

STATEMENT OF SCOPE

Office of the Commissioner of Insurance

Rule No.: Ch. Ins 40 and 53

Relating to: Holding company supervision amendments and corporate governance disclosure requirements for NAIC accreditation and affecting small business.

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

Not applicable

2. Detailed description of the objective of the proposed rule:

The Office of the Commissioner of Insurance (OCI) is proposing rules that will address several financial regulations implementing newly required accreditation standards for the financial supervision of insurers. Specifically the proposed rules will create Ch. Ins 53 to implement the corporate governance annual disclosures as established in 2017 Wis. Act 313 that created s. 610.80, Stats.; amend various sections of Ch. Ins 40 to reflect changes to the holding company system for group-wide supervision of internationally active insurance groups. The proposed changes will bring the office into compliance with the National Association of Insurance Commissioners (NAIC) Financial Regulation Standards and Accreditation Program requirements that are a necessary component of the accreditation of the office.

Accreditation is a certification given to a state insurance department once it has demonstrated that it has met legal, financial and organizational standards. Accreditation is important to retain OCI's ability to oversee its domestic insurers including those doing a multi-state business. At the same time the proposed rules reduce burdens on some insurers by creating consistency across states for those insurers doing business in multiple states.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Accredited insurance departments are required to undergo a comprehensive review by an independent review team every five years. To ensure OCI continues to meet financial solvency oversight standards and accreditation standards OCI is required to have adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs and the necessary resources to carry out that authority.

OCI is proposing implementation of both the NAIC updated model holding company regulation and the NAIC corporate governance annual disclosure model regulation. Specifically, both changes will create new provisions that are not currently covered in existing rules. Following the enactment of s. 610.80, Stats., which established the requirements of an annual corporate governance disclosure, provided Ch. Ins 53 would delineate the requirements for that annual disclosure and specify the timing and the form as prescribed by the commissioner in order for OCI to comply with the statutory requirements. The proposed changes to Ch. Ins 40 would allow the commissioner to act as, or recognize another regulator to act as, a group-wide supervisor of an internationally active insurance group, resulting in more efficient regulation and better cooperation with other regulators.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The Commissioner has the general authority to promulgate rules necessary to administer and enforce chs. 600 to 655, Stats., and as provided under ss. 227.11 (2) (a) and 601.41, Stats. Additionally, s. 601.41 (3) (a), Stats., grants the Commissioner “rule-making authority under s. 227.11 (2).” Further, s. 601.42 (1g), Stats., gives the Commissioner the authority to require from those subject to regulation, among other things, “statements, reports, answers to questionnaires, and other information, and evidence thereof, in whatever reasonable form the commissioner designates, and at such reasonable intervals as the commissioner chooses, or from time to time.” Finally, s. 601.42 (2), Stats., states that [T]he commissioner may prescribe forms from the reports under subs. (1g) and (1r) and specify who shall execute or certify such reports.”

Section 610.80, Stats., was recently enacted as a result of 2017 Wis. Act 313, establishing the requirement for an annual corporate governance disclosure. Section 610.80 (7), Stats., states, “[T]he commissioner may promulgate any rules necessary to carry out the purposes of this section.” The proposed rule would create Ch. Ins 53 to delineate the requirements for the annual disclosure for corporate governance and specify timing and the form as prescribed by the Commissioner in order for OCI to comply with the statutory requirements contained in 2017 Wis. Act 313.

Section 617.215 (2) (a) 3., Stats., authorizes the commissioner to “clarify the functions of a supervisory college and the role of other regulators, including the establishment of a group-wide supervisor. Further, s. 617.12 (2), Stats., authorizes the commissioner to promulgate rules requiring insurer to report their enterprise risk including the form of the report and the manner and process for filing the reports. The NAIC model regarding group-wide supervision of internationally active insurance groups falls within the regulation of insurance holding companies and intercorporate transactions and therefore is applicable.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

200 hours.

6. List with description of all entities that may be affected by the proposed rule :

Insurers licensed to do an insurance business in this state, either as a domestic or nondomestic insurer.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

Illinois: No pending laws or regulations regarding supervision of internationally active insurance groups or corporate governance annual disclosures.

Iowa: Iowa Admin Code R. 191-111.1-191-111.5 implementing Iowa Code § 521H for corporate governance annual disclosures. Iowa Code § 521A.6B addresses the supervision of internationally active insurance groups.

Michigan: No pending laws or regulations regarding corporate governance annual disclosure or supervision of internationally active insurance groups

Minnesota: No pending laws or regulations regarding supervision of internationally active insurance groups or corporate governance annual disclosures.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

For insurers subject to the jurisdiction of the Commissioner that do the business of insurance in many states including Wisconsin, the requirements proposed will be consistent with other states' requirements as the proposed rules will implement accreditation requirements that all states will need to implement for accreditation purposes. For insurers that do the business of insurance solely within the State of Wisconsin, the requirements would be imposed only as applicable. The proposed rules are expected to have a negligible economic impact since no special expertise will be required to complete the reporting. Specifically, insurers will not be required to incur costs for retaining actuaries or certified public accountants as a result of the proposed rules. The information may be supplied by the insurers in a form convenient to them as the Commissioner will delineate the content and not the structure of the reports. The rule is not likely to have a significant impact on small businesses that are insurers or that are insured by businesses subject to the proposed rule as little to no economic impact is anticipated and therefore will not be passed on to insureds.

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