STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2050 (C04/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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EXISTING ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☐ Repeal ☒ Modification

2. Administrative Rule Chapter, Title and Number

to repeal Ins 3.70, 5.45 (1) (b), 6.52 Form B, 8.42 (4) (a), (b) and (7) (c) (1), 8.59 (4), 8.60 (1) (a), (d) and (e), 8.61 (2) and (6), 8.68 (3) (b) and (c) and 9.40 (1) (a), (5) and (6); to renumber, consolidate and amend Ins 8.42 (4) (intro.) and (c) and 8.42 (4), 9.40 (1) (intro.) and (b) and 9.40 (1); to amend Ins 3.651 (2) (Note), 3.75 (6), 6.52 (5), ch. 6 Appendix 1 and Appendix 2, 7.02, 7.06 (Note), 8.40, 8.42 (13), 8.68 (4), 16.01 (4) (c), (6) (a) and (7) (a) and (b), 50.01 (1r) and 50.14 (2); and to create Ins 16.01 (7) (c), 50.01 (6g), 50.15 (2m), 50.155 and 50.18 (8), Wis. Adm. Code, relating to certain reporting requirements, electronic filing and obtaining information, increasing minimum annual assessment for OCI insurer financial examinations, other technical corrections and affecting small business.

3. Date Rule promulgated and/or revised; Date of most recent Evaluation

Section Ins 3.70 promulgated 9-1998; s. 5.45 (1) (b) promulgated 3-1996; s. 6.52 (5) Form B- promulgated 6-1973; s. 8.42 (4) (a), (b) and (7) (13) promulgated 10-1992; s. 8.59 (4) promulgated 11-1993; s. 8.60 (1) promulgated-11-1993; s. 8.61 (2) promulgated 11-92; s. 8.68 (3) (b), (c), (4), promulgated 11-1993; s. 9.40 (1), (5), (6)-promulgated 2-2000; s. 3.651 (2) (Note) promulgated 8-1993; s. 3.75 (6) promulgated 10-2009; ch. 6 Appendix 1, Appendix 2 promulgated 2-1993; ss. 7.02 and 7.06 (Note) promulgated 1-1992; s. 8.40 promulgated 10-1992; s 16.01 (4), (6) and (7) promulgated 12-1977;

s. 50.01 promulgated 7-1993; s. 50.14 (2) promulgated 7-1993; s. 50.15 promulgated 12-2008.

4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

These proposed rule changes make a number of technical changes or corrections to current rules by, for example, adding the OCI's website to rules so consumers may make complaints electronically, deleting insurance forms no longer in use and deleting all rule references to the HIRSP risk sharing plan which was eliminated by legislative act. The rule also modernizes a rule section by making clear that the Commissioner may obtain CPA work papers concerning an insurer's annual audit in electronic form. The proposed rule also increases the minimum annual amount OCI may charge for its financial examinations of domestic insurers to an amount that more accurately represents the actual minimum administrative costs to OCI to run its financial examinations program. The proposed rule increases the annual minimum amount for domestic insurers located primarily out of state to $10,000 per year, and the minimum for all other domestic insurers to $3,000 per year. Finally, the proposed rule adopts an NAIC model law requiring large insurers to have an independent internal audit function effective January 1, 2018.

5. Describe the Rule's Enforcement Provisions and Mechanisms

Section 601.41 (1), Stats., requires the Insurance Commissioner to administer and enforce Wisconsin insurance laws and rules. The Commissioner has authority to issue "such prohibitory, mandatory and other orders as are necessary to secure compliance with the law." s. 601.41(4), Stats. The Commissioner has authority to bring an administrative action to enforce an order issued by the Commissioner and also to seek a monetary forfeiture and/or a limitation or revocation of an insurance license for violation(s) of a statute or rule or an order of the Commissioner. s. 601.64 (3), Stats. When an order is issued without a hearing, any person aggrieved by the order may demand a hearing within 30 days after the date on which the notice of the order was mailed. s. 601.62 (3), Stats.

6. Repealing or Modifying the Rule Will Impact the Following (Check All That Apply)

☐ State's Economy
☐ Local Government Units
☒ Specific Businesses/Sectors
☐ Public Utility Rate Payers
☒ Small Businesses

7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

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The only proposed rule change which may have a financial impact on some domestic insurers is the increase in annual minimum assessment amounts for OCI financial examinations proposed s. Ins. 6.01 (7) (c). No unnecessary burden is anticipated to be placed on small businesses as very few, if any, domestic insurers meet the definition of small businesses. OCI has delayed the applicability date of this rule change to February 1, 2018 to allow insurers some time to make adjustments to comply.

8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

OCI solicited comments through publication requesting comments from the public and interested parties using the OCI website. OCI also sent emails to 48 interested parties including, insurers, insurer organizations, law firms, Wisconsin Counties Association, Wisconsin Manufacturers and Commerce, and others.
One comment was received from the Wisconsin Council of Life Insurers which stated "We have not identified a fiscal impact associated with the proposed rule at this time."

9. Did the Agency consider any of the following Rule Modifications to reduce the Impact of the Rule on Small Businesses in lieu of repeal?

☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☒ Other, describe: OCI delayed the applicability date of s. Ins. 16.01 (7) (c), the increased minimum annual assessment for OCI financial examinations, to February 1, 2018 to allow insurers to make adjustments to comply with the rule change.

10. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

11. Chapter 20, Stats. Appropriations Affected
None

12. Fiscal Effect of Repealing or Modifying the Rule

☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

13. Summary of Costs and Benefits of Repealing or Modifying the Rule

The benefits of increasing the annual minimum assessments in s. Ins. 16.01 (7) (c) include that the increased minimum more accurately reflects the actual costs of OCI finanacial examinations program. Also, the new amounts more equitably distribute the costs of OCI's financial examinations program among insurers.

14. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☒ No

15. Long Range Implications of Repealing or Modifying the Rule

Section 16.01(7) (c)--The increased annual minimum assessments for financial examinations will allow OCI to continue to monitor the financial health and solvency of domestic insurers and more equitably distribute the costs of the program among insurers.

16. Compare With Approaches Being Used by Federal Government

The Federal Government does not address the subject matter of these proposed rules.

17. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

a) With respect to a minimum annual assessment for insurer examinations-[proposed s. Ins. 16.01(7) (c)]:

ILLINOIS: 215 ILCS 5/Sec 3, 6, 7 and 9. Illinois does not have a set minimum assessment based on actual minimum cost of an examination in the way Wisconsin does. Illinois assesses all insurers, domestic and non-domestic, licensed to do business in the state. The assessment funds the cost of financial examinations and financial condition analyses and funds the costs and expenses of the Interstate Receivership Commission.

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For domestic insurers, annual assessment amounts are variable and based on the amount of an insurer's nationwide direct premiums or admitted assets (whichever is greater) and, in some cases, reinsurance assumed premiums. For example, on the low end, if the premium is less than $500,000 and there is no reinsurance assumed premium, the annual assessment equals $150. On the high end, if the premium is $100,000,000 or more, the annual assessment equals $37,500.

For non-domestic insurers, annual assessment amounts are also variable, and are based on the amount of an insurer's Illinois direct premiums and nationwide reinsurance assumed premiums. Again, the minimum assessment is $150 on the low end of direct premium amount and $37,500 on the high end. Also, assessments billed to non-domestic insurers within the same affiliated group cannot exceed $250,000.

In addition to annual assessments, Illinois bills insurers for the following additional examination-related expenses:

1. Electronic data processing costs;
2. Lodging and travel expenses;
3. Outside consultants/contractors used in examinations; and
4. Performance examination costs (e.g. market regulation exams).

IOWA: Chptr 507.8, Iowa Code. Iowa does not use an annual assessment, so has no minimum assessment. Rather, upon completing an examination, the Iowa commissioner prepares a bill of all costs incurred in performing the examination and in preparing the subsequent report. The examined insurer is then responsible for paying the charged amount. Iowa uses outside contractors to conduct some of its out of state examinations.

MICHIGAN: 500.224, mcl. Michigan assesses all insurers, domestic and non-domestic, licensed to do business in the state. The assessments fund the state's insurance department operations, with two-thirds of every assessment going toward solvency regulation.

Annual assessment amounts are variable and based on a formula that accounts for all in-state annuity considerations written and all in-state direct premiums underwritten. Regardless of the formula output, the assessment cannot exceed 80% of the gross appropriations for the insurance bureau. Also, the minimum fee is $250, regardless of the formula output.

Furthermore, Michigan bills out-of-state insurers for the expenses and reasonable costs incurred in conducting an examination, for which Michigan often uses outside consultants/contractors.

MINNESOTA: 60A.03 subd 5, Minnesota Statutes. Minnesota does not use an annual assessment and so has no minimum annual assessment. Minnesota uses all outside contractors to conduct its examinations. All examined insurers are required to pay the "necessary expenses" of the persons engaged in the examination, including the per diem salaries of those persons.

b) With respect to proposed rule adopting NAIC model law section requiring large insurance companies to have internal audit function [proposed s. Ins. 50.155]:

ILLINOIS: Has not yet taken action to adopt the NAIC internal audit function requirement for larger insurers.

IOWA: Has not yet taken action to adopt the internal audit function requirement.

MICHIGAN: Has not yet taken action to adopt the internal audit function requirement.

MINNESOTA: Has not yet taken action to adopt the internal audit function requirement.

18. Contact Name	19. Contact Phone Number
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This document can be made available in alternate formats to individuals with disabilities upon request.