- Management agreements and service contracts
- Reinsurance, tax allocation, cost-sharing arrangements
- Capital/asset transfers between affiliates

B. Create Regulatory Instruments

- Rules & Regulations implementing the Ordinance, Statute, or Act.
- Bulletins and Advisory Opinions for clarification.
- Policyholder Protection Guidelines.

4. Supervisory Tools and Reporting Framework

A. Regular Monitoring

Set a calendar for regular oversight, including:

- Quarterly solvency reviews
- Annual examinations
- Random audits or targeted reviews based on risk indicators

B. Use of Technology

Adopt regulatory software for:

- License tracking
- Complaint management
- Solvency analytics

5. Capital and Surplus Requirements for a Morbidity (Health/Accident) Insurer

You should define minimum capital and surplus standards that reflect both exposure and scale.

For guidance:

- Typical minimum capital (U.S. small domestic accident & health insurer): \$1 million to \$2.5 million
- Minimum surplus (policyholder surplus beyond capital): \$2 million to \$5 million, depending on lines written

You can tier the requirement:

Risk Profile	Minimum Capital	Minimum Surplus
Captive or limited-risk tribal insurer	\$500,000	\$1 million
Standard domestic accident/health insurer	\$2 million	\$3 million
Insurer with reinsurance + cross-border risks	\$5 million	\$5 million+

6. Risk-Based Capital (RBC) Standards for Life / Morbidity Insurers

You can adapt the NAIC Life Risk-Based Capital Formula, which evaluates four primary risk components:

Risk Component	Description
T-0	Affiliate & investment in subsidiaries risk
T-1	Asset risk (default of investments)
T-2	Insurance risk (mortality/morbidity claims volatility)
T-3	Interest rate and market risk
T-4	Business/operational risk

Set intervention levels similar to U.S. RBC thresholds:

RBC Ratio	Action
≥300%	No action (adequately capitalized)
200–299%	Company action level (company must file plan)
150–199%	Regulatory action level (Commissioner requests plan)
70–149%	Authorized control level (Commissioner may seize or rehabilitate)
<70%	Mandatory control level (rehabilitation or liquidation)

Companies Limited by Guarantee (CLGs) can be analyzed under similar RBC metrics when treating “guarantee fund” or “members’ guarantee capital” as surrogate equity. Guarantees can be from outside syndicates formed for the purpose of solvency solutions in exchange for a percentage of premium on a three-year claim reporting cycle.

7. Independent Audits and Actuarial Opinion Filings

Independent Audits

- Require annual CPA audits in accordance with GAAS or ISA (for cross-border insurers).
- The audit report and management letter go to your department directly.

Actuarial Opinions

- Require Statement of Actuarial Opinion (SAO) annually on reserves.
- Actuary must be qualified under American Academy of Actuaries (AAA) standards or equivalent.

8. Financial Examinations (3–5 Year Cycle)

1. Authority to Examine (statutory) – gives the Commissioner power to examine any licensed insurer or affiliate.
2. Frequency – at least every 3–5 years or as needed.
3. Scope – examination of financial condition, governance, market conduct, related parties.
4. Access Rights – full examination of books, records, and internal controls.
5. Workpapers and Confidentiality – protect examination files from public disclosure.
6. Examination Report Filing – report to insurer, insurer’s right to rebuttal, final order of adoption.
7. Assessment of Costs – costs of examination borne by insurer.
8. Offshore and Affiliated Entity Coordination – authority to examine reinsurers or holding companies.

9. Random or Targeted Audits – Checklist & Costs

Checklist (for solvency/target audit)

1. Verify statutory filings and RBC status.
2. Test reinsurance collectibility.
3. Review investment portfolio and valuation.
4. Check claim reserves adequacy.
5. Verify policyholder surplus and dividends.
6. Review corporate governance and board minutes.
7. Verify premium remittances and solvency margins.
8. Review related-party transactions (loans, service fees).
9. Confirm compliance with AML/KYC rules.
10. Document findings and require corrective plan.

Payment of Audit Costs

- Consistent with NAIC practice, the insurer pays the full cost of the examination — including inspectors' travel and per diem.
- For foreign or offshore (e.g., Nassau or Barbados) site visits, the insurer should advance or reimburse reasonable travel costs by regulation.
- Include this in your CAMB Nation Insurance Examination Cost Recovery Regulation (a short directive you can promulgate under tribal law).

10. Suggested Immediate Steps for Tribes

1. Develop and/or maintain the tribe's Insurance Ordinance, Statutes, or Act.
2. Establish financial reporting standards for licensed insurers.
3. Create a solvency monitoring process, including an annual review calendar.
4. Set up a complaint and enforcement unit.
5. Conduct training for staff on financial examinations and insurance accounting.
6. Publish transparency reports annually for policyholder confidence.

Core Responsibilities
of
Tribal Insurance Commissioners



1. Core Responsibilities of Tribal Insurance Commissioners

A. Licensing and Authorization

Ensure that all insurance companies and producers operating under your tribe's jurisdiction are properly licensed.

- Define **types of licenses** (domestic insurers, foreign reinsurers, captive insurers, producers/agents, adjusters, TPAs).
- Require **application submissions** with detailed ownership, governance, and financial structure.
- Conduct **background checks** and **fitness reviews**.
- Develop **licensing fees** and renewal schedules.

B. Financial Solvency Regulation

Monitoring solvency is one of your most critical functions. This ensures insurers can pay claims and meet long-term obligations.

1. Require insurers to file **annual and quarterly financial statements**, prepared under **Statutory Accounting Principles (SAP)** or another approved framework.
2. Review **capital and surplus requirements** and set thresholds based on company type and exposure.
3. Implement **risk-based capital (RBC)** standards to track deteriorating financial positions.
4. Mandate **independent audits** and **actuarial opinion filings**.
5. Conduct **financial examinations** (at least every 3–5 years).

C. Market Conduct and Consumer Protection

Ensure that insureds and claimants are treated fairly.

- Adopt rules covering **claims handling, unfair trade practices, and marketing standards.**
- Establish procedures for **consumer complaints**, investigation, and enforcement.
- Require **policy form filings** and **rate review** when appropriate.

D. Enforcement and Compliance

Your department should have clear enforcement powers.

- Authority to impose **finances, suspensions, or revocations** for violations.
 - Consider use of a Watch List and potential probation
- Ability to issue **cease-and-desist orders** or refer serious matters for **tribal prosecution.**
- Require **corrective action plans** for companies failing to maintain solvency standards.

2. Regulatory Infrastructure of a Tribal Insurance Department

A. Adopt a Tribal Insurance Code

Draft, enable (adopt), and maintain a **Tribal Insurance Ordinance, Statute, Code, or Act.**

Include:

- Licensing and fee structure
- Solvency standards
- Market conduct
- Examinations and enforcement
- Administrative procedures and appeals

B. Create Regulatory Instruments

- **Rules & Regulations** implementing the **Tribal Insurance Ordinance, Statute, Code, or Act.**
- **Bulletins and Advisory Opinions** for clarification.
- **Policyholder Protection Guidelines.**

3. Supervisory Tools and Reporting Framework

A. Regular Monitoring

Set a calendar for regular oversight, including:

- Quarterly solvency reviews
- Annual examinations
- Random audits or targeted reviews based on risk indicators

B. Use of Technology

Obtain a license from TAIC for custom tribal regulatory software, or develop its own software, for:

- License tracking
- Complaint management
- Solvency analytics

4. Suggested Immediate Steps for Tribal Insurance Department

1. **Develop and adopt the Tribe's Insurance Code** (start with an interim version).
2. **Establish financial reporting standards** for licensed insurers.
3. **Create a solvency monitoring process**, including an annual review calendar.
4. **Set up a complaint and enforcement unit.**
5. **Conduct training** for staff on financial examinations and insurance accounting.
6. **Publish transparency reports** annually for policyholder confidence.

TAIC Guidance



Model Tribal Regulation on Financial Examinations and Cost Recovery

TAIC Guidance

Model Tribal Regulation on Financial Examinations and Cost Recovery

Section 100 — Authority and Purpose

1. **Authority.**

This Regulation is promulgated for adoption or guidance under the sovereign authority of the **Tribal Insurance Department**, as delegated to the **Tribal Commissioner of Insurance** pursuant to the **Tribal Insurance Code**.

2. **Purpose.**

The purpose of this regulation is to:

- Ensure the continued solvency and integrity of insurers licensed by the Tribal Insurance Department;
- Establish fair and transparent standards for conducting financial examinations;
- Define cost recovery mechanisms for regulatory expenses; and
- Protect policyholders and the economic interests of Tribe while respecting tribal sovereignty.

Section 200 — Applicability

This Regulation applies to:

- All **insurers, reinsurers, captives, companies limited by guarantee, and risk-bearing entities** licensed or chartered by Tribe's Insurance Department;
- All **affiliated entities** or **persons** participating in the financial operations of such insurers; and
- Any **person subject to examination** under the Tribal Insurance Code.

Section 300 — Examination Authority

1. The **Tribal Commissioner of Insurance ("Commissioner")** shall have authority to **examine the affairs, transactions, accounts, records, and assets** of any licensed entity as often as deemed necessary.

2. The Commissioner may conduct:

- **Full-scope financial examinations** not less often than once every **five (5) years**;
- **Targeted or limited-scope examinations** at any time, based on risk indicators or justified consumer or solvency concerns.

3. Examinations may extend to:

- **Holding companies** or affiliates within an insurer's corporate group;
- **Third-party administrators, managing general agents, or service providers** performing significant insurance functions.

Section 400 — Scope of Examination

Financial condition examinations shall include, but not be limited to, evaluation of:

- a. **Assets and liabilities**, including investments and reserves;
- b. **Surplus adequacy** relative to risk-based capital (RBC) or risk-based guarantee (RBG) standards;
- c. **Reinsurance agreements and collectibility** of recoverables;
- d. **Market conduct practices**, including claims handling and policyholder treatment;
- e. **Corporate governance**, board minutes, and internal controls;
- f. **Inter-affiliate transactions**, loans, or transfers of assets;
- g. **Compliance** with CAMB Nation laws and regulations; and
- h. **Other related areas** as determined by the Commissioner.

Section 500 — Conduct of Examination

1. Examinations shall be performed by:

- The Commissioner;
- Designees of the Commissioner; or
- Qualified independent examiners, accountants, auditors, and actuaries engaged by the Tribe's Department of Insurance.

2. Exam personnel shall have **free and full access** to all books, records, accounts, and premises of the entity being examined.

3. All examination work papers, notes, and reports are deemed **confidential tribal regulatory materials**, not subject to disclosure except as authorized by tribal law or TAIC cooperative protocols.

Section 600 — Examination Reports

1. Upon completion, the Commissioner shall prepare and issue a **Report of Examination**, which shall include:

- Scope of examination;
- Financial statements as verified;
- Findings and recommendations; and
- Directives for corrective action (if necessary).

2. A **draft report** shall be provided to the examined entity for written response within **30 days**.
3. The **final report** shall be filed in the Commissioner's office and may form the basis for enforcement or licensing actions.

Section 700 — Frequency and Triggers for Examination

1. Full examinations: **Every 3–5 years**.
2. Targeted or special examinations:
 - Where solvency ratios decline;
 - Where consumer complaints or irregularities exist;
 - Where IRS, CRA, or other taxing authorities have made inquiries about the business conduct of a Tribe's Department of Insurance licensee;
 - Following material ownership or management changes (Form A-type event);
 - Upon request by TAIC or other tribal regulators under cross-tribal MOU.

Section 800 — Cost of Examination and Recovery

1. Obligation to Pay Costs.

Each entity subject to examination shall pay the **actual expenses** of the examination, including but not limited to:

- Professional fees (auditors, actuaries, attorneys, examiners);
- Travel, lodging, transportation, and per diem; and
- Administrative overhead attributable to the Department's activities.

2. Advance Deposit.

The Commissioner may require a **reasonable advance deposit** prior to commencement, replenished as costs are incurred.

3. Foreign or Offshore Examinations.

When an examination requires **travel either inside or outside the continental United States**, all associated travel, lodging, and administrative expenses are the responsibility of the entity under examination.

4. Billing and Payment.

- Costs shall be invoiced with itemized detail;
- Payment in full shall be due within **thirty (30) days** of billing;
- Nonpayment constitutes grounds for suspension or revocation of license.

Section 900 — Cooperation and Confidentiality

1. Entities must **cooperate fully** with examiners, producing requested data promptly.
2. All reports and work papers are **confidential**, and may be shared only:
 - With TAIC member regulators under confidentiality agreements;
 - With federal agencies or foreign regulators only upon express approval of the Commissioner and in conformity with tribal law;
 - Not subject to disclosure under any state open records laws.

Section 1000 — Enforcement

1. The Commissioner may:
 - Issue **corrective action orders**;
 - Impose **administrative fines**;
 - Place on a watch list; suspend; revoke; or refuse renewal of a license; or
 - Take other remedial measures as authorized under the Tribal Insurance Code, Ordinance, or Act.
2. Failure to pay examination costs, obstruction of an examination, or filing of false information shall constitute grounds for enforcement action.

Section 1100 — Relationship to Other Jurisdictions

1. Under the precedents of *Williams v. Lee*, 358 U.S. 217 (1959), and *Warm Springs Forest Products Industries v. Employee Insurance Laws*, 300 Or. 617 (1986), the **business of insurance licensed by CAMB Nation is under the exclusive jurisdiction of the Tribe**, not of any state.
2. The Commissioner **may voluntarily adopt** certain standards (such as TAIC guidance) **as reference instruments**, but only to the extent consistent with tribal sovereignty and TAIC member principles.
3. TAIC coordination shall be the preferred method of inter-jurisdictional cooperation.

Section 1200 — Recordkeeping and Reporting

1. Examination reports and cost statements shall be retained for **no less than ten (10) years**.
2. The Commissioner shall prepare an **Annual Examination Summary Report** for internal review and submission to TAIC if requested.

Section 1300 — Severability and Effective Date

1. If any section of this regulation is held invalid, the remainder shall remain in effect.
2. This regulation becomes effective upon adoption by the **Tribal Insurance Commissioner** and approval by the **Tribal Council of CAMB Nation**.

Commentary Notes (for Implementation)

- This regulation stays entirely **within the tribal legal universe**, citing federal precedents only to reaffirm **non-applicability of state jurisdiction**.
- It gives the Commissioner discretion to **recover actual exam costs**.
- It ensures **consistency with TAIC practices** while maintaining **data confidentiality** under tribal law.
- If TAIC has adopted model supervisory or solvency protocols, you can attach those as **Technical Appendices** to this regulation.