

# STATEMENT OF SCOPE

## OFFICE OF THE COMMISSIONER OF INSURANCE

**Rule No.:** 145 Ch. Ins 40, Wis. Adm. Code

**Relating to:** Holding company system regulation amendments

**Rule Type:** Permanent

### **Detailed description of the objective of the proposed rule :**

The National Association of Insurance Commissioners (NAIC) is a standard setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. It develops model laws and regulations using a committee structure that includes both members of the committee and interested regulators. The NAIC also provides an accreditation process for state insurance departments. Accreditation of the Office of the Commissioner of Insurance (OCI) by the NAIC helps Wisconsin insurers by ensuring that the OCI has full regulatory authority over its domestic insurers. It accomplishes this by subjecting domestic insurers to financial regulation only by their domestic commissioner if the state is accredited. Because Wisconsin is accredited, Wisconsin insurers are not subject to separate financial regulation in every state in which they do business. Recent changes in the NAIC model laws 440 and 450 that are the bases for the proposed rule are anticipated to become accreditation standards in 2022, and therefore, it is important to implement these changes into the Wisconsin holding company system regulations as soon as practicable.

The rule change would modernize Wisconsin's holding company system provisions by adopting uniform standards for determining group-wide capital filing requirements in alignment with requirements of the agreement between the United States of America, the European Union, and the United Kingdom regarding insurance and reinsurance (covered agreement). The covered agreement was authorized by Title V of the Dodd-Frank Act that authorized the Secretary of the Treasury and the United States Trade Representative to jointly negotiate a covered agreement on behalf of the United States with one or more foreign governments, authorities, or regulatory entities.

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

Chapter Ins 40, Wis. Adm. Code, establishes the requirements for holding company standards including, for example, registration, transaction requirements, acquisition of control or merger with a domestic insurer or divestiture of shares in a domestic insurer. Additionally, the newly revised NAIC model laws add and revise requirements for the regulation and oversight of insurance holding company systems including a liquidity stress test, group capital calculations, and confidential treatment of certain documents.

The proposed changes would bring the rules into compliance with the covered agreement and bring the OCI into alignment with NAIC accreditation requirements. The alternative is to risk preemption by federal law or risk OCI losing its accreditation which would have a significant financial impact on all domestic insurers.

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

The statutory authority for this rule is specifically Wis. Stat. § 623.02 that provides when promulgating accounting rules, the commissioner shall consider recommendations made by the NAIC. Wis. Stats. §§ 623.03 and 623.04, grant the commissioner authority to promulgate rules specifying how insurers should account for assets and liabilities which would include liquidity stress tests and group capital calculations. Wis. Stats. § 617.11 (1) grants the commissioner the authority to promulgate rules specifying the timing of reports on affiliates including requiring periodic reporting and the form and procedure for filing reports. Additionally, the commissioner has general rule-making authority under Wis. Stat. §§ 601.41 and 227.11 (2) (a).

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

200 hours and no other resources are necessary to develop the rule.

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

The update of Wisconsin's standards to match those in other states will create uniformity. The revisions will apply to insurers who belong to an insurance holding company system.

**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 :**

Currently, there are no existing federal regulations intended to address this area. The United States has entered into a covered agreement with the European Union and United Kingdom which could preempt state law if a state does not enact its requirements by September of 2022. There is also a provision where federal preemption could occur if substantial progress has not been made by September of 2021.

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

The anticipated economic impact of implementing the rule is minimal as the proposed rule will primarily add an additional filing requirement to insurers that belong to a holding company system.

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