



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tony Evers, Governor  
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Wisconsin.gov

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## Report From Agency

Report on Sections Ins 2.02, 2.04 and 6.20, Wis. Adm. Code, relating to the repeal of restrictions related to the allocation of dividends to participating life insurance policies issued by a stock company, rating practices for exceeding filed rates for substandard risks, and revisions to the definition of investment terms, limitations on the investments of town mutual insurers and the permissible scope of foreign investments and affecting small business.

**Clearinghouse Rule No. 20-002**  
Submitted Under s. 227.19 (3), Stats.

(The proposed rule-making order is attached.)

### **(a) A detailed statement of basis for the proposed rule and how the rule advances relevant statutory goals or purposes:**

The proposed changes to ss. Ins 2.02, 2.04 and 6.20, Wis. Adm. Code, relate to the repeal of restrictions related to the allocation of dividends to participating life insurance policies issued by a stock company, rating practices for exceeding filed rates for substandard risks, and revisions to the definition of investment terms, limitations on the investments of a town mutual insurer, and the permissible scope of foreign investments. Section Ins. 2.02, Wis. Adm. Code, is proposed for repeal as the statute cited in the code provision references a statute that was repealed by Chapter 375, laws of 1975 and not replaced. Section Ins. 2.04, Wis. Adm. Code, permitted life insurance companies to exceed the maximum premium rate for coverage of a person that is classified as a substandard risk or is engaged in a hazardous occupation.

The proposed changes to s. Ins 6.20, Wis. Adm. Code, were requested by the insurance industry and are intended to modernize rules and requirements regarding the permissible investments that may be counted toward compulsory and security surplus. The proposed changes would include adding a general definition for derivative instruments and aligning Wisconsin's requirements with the National Association of Insurance Commissioners Derivative Instrument Model Regulation. Section Ins 6.20, Wis. Adm. Code, currently defines certain types of derivative instruments but does not include a general definition of derivatives. The office added a general definition that would capture all current derivative products and that also encompass derivative products developed in the future. A general definition would allow s. Ins 6.20, Wis. Adm. Code, to remain current with modern investment practices while eliminating the need to revise the code every few years keep pace with financial product innovations. In addition, better aligning office's requirements with the National Association of Insurance Commissioners' model act would promote uniform regulation across the states.

The proposed changes revise the amount or percentage of admitted assets which an insurer may invest in foreign assets for purposes of compulsory and security surplus. The current restrictions have not changed since 1996 and the proposed changes would allow a greater amount of investment in foreign investments. This change will better align the investment restrictions with current investment practices and modern investment risk considerations. In addition, the proposed rule adds a definition of foreign issuers.

The proposed changes to s. Ins 6.20 (6), Wis. Adm. Code, that apply to town mutual insurance companies, are intended to provide regulatory relief. This relief is in the form of a reduction in regulatory costs and improvements to the basis for investment regulation. Consolidation among commercial banks has reduced access to investment custody services, particularly for small insurers that are seen as not offering worthwhile scale as a customer. Annual minimum costs for such services range from \$6,000 to \$10,000. In addition, the size of a round lot in bonds, an important factor for the best price execution, is \$100,000, which is a scale of individual trading too large for most town mutual insurance companies. Town mutual insurance companies will have the option to hold a diversified portfolio of mutual funds instead of individual bonds and stocks. Moreover, once a town mutual insurer has achieved a specified threshold of low risk assets, there would be no further limits on the town mutual insurer's equity holdings. In addition, the use of Morningstar ratings on mutual funds, which were intended to stand in for qualitative measures, are removed in favor of maximum expense ratios that have been set at reasonable levels while still allowing for active investment strategies.

**(b) Summary of the public comments and the agency's responses to those comments:**

**Comment:** Clarify the definition of "foreign issuer" to be more consistent with the NAIC model Act.

Response: The office intended the definition to be stronger than the NAIC model Act and did not make the change suggested.

**Comment:** Broaden the types of investments that can be considered toward compulsory and security surplus by increasing the types of investments in partnerships, limited liability companies, trust certificates from any trust or any other equity interest in a private equity.

Response: The office believes this is not something that we have authority to modify by rule but that it will require a statutory change.

**(c) An explanation of any modifications made in proposed rule as a result of public comments or testimony received at a public hearing:**

The office revised the proposed rule to incorporate the suggestions made when seeking input on the economic impact analysis. The office modified the rule draft to permit town mutual insurance companies the option to use traditional investment custody accounts for mutual funds and increased the ratio from 0.50% to 1.20% or less to include any fees for marketing or distribution.

**(d) Persons who appeared or registered regarding the proposed rule:**

**Appearances for:**

Connie O'Connell, Wisconsin Council of Life Insurers

**Appearances against:**

None

**Appearances for information:**

**Registrations for:**

Tony Langenohl, State Farm Insurance  
Andy Franken, Wisconsin Insurance Alliance  
Jess Alanis, American Family Insurance

**Registrations against:**

None

**Registrations neither for nor against:**

Wes Webendorfer, Professional Insurance Agents of Wisconsin

**Letters received:**

Connie O'Connell, Wisconsin Council of Life Insurers

Monica Groves, American Family Insurance

22 spam-type incoherent responses unrelated to the subject matter.

**(e) An explanation of any changes made to the plain language analysis of the rule under s. 227.14 (2), Stats., or to any fiscal estimate prepared under s. 227.14 (4), Stats.**

The plain language was reviewed to ensure consistency with the modification made to the rule in light of the Legislative Council recommendation and public comment received.

**(f) The response to the Legislative Council staff recommendations indicating acceptance of the recommendations and a specific reason for rejecting any recommendation:**

All comments were complied with and corrected.

**(g) The response to the report prepared by the small business regulatory review board:**

The small business regulatory review board did not prepare a report.

**(h) Final Regulatory Flexibility Analysis**

A Final Regulatory Flexibility Analysis is Not Required because the rule will not have a significant economic impact on a substantial number of small businesses.

**(i) Fiscal Effect**

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations