

INS 6

Filed July 14, 1966
2:55 P.M.

STATE OF WISCONSIN)
DEPARTMENT OF INSURANCE) ss.

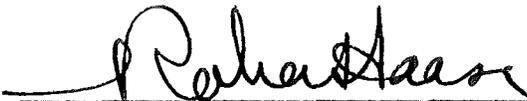
STATE OF WISCONSIN SS
DEPARTMENT OF STATE
RECEIVED AND FILED
JUL 14 1966
ROBERT C. ZIMMERMAN
SECRETARY OF STATE

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Robert D. Haase, Commissioner of Insurance, and custodian of the official records of said department, do hereby certify that the annexed order relating to adoption of rules relating to insider trading of equity securities of domestic stock insurers and the reporting of beneficial ownership of such securities was issued by this department on July 14, 1966.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Hill Farms State Office Building in the city of Madison, this 14th day of July, A.D., 1966.


Robert D. Haase
Commissioner of Insurance

ORDER OF THE DEPARTMENT OF INSURANCE

Adopting Rules

Pursuant to authority vested in the Commissioner of Insurance by sections 200.03 (2) and 201.105 (8), Wis. Stats., the Commissioner of Insurance hereby adopts rules as follows:

Sections Ins 6.41, 6.42, and 6.43 of the Wisconsin Administrative Code are adopted to read:

Ins 6.41 Insider trading of equity securities of domestic stock insurers.

(1) DEFINITIONS. (a) Insurer means any domestic stock insurance company with an equity security subject to the provisions of section 201.105, Wis. Stats., and not exempt thereunder.

(b) Officer means a president, vice president, treasurer, actuary, secretary, controller and any other person who performs for the insurer functions corresponding to those performed by the foregoing officers.

(c) Equity security means any stock or similar security; or any voting trust certificate or certificate of deposit for such a security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

(d) Securities held of record. 1. For the purpose of determining whether the equity securities of an insurer are held of record by 100 or more persons, securities shall be deemed to be "held of record" by each person who is identified as the owner of such securities on records of security holders maintained by or on behalf of the insurer, subject to the following:

a. In any case where the records of security holders have not been maintained in accordance with accepted practice, any additional person who would be identified as such an owner on such records if they had been maintained in accordance with accepted practice shall be included as a holder of record.

b. Securities identified as held of record by a corporation, a partnership, a trust whether or not the trustees are named, or other organization shall be included as so held by one person.

c. Securities identified as held of record by one or more persons as trustees, executors, guardians, custodians or in other fiduciary capacities with respect to a single trust, estate or account shall be included as held of record by one person.

d. Securities held by 2 or more persons as co-owners shall be included as held by one person.

e. Each outstanding unregistered or bearer certificate shall be included as held of record by a separate person, except to the extent that the insurer can establish that, if such securities were registered, they would be held of record, under the provisions of this rule, by a lesser number of persons.

f. Securities registered in substantially similar names where the insurer has reason to believe because of the address or other indications that such names represent the same person, may be included as held of record by one person.

2. Notwithstanding subsection (1) (e) 1:

a. Securities held, to the knowledge of the insurer, subject to a voting trust, deposit agreement or similar arrangement shall be included as held of record by the record holders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in such securities; provided, however, that the insurer may rely in good faith on such information as is received in response to its request from a nonaffiliated insurer of the certificates or evidences of interest.

b. If the insurer knows or has reason to know that the form of holding securities of record is used primarily to circumvent the provisions of section 201.105, Wis. Stats., the beneficial owners of such securities shall be deemed to be the record owners thereof.

(e) Class means all securities of an insurer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges.

(2) TRANSACTIONS EXEMPTED FROM THE OPERATION OF SECTION 201.105 (2), WIS. STATS. Any acquisition or disposition of any equity security by a director or officer of an insurer within 6 months prior to the date on which section 201.105, Wis. Stats., became applicable with respect to the equity securities of such insurer shall not be subject to the operation of section 201.105 (2), Wis. Stats.

(3) REGULATIONS UNDER SECTION 201.105 (1), WIS. STATS.

(a) Filing of statements. Initial statements of beneficial ownership of equity securities required by section 201.105 (1), Wis. Stats., shall be filed on the form prescribed by Wis. Adm. Code section Ins 6.42. Statements of changes in such beneficial ownership required by section 201.105 (1), Wis. Stats., shall be filed on the form prescribed by Wis. Adm. Code section Ins 6.43. All such statements shall be prepared and filed in accordance with the requirements of the applicable form.

(b) Ownership of more than 10 per cent of an equity security. In determining, for the purpose of section 201.105 (1), Wis. Stats., whether a person is the beneficial owner, directly or indirectly, of more than 10 per cent of any class of any equity security, such class shall be deemed to consist of the total amount of such class outstanding, exclusive of any securities of such class held by or for the account of the insurer or a subsidiary of the insurer; except that for the purpose of determining percentage ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of such outstanding securities have been so deposited. For the purpose of this subsection (3) (b) a person acting in good faith may rely on the information contained in the latest annual statement form, prescribed by Wis. Adm. Code section Ins 7.01 (5), filed with the commissioner with respect to the amount of securities of a class outstanding or in the case of voting trust certificates or certificates of deposit the amount thereof issuable.

(c) Disclaimer of beneficial ownership. Any person filing a statement may expressly declare therein that the filing of such statement shall not be construed as an admission that such person is, for the purpose of section 201.105, Wis. Stats., the beneficial owner of any equity securities covered by the statement.

(d) Exemptions from section 201.105 (1) and (2), Wis. Stats.

1. During the period of 12 months following their appointment and qualification, securities held by the following persons shall be exempt from section 201.105 (1) and (2), Wis. Stats.:

a. Executors or administrators of the estate of a decedent;

b. Guardians or committees for an incompetent; and

c. Receivers, trustees in bankruptcy, assignees for the benefit of creditors, conservators, liquidating agents, and other similar persons duly authorized by law to administer the estate or assets of other persons.

2. After the 12-month period following their appointment or qualification the foregoing persons shall be required to file reports with respect to the securities held by the estates which they administer under section 201.105 (1), Wis. Stats., and shall be liable for profits realized from trading in such securities pursuant to section 201.105 (2), Wis. Stats., only when the estate being administered is a beneficial owner of more than 10 per cent of any class of equity security of an insurer subject to section 201.105, Wis. Stats.

3. Securities reacquired by or for the account of an insurer and held by it for its account shall be exempt from section 201.105 (1) and (2), Wis. Stats., during the time they are held by the insurer.

(e) Exemption from section 201.105, Wis. Stats., of securities purchased or sold by odd-lot dealers. Securities purchased or sold by an odd-lot dealer in odd lots so far as reasonably necessary to carry on odd-lot transactions or in round lots to offset odd-lot transactions previously or simultaneously executed or reasonably anticipated in the usual course of business, shall be exempt from the provisions of section 201.105, Wis. Stats., with respect to participation by such odd-lot dealer in such transactions.

(f) Certain transactions subject to section 201.105 (1), Wis. Stats. The acquisition or disposition of any transferable option, put, call, spread or straddle shall be deemed such a change in the beneficial ownership of the security to which such privilege relates as to require the filing of a statement reflecting the acquisition or disposition of such privilege. Nothing in this subsection (3) (f), however, shall exempt any person from filing the statements required upon the exercise of such option, put, call, spread or straddle.

(g) Ownership of securities held in trust.

1. Beneficial ownership of a security for the purpose of section 201.105 (1), Wis. Stats., shall include:

a. the ownership of securities as a trustee where either the trustee or members of his immediate family have a vested interest in the income or corpus of the trust,

b. the ownership of a vested beneficial interest in a trust, and

c. the ownership of securities as a settlor of a trust in which the settlor has the power to revoke the trust without obtaining the consent of all the beneficiaries.

2. Except as provided in subsection (3) (g) 3, beneficial ownership of securities solely as a settlor or beneficiary of a trust shall be exempt from the provisions of section 201.105 (1), Wis. Stats., where less than 20 per cent in market value of the securities having a readily ascertainable market value held by such trust, determined as of the end of the preceding fiscal year of the trust, consists of equity securities with respect to which reports would otherwise be required. Exemption is likewise accorded from section 201.105 (1), Wis. Stats., with respect to any obligation which would otherwise be imposed solely by reason of ownership as settlor or beneficiary of securities held in trust, where the ownership, acquisition, or disposition of such securities by the trust is made without prior approval by the settlor or beneficiary. No exemption pursuant to this subsection (3) (g) 2. shall, however, be acquired or lost solely as a result of changes in the value of the trust assets during any fiscal year or during any time when there is no transaction by the trust in the securities otherwise subject to the reporting requirements of section 201.105 (1), Wis. Stats.

3. In the event that 10 per cent of any class of any equity security of an insurer is held in a trust, that trust and the trustees thereof as such shall be deemed a person required to file the reports specified in section 201.105 (1), Wis. Stats.

4. Not more than one report need be filed to report any holdings or with respect to any transaction in securities held by a trust, regardless of the number of officers, directors or 10 per cent stockholders who are either trustees, settlors, or beneficiaries of a trust, provided that the report filed shall disclose the names of all trustees, settlors and beneficiaries who are officers, directors or 10 per cent stockholders. A person having an interest only as a beneficiary of a trust shall not be required to file any such report so long as he relies in good faith upon an understanding that the trustee of such trust will file whatever reports might otherwise be required of such beneficiary.

5. As used in this subsection (3) (g) the "immediate family" of a trustee means:

a. a son or daughter of the trustee, or a descendant of either,

b. a stepson or stepdaughter of the trustee,

- c. the father or mother of the trustee, or an ancestor of either,
- d. a stepfather or stepmother of the trustee,
- e. a spouse of the trustee.

For the purpose of determining whether any of the foregoing relations exists, a legally adopted child of a person shall be considered a child of such person by blood.

6. In determining, for the purposes of section 201.105 (1), Wis. Stats., whether a person is the beneficial owner, directly or indirectly, of more than 10 per cent of any class of any equity security, the interest of such person in the remainder of a trust shall be excluded from the computation.

7. No report shall be required by any person, whether or not otherwise subject to the requirement of filing reports under section 201.105 (1), Wis. Stats., with respect to his indirect interest in portfolio securities held by:

- a. a pension or retirement plan holding securities of an insurer whose employees generally are the beneficiaries of the plan,
- b. a business trust with over 25 beneficiaries.

8. Nothing in this subsection (3) (g) shall be deemed to impose any duties or liabilities with respect to reporting any transaction or holding prior to its effective date.

(h) Exemption for small transactions.

1. Any acquisition of securities shall be exempt from section 201.105 (1), Wis. Stats., where:

a. The person effecting the acquisition does not within 6 months thereafter effect any disposition, otherwise than by way of gift, of securities of the same class, and

b. The person effecting such acquisition does not participate in acquisitions or in dispositions of securities of the same class having a total market value in excess of \$3,000 for any 6 months' period during which the acquisition occurs.

2. Any acquisition or disposition of securities by way of gift, where the total amount of such gifts does not exceed \$3,000 in market value for any 6 months' period, shall be exempt from section 201.105 (1), Wis. Stats., and may be excluded from the computations prescribed in subsection (3) (h) 1. b.

3. Any person exempted by subsection (3) (h) 1. or 2. shall include in the first report filed by him after a transaction within the exemption a statement showing his acquisitions and dispositions for each 6 months' period or portion thereof which has elapsed since his last filing.

(1) Exemption from section 201.105 (2), Wis. Stats., of transactions which need to be reported under section 201.105 (1), Wis. Stats. Any transaction which has been or shall be exempted from the requirements of section 201.105 (1), Wis. Stats., shall, insofar as it is otherwise subject to the provisions of section 201.105 (2), Wis. Stats., be likewise exempted from section 201.105 (2), Wis. Stats.

(4) REGULATIONS UNDER SECTION 201.105 (2), WIS. STATS.

(a) Exemption from section 201.105 (2), Wis. Stats., of certain transactions effected in connection with a distribution.

1. Any transaction of purchase and sale, or sale and purchase, of a security which is effected in connection with the distribution of a substantial block of securities shall be exempt from the provisions of section 201.105 (2), Wis. Stats., to the extent specified in this subsection (4) (a) as not comprehended within the purpose of section 201.105 (2), Wis. Stats., upon the following conditions:

a. The person effecting the transaction is engaged in the business of distributing securities and in participating in good faith, in the ordinary course of such business, in the distribution of such block of securities;

b. The security involved in the transaction is a part of such block of securities and is acquired by the person effecting the transaction, with a view to the distribution thereof, from the insurer or other person on whose behalf such securities are being distributed or from a person who is participating in good faith in the distribution of such block of securities; or a security purchased in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over-allotment or other short position created in connection with such distribution; and

c. Other persons not within the purview of section 201.105 (2), Wis. Stats., are participating in the distribution of such block of securities on terms at least as favorable as those on which such person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of section 201.105 (2), Wis. Stats., by this subsection (4) (a). However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this subsection (4) (a).

2. The exemption of a transaction pursuant to this subsection (4) (a) with respect to the participation therein of one party thereto shall not render such transaction exempt with respect to participation of any other party therein unless such other party also meets the conditions of this subsection (4) (a).

(b) Exemption from section 201.105 (2), Wis. Stats., of acquisitions of shares of stock and stock options under certain stock bonus, stock option or similar plans. Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant

to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan, or any acquisition of a qualified or a restricted stock option pursuant to a qualified or a restricted stock option plan, or a stock option pursuant to an employee stock purchase plan, by a director or officer of an insurer issuing such stock or stock option shall be exempt from the operation of section 201.105 (2), Wis. Stats., if the plan meets the following conditions:

1. The plan has been approved, directly or indirectly,

a. by the affirmative votes of the holders of a majority of the securities of such insurer present, or represented, and entitled to vote at a meeting held in accordance with the applicable laws of the state of Wisconsin, or

b. by the written consent of the holders of a majority of the securities of such insurer entitled to vote: provided, however, that if such vote or written consent was not solicited substantially in accordance with Wis. Adm. Code section Ins 6.40 in effect at the time of such vote or written consent, the insurer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan which would be required by any such rules and regulations so prescribed and in effect at the time such information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of the date section 201.105, Wis. Stats., first applies to such insurer; or the acquisition of an equity security for which exemption is claimed. Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of mailing. Four copies of such written information shall be filed with, or mailed for filing to, the commissioner not later than the date on which it is first sent or given to security holders of the insurer. For the purposes of subsection (4) (b) 1. b., the term "insurer" includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the insurer in connection with the succession.

2. If the selection of any director or officer of the insurer to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan, or the determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by qualified, restricted or employee stock purchase plan stock options granted to any such director or officer, is subject to the discretion of any person, then such discretion shall be exercised only as follows:

a. With respect to the participation of directors

I. by the board of directors of the insurer, a majority of which board and a majority of the directors acting in the matter are disinterested persons;

II. by, or only in accordance with the recommendations of, a committee of 3 or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or

III. otherwise in accordance with the plan, if the plan specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to qualified, restricted or employee stock purchase plan stock options granted to directors and the terms upon which, and the times at which, or the periods within which, such stock may be acquired or such options may be acquired and exercised; or sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors.

b. With respect to the participation of officers who are not directors

I. by the board of directors of the insurer or a committee of 3 or more directors; or

II. by, or only in accordance with the recommendations of, a committee of 3 or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons.

For the purpose of this subsection (4) (b) 2., a director or committee member shall be deemed to be a disinterested person only if such person is not at the time such discretion is exercised eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan or any other plan of the insurer or any of its affiliates entitling the participants therein to acquire stock or qualified, restricted or employee stock purchase plan stock options of the insurer or any of its affiliates.

c. The provisions of this subsection (4) (b) 2. shall not apply with respect to any option granted, or other equity security acquired, prior to the date that section 201.105 (1), (2), and (3), Wis. Stats., first become applicable with respect to any class of equity securities of any insurer.

3. As to each participant or as to all participants the plan effectively limits the aggregate dollar amount or the aggregate number of shares of stock which may be allocated, or which may be subject to qualified, restricted, or employee stock purchase plan stock options granted, pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date; and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

4. Unless the context otherwise requires, all terms used in this subsection (4) (b) shall have the same meaning as in section 201.105, Wis. Stats., and in subsection (1). In addition, the following definitions apply:

a. The term "plan" includes any plan, whether or not set forth in any formal written document or documents and whether or not approved in its entirety at one time.

b. The definition of the terms "qualified stock option" and "employee stock purchase plan" that are set forth in Sections 422 and 423 of the Internal Revenue Code of 1954, as amended, are to be applied to those terms where used in this subsection (4) (b). The term "restricted stock option" as defined in Section 424(b) of the Internal Revenue Code of 1954, as amended, shall be applied to that term as used in this subsection (4) (b), provided, however, that for the purposes of this subsection (4) (b) an option which meets all of the conditions of Section 424(b) of the Internal Revenue Code of 1954, as amended, other than the date of issuance shall be deemed to be a "restricted stock option."

(c) Exemption from section 201.105 (2), Wis. Stats., of certain transactions in which securities are received by redeeming other securities. Any acquisition of an equity security (other than a convertible security or right to purchase a security) by a director or officer of the insurer issuing such security shall be exempt from the operation of section 201.105 (2), Wis. Stats., upon condition that

1. the equity security is acquired by way of redemption of another security of an insurer substantially all of whose assets other than cash (or Government bonds) consist of securities of the insurer issuing the equity security so acquired, and which

a. represented substantially and in practical effect a stated or readily ascertainable amount of such equity security,

b. had a value which was substantially determined by the value of such equity security, and

c. conferred upon the holder the right to receive such equity security without the payment of any consideration other than the security redeemed;

2. no security of the same class as the security redeemed was acquired by the director or officer within 6 months prior to such redemption or is acquired within 6 months after such redemption;

3. the insurer issuing the equity security acquired has recognized the applicability of subsection (4) (c) 1. by appropriate corporate action.

(d) Exemption of long term profits incident to sales within 6 months of the exercise of an option.

1. To the extent specified in subsection (4) (d) 2., the commissioner hereby exempts as not comprehended within the purposes of section 201.105(2), Wis. Stats., any transaction or transactions involving the purchase and

sale, or sale and purchase, of any equity security where such purchase is pursuant to the exercise of an option or similar right either acquired more than 6 months before its exercise; or acquired pursuant to the terms of an employment contract entered into more than 6 months before its exercise.

2. In respect of transactions specified in subsection (4) (d) 1. the profits inuring to the insurer shall not exceed the difference between the proceeds of sale and the lowest market price of any security of the same class within 6 months before or after the date of sale. Nothing in this subsection (4) (d) shall be deemed to enlarge the amount of profit which would inure to such insurer in the absence of this subsection (4) (d).

3. The commissioner also hereby exempts, as not comprehended within the purposes of section 201.105 (2), Wis. Stats., the disposition of a security, purchased in a transaction specified in subsection (4) (d) 1., pursuant to a plan or agreement for merger or consolidation, or reclassification of the insurer's securities, or for the exchange of its securities for the securities of another person which has acquired its assets, or which is in control, as defined in Section 368(c) of the Internal Revenue Code of 1954, of a person which has acquired its assets, where the terms of such plan or agreement are binding upon all stockholders of the insurer except to the extent that dissenting stockholders may be entitled, under statutory provisions or provisions contained in the certificate of incorporation, to receive the appraised or fair value of their holdings.

4. The exemptions provided by this subsection (4) (d) shall not apply to any transaction made unlawful by section 201.105 (3), Wis. Stats., or by any rules and regulations thereunder.

5. The burden of establishing market price of a security for the purpose of this subsection (4) (d) shall rest upon the person claiming the exemption.

(e) Exemption from section 201.105 (2), Wis. Stats., of certain acquisitions and dispositions of securities pursuant to merger or consolidations. 1. The following transactions shall be exempt from the provisions of section 201.105 (2), Wis. Stats., as not comprehended within its purpose:

a. The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, owned 85 per cent or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;

b. The disposition of a security, pursuant to a merger or consolidation of an insurer which, prior to said merger or consolidation, owned 85 per cent or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;

c. The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, held over 85 per cent of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to the merger or consolidation as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

d. The disposition of a security, pursuant to a merger or consolidation, of an insurer which, prior to said merger or consolidation, held over 85 per cent of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to merger or consolidation, as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

2. A merger within the meaning of this subsection (4) (e) shall include the sale or purchase of substantially all the assets of one insurer by another in exchange for stock which is then distributed to the security holders of the insurer which sold its assets.

3. Notwithstanding the foregoing, if an officer, director or stockholder shall make any purchase (other than a purchase exempted by this subsection (4) (e)) of a security in any company involved in the merger or consolidation and any sale (other than a sale exempted by this subsection (4) (e)) of a security in any other company involved in the merger or consolidation within any period of less than 6 months during which the merger or consolidation took place, the exemption provided by this subsection (4) (e) shall be unavailable to such officer, director, or stockholder.

(f) Exemption from section 201.105 (2), Wis. Stats., of certain securities received upon surrender of similar equity securities. Any receipt by a person from an insurer of shares of stock of a class having general voting power, upon the surrender by such person of an equal number of shares of stock of the insurer of a class which does not have general voting power, pursuant to provisions of the insurer's certificate of incorporation, for the purpose of and accompanied simultaneously or followed immediately by the sale of the shares so received, shall be exempt from the operation of section 201.105 (2), Wis. Stats., as a transaction not comprehended within its purpose, if the following conditions exist:

1. The person so receiving such shares is not an officer or director, or the beneficial owner, directly or indirectly, immediately prior to such receipt, of more than 10 per cent of an equity security of the insurer;

2. The shares surrendered and the shares issued upon such surrender shall be of classes which are freely transferable and entitle the holders thereof to participate equally per share in all distributions of earnings and assets;

3. The surrender and issuance are made pursuant to provisions of a certificate of incorporation which requires that the shares issued upon such surrender shall be registered upon issuance in the name of a person

or persons other than the holder of the shares surrendered and may be required to be issued as of right only in connection with the public offering, sale and distribution of such shares and the immediate sale by such holder of such shares for that purpose, or in connection with a gift of such shares;

4. Neither the shares so surrendered nor any shares of the same class, nor other shares of the same class as those issued upon such surrender, have been or are purchased (otherwise than in a transaction exempted by this subsection (4) (f) , by the person surrendering such shares, within 6 months before or after such surrender or issuance.

(g) Exemption from section 201.105 (2), Wis. Stats., of certain transactions involving an exchange of similar securities. Any acquisition or disposition of securities made in an exchange of shares of a class (or series thereof) of stock of an insurer for an equivalent number of shares of another class (or series thereof) of stock of the same insurer, pursuant to a right of conversion under the terms of the insurer's articles of incorporation or other governing instruments shall be exempt from the operation of section 201.105 (2), Wis. Stats., if

1. The shares surrendered and those acquired in exchange therefor evidence substantially the same rights and privileges except that, pursuant to the provisions of the insurer's articles of incorporation or other governing instruments, the board of directors may declare and pay a lesser dividend per share on shares of the class surrendered than on shares of the class acquired in exchange therefor, or may declare and pay no dividend on shares of the class surrendered; and

2. The transaction was effected in contemplation of a public sale of the shares acquired in the exchange; provided that this subsection (4) (g) shall not be construed to exempt from the operation of section 201.105 (2), Wis. Stats., any purchase or sale of shares of the class surrendered and any sale or purchase of shares of the class acquired in the exchange (otherwise than in the transaction of exchange exempted by this subsection (4) (g) within a period of less than 6 months.

(5) REGULATIONS UNDER SECTION 201.105 (3), WIS. STATS.

(a) Exemption of certain securities from section 201.105 (3), Wis. Stats. Any security shall be exempt from the operation of section 201.105 (3), Wis. Stats., to the extent necessary to render lawful under such section the execution by a broker of an order for an account in which he has no direct or indirect interest.

(b) Exemption from section 201.105 (3), Wis. Stats., of certain transactions effected in connection with a distribution. Any security shall be exempt from the operation of section 201.105 (3), Wis. Stats., to the extent necessary to render lawful under such section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of securities, upon the following conditions:

1. The sale is represented by an over-allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a

participant in an underwriting, selling or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders or some other class of persons; and

2. Other persons not within the purview of section 201.105 (3), Wis. Stats., are participating in the distribution of such block of securities on terms at least as favorable as those on which such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of section 201.105 (3), Wis. Stats., by this subsection (5) (b). However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this subsection (5) (b).

(c) Exemption from section 201.105 (3), Wis. Stats., of sales of securities to be acquired.

1. Whenever any person is entitled, as an incident to his ownership of an issued security and without the payment of consideration, to receive another security "when issued" or "when distributed," the security to be acquired shall be exempt from the operation of section 201.105 (3), Wis. Stats., provided that:

a. the sale is made subject to the same conditions as those attaching to the right of acquisition, and

b. such person exercises reasonable diligence to deliver such security to the purchaser promptly after his right of acquisition matures, and

c. such person reports the sale on the appropriate form for reporting transactions by persons subject to section 201.105 (1), Wis. Stats.

2. This subsection (5) (c) shall not be construed as exempting transactions involving both a sale of a security "when issued" or "when distributed" and a sale of the security by virtue of which the seller expects to receive the "when-issued" or "when-distributed" security, if the 2 transactions combined result in a sale of more units than the aggregate of those owned by the seller plus those to be received by him pursuant to his right of acquisition.

(6) REGULATION UNDER SECTION 201.105 (5), WIS. STATS.

(a) Arbitrage transactions under section 201.105 (5), Wis. Stats. It shall be unlawful for any director or officer of an insurer to effect any foreign or domestic arbitrage transaction in any equity security of such insurer, unless he shall include such transaction in the statements required by section 201.105 (1), Wis. Stats., and shall account to such insurer for the profits arising from such transaction, as provided in section 201.105 (2), Wis. Stats. The provisions of section 201.105 (3), Wis. Stats., shall not apply to such arbitrage transactions. The provisions of section 201.105, Wis. Stats., shall not apply to any bona fide foreign or domestic arbitrage transaction insofar as it is effected by any person other than such director or officer of the insurer.

Ins 6.42 Initial statement of beneficial ownership of securities.

(1) PERSONS REQUIRED TO FILE STATEMENTS. A statement on Form 3 (shown at the end of this rule) of initial statement of beneficial ownership of securities is required to be filed by every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such a company.

(2) WHEN STATEMENTS ARE TO BE FILED. (a) Beginning September 1, 1966, persons who hold any of the relationships specified in Ins 6.42 (1) are required to file a statement within 10 days after assuming such relationship. Statements are not deemed to have been filed with the commissioner until they have actually been received by him.

(b) Persons who held any of the relationships specified in Ins 6.42 (1) as of January 31, 1966, or who assumed such relationship(s) during the period January 31, 1966, through August 31, 1966, are required to file such initial statement of beneficial ownership of securities by September 10, 1966.

(3) WHERE STATEMENTS ARE TO BE FILED. One signed copy of each statement shall be filed with the commissioner of insurance, 4802 Sheboygan Avenue, Madison, Wisconsin 53702.

(4) SEPARATE STATEMENT FOR EACH COMPANY. A separate statement shall be filed with respect to the securities of each company.

(5) RELATIONSHIP OF REPORTING PERSON TO COMPANY. Indicate clearly the relationship of the reporting person to the company; for example, "Director", "Director and Vice President", "Beneficial owner of more than 10 percent of the company's common stock", etc.

(6) DATE AS OF WHICH BENEFICIAL OWNERSHIP IS TO BE GIVEN. The information as to beneficial ownership of securities shall be given as of January 31, 1966, or, in the case of persons who subsequently assume any of the relationships specified in Ins 6.42 (1), as of the date that relationship was assumed.

(7) TITLE OF SECURITY. The statement of the title of a security shall be such as clearly to identify the security even though there may be only one class; for example, "Class A Common Stock".

(8) NATURE OF OWNERSHIP. Under "Nature of ownership", state whether ownership of the securities is "direct" or "indirect". If the ownership is indirect, i.e., through a partnership, corporation, trust or other entity, indicate, in a footnote or other appropriate manner, the name or identity of the medium through which the securities are indirectly owned. The fact that securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership.

(9) STATEMENT OF AMOUNT OWNED. In stating the amount of securities beneficially owned, give the face amount of debt securities or the number of shares or other units of other securities. In the case of securities owned indirectly, the entire amount of securities owned by the partnership, corporation, trust or other entity shall be stated. The person whose ownership is reported may, if he so desires, also indicate in a footnote, or other appropriate manner, the extent of his interest in the partnership, corporation, trust or other entity.

(10) INCLUSION OF ADDITIONAL INFORMATION. A statement may include any additional information or explanation deemed relevant by the person filing the statement.

(11) SIGNATURE. If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or specifically on his behalf by a person authorized to sign for him.

State of Wisconsin
Commissioner of Insurance

Form 3

INITIAL STATEMENT OF BENEFICIAL OWNERSHIP OF SECURITIES
(Filed pursuant to Wisconsin Administrative Code section Ins 6.42)

(Name of insurance company)

(Name of person whose ownership is reported)

(Business address of such person; street, city, state, zip code)

Relationship of such person to company named above. (See Ins 6.42(5))

Date of event which requires the filing of this statement. (See Ins 6.42(6))

Securities Beneficially Owned

<u>Title of Security</u> (See Ins 6.42(7))	<u>Nature of Ownership</u> (See Ins 6.42(8))	<u>Amount Owned</u> <u>Beneficially</u> (See Ins 6.42(9))
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Remarks: (See Ins 6.42(10)) _____

I affirm under penalty of perjury that
the foregoing is full, true, and correct.

Date of statement _____

Signature

Ins 6.43 Statement of changes in beneficial ownership of securities.

(1) PERSONS REQUIRED TO FILE STATEMENTS. Statements on Form 4 (shown at the end of this rule) of changes in beneficial ownership of securities are required to be filed by every person who at any time during any calendar month was directly or indirectly the beneficial owner of more than 10 percent of any class of equity security of a domestic stock insurance company, or by a director or officer of the company which is the issuer of such securities, and who during such month had any change in his beneficial ownership of any class of equity security of such company.

(2) WHEN STATEMENTS ARE TO BE FILED. (a) Beginning September 1, 1966, statements are required to be filed on or before the 10th day after the end of each month in which any change in beneficial ownership has occurred. Statements are not deemed to have been filed with the commissioner until they have actually been received by him.

(b) Statements for each month for the period January 31, 1966, through August 31, 1966, in which any changes in beneficial ownership have occurred shall be filed by September 10, 1966.

(3) WHERE STATEMENTS ARE TO BE FILED. One signed copy of each statement shall be filed with the commissioner of insurance, 4802 Sheboygan Avenue, Madison, Wisconsin 53702.

(4) SEPARATE STATEMENT FOR EACH COMPANY. A separate statement shall be filed with respect to the securities of each company.

(5) RELATIONSHIP OF REPORTING PERSON TO COMPANY. Indicate clearly the relationship of the reporting person to the company; for example, "Director", "Director and Vice President", "Beneficial owner of more than 10 percent of the company's common stock", etc.

(6) TRANSACTIONS AND HOLDINGS TO BE REPORTED. Every transaction shall be reported even though purchases and sales during the month are equal or the change involves only the nature of ownership; for example, from direct to indirect ownership. Beneficial ownership at the end of the month of all classes of securities required to be reported shall be shown even though there has been no change during the month in the ownership of securities of one or more classes.

(7) TITLE OF SECURITY. The statement of the title of the security shall be such as clearly to identify the security even though there may be only one class; for example, "Class A Common Stock".

(8) DATE OF TRANSACTION. The exact date (month, day and year) of each transaction shall be stated opposite the amount involved in the transaction.

(9) STATEMENT OF AMOUNTS OF SECURITIES. In stating the amount of the securities acquired, disposed of, or beneficially owned, give the face amount of debt securities or the number of shares or other units of other securities. In the case of securities owned indirectly, i.e., through a partnership, corporation, trust or other entity, the entire amount of securities involved in the transaction or owned by the partnership, corporation, trust or other entity shall be stated. The person whose ownership is reported may, if he so desires, also indicate in a footnote, or other appropriate manner, the extent of his interest in the transaction or holdings of the partnership, corporation, trust or other entity.

(10) NATURE OF OWNERSHIP. Under "Nature of ownership", state whether ownership of the securities is "direct" or "indirect". If the ownership is indirect, i.e., through a partnership, corporation, trust or other entity, indicate in a footnote, or other appropriate manner, the name or identity of the medium through which the securities are indirectly owned. The fact that securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Securities owned indirectly shall be reported on separate lines from those owned directly and from those owned through a different type of indirect ownership.

(11) CHARACTER OF TRANSACTION. If the transaction was with the issuer of the securities, so state. If it involved the purchase of securities through the exercise of options, so state and give the exercise price per share. If any other purchase or sale was effected otherwise than in the open market, that fact shall be indicated. If the transaction was not a purchase or sale, indicate its character; for example, gift, 5% stock dividend, etc., as the case may be. The foregoing information may be appropriately set forth in the table or under "Remarks" at the end of the table.

(12) INCLUSION OF ADDITIONAL INFORMATION. A statement may include any additional information or explanation deemed relevant by the person filing the statement.

(13) SIGNATURE. If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or specifically on his behalf by a person authorized to sign for him.

State of Wisconsin
Commissioner of Insurance

Form 4

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES
(Filed pursuant to Wisconsin Administrative Code section Ins 6.43)

(Name of insurance company)

(Name of person whose ownership is reported)

(Business address of such person; street, city, state, zip code)

Relationship of such person to company named above. (See Ins 6.43(5))

Statement for Calendar Month of _____, 19 __

Changes During Month and Month-End Ownership (See Ins 6.43(6))

Title of Security Ins 6.43(7)	Date of Transaction Ins 6.43(8)	Amount Bought or otherwise acquired Ins 6.43(9)	Amount Sold or otherwise disposed of Ins 6.43(9)	Nature of Ownership Ins 6.43(10)	Amount Owned beneficially at end of month Ins 6.43(9)
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Remarks: (See Ins 6.43(11)) _____

I affirm under penalty of perjury that the foregoing is full, true, and correct.

Date of statement _____

Signature

The rules contained herein shall take effect on September 1, 1966,
as provided in section 227.026 (1), Wisconsin Statutes.

Department of Insurance

A handwritten signature in cursive script, appearing to read "Robert D. Haase".

Robert D. Haase
Commissioner of Insurance

Dated July 14, 1966.

(2) Money.

Notwithstanding subsection (a) (2), if money—

(A) is received by a corporation, on or after June 22, 1954, as a contribution to capital, and

(B) is not contributed by a shareholder as such, then the basis of any property acquired with such money during the 12-month period beginning on the day the contribution is received shall be reduced by the amount of such contribution. The excess (if any) of the amount of such contribution over the amount of the reduction under the preceding sentence shall be applied to the reduction (as of the last day of the period specified in the preceding sentence) of the basis of any other property held by the taxpayer. The particular properties to which the reductions required by this paragraph shall be allocated shall be determined under regulations prescribed by the Secretary or his delegate.

(Aug. 16, 1954, ch. 736, 68A Stat. 118.)

CROSS REFERENCES

Basis to distributees, see section 358 of this title.
Contributions to capital of corporation, see section 118 of this title.

Exchange of stock for property, nonrecognition of gain or loss, see section 1032 of this title.

Exploration expenditures, see section 615 of this title.

§ 363. Effect on earnings and profits.

For rules relating to the effect on earnings and profits of transactions to which this part applies, see sections 312 and 381.

(Aug. 16, 1954, ch. 736, 68A Stat. 119.)

SUBPART D.—SPECIAL RULE; DEFINITIONS

Sec.

367. Foreign corporations.

368. Definitions relating to corporate reorganizations.

§ 367. Foreign corporations.

In determining the extent to which gain shall be recognized in the case of any of the exchanges described in section 332, 351, 354, 355, 356, or 361, a foreign corporation shall not be considered as a corporation unless, before such exchange, it has been established to the satisfaction of the Secretary or his delegate that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes. For purposes of this section, any distribution described in section 355 (or so much of section 356 as relates to section 355) shall be treated as an exchange whether or not it is an exchange. (Aug. 16, 1954, ch. 736, 68A Stat. 119.)

§ 368. Definitions relating to corporate reorganizations.

(a) Reorganization.

(1) In general.

For purposes of parts I and II and this part, the term "reorganization" means—

(A) a statutory merger or consolidation;

(B) the acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of

another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(C) the acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(D) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 354, 355, or 356;

(E) a recapitalization; or

(F) a mere change in identity, form, or place of organization, however effected.

(2) Special rules relating to paragraph (1).

(A) Reorganizations described in both paragraph (1) (C) and paragraph (1) (D).

If a transaction is described in both paragraph (1) (C), and paragraph (1) (D), then, for purposes of this subchapter, such transaction shall be treated as described only in paragraph (1) (D).

(B) Additional consideration in certain paragraph (1) (C) cases.

If—

(i) one corporation acquires substantially all of the properties of another corporation,

(ii) the acquisition would qualify under paragraph (1) (C) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock, and

(iii) the acquiring corporation acquires, solely for voting stock described in paragraph (1) (C), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation,

then such acquisition shall (subject to subparagraph (A) of this paragraph) be treated as qualifying under paragraph (1) (C). Solely for the purpose of determining whether clause (iii) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

- (C) Transfers of assets or stock to subsidiaries in certain paragraph (1)(A), (1)(B), and (1)(C) cases.

A transaction otherwise qualifying under paragraph (1)(A), (1)(B), or (1)(C) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets or stock.

(b) Party to a reorganization.

For purposes of this part, the term "a party to a reorganization" includes—

(1) a corporation resulting from a reorganization, and

(2) both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

In the case of a reorganization qualifying under paragraph (1)(B) or (1)(C) of subsection (a), if the stock exchanged for the stock or properties is stock of a corporation which is in control of the acquiring corporation, the term "a party to a reorganization" includes the corporation so controlling the acquiring corporation. In the case of a reorganization qualifying under paragraph (1)(A), (1)(B), or (1)(C) of subsection (a) by reason of paragraph (2)(C) of subsection (a), the term "a party to a reorganization" includes the corporation controlling the corporation to which the acquired assets or stock are transferred.

(c) Control.

For purposes of part I (other than section 304), part II, and this part, the term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation. (Aug. 16, 1954, ch. 736, 68A Stat. 120; Feb. 26, 1964, Pub. L. 88-272, title II, § 218(a), (b), 78 Stat. 57.)

AMENDMENTS

1964—Subsec. (a). Pub. L. 88-272, § 218(a), (b) (1), inserted "(or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation)" in par. (1)(B), and in par. (2)(C), inserted references to par. (1)(B), and substituted "assets or stock" for "assets" wherever appearing.

Subsec. (b). Pub. L. 88-272, § 218(b) (2), inserted references to par. (1)(B) wherever appearing.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 218(c) of Pub. L. 88-272 provided that: "The amendments made by this section [to this section] shall apply with respect to transactions after December 31, 1963, in taxable years ending after such date."

CROSS REFERENCES

Assumption of liability, liabilities in excess of basis, see section 357 (c) of this title.

Carryovers in certain corporate acquisitions, operating rules, see section 381 (b) of this title.

Dividends paid on certain preferred stock of public utilities, stock issued in reorganization as defined in this section, see section 247 (b) (2) of this title.

Section 306 stock defined, stock received in reorganization within meaning of this section, see section 306 (c) (1) (B) of this title.

Taxability of beneficiary of employees' trust, certain plan terminations, see section 402 (e) of this title.

Transfer to corporation controlled by transferor, definition of control, see section 351 (a) of this title.

Transferred assets, other taxes, see section 6901 (a) (2) of this title.

PART IV.—INSOLVENCY REORGANIZATIONS

Sec.

371. Reorganization in certain receivership and bankruptcy proceedings.
372. Basis in connection with certain receivership and bankruptcy proceedings.
373. Loss not recognized in certain railroad reorganizations.
374. Gain or loss not recognized in certain railroad reorganizations.

AMENDMENTS

1956—Act June 29, 1956, ch. 463, § 4, 70 Stat. 403, added item 374.

§ 371. Reorganization in certain receivership and bankruptcy proceedings.

(a) Exchanges by corporations.

(1) In general.

No gain or loss shall be recognized if property of a corporation (other than a railroad corporation, as defined in section 77 (m) of the Bankruptcy Act (49 Stat. 922; 11 U. S. C. 205)) is transferred in pursuance of an order of the court having jurisdiction of such corporation—

(A) in a receivership, foreclosure, or similar proceeding, or

(B) in a proceeding under chapter X of the Bankruptcy Act (52 Stat. 883-905; 11 U. S. C., chapter 10) or the corresponding provisions of prior law,

to another corporation organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, in exchange solely for stock or securities in such other corporation.

(2) Gain from exchanges not solely in kind.

If an exchange would be within the provisions of paragraph (1) if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by paragraph (1) to be received without the recognition of gain, but also of other property or money, then—

(A) if the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(B) if the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(b) Exchanges by security holders.

(1) In general.

No gain or loss shall be recognized on an exchange consisting of the relinquishment or extinguishment of stock or securities in a corporation the plan of reorganization of which is approved by the court in a proceeding described in subsection (a), in consideration of the acquisition solely of stock or securities in a corporation or-

EFFECTIVE DATE OF 1964 AMENDMENT

Section 221(e) of Pub. L. 88-272 provided that:

"(1) Except as provided in paragraphs (2) and (3), the amendments made by this section [adding sections 422-425, and 6039, amending this section and sections 402, 691, 6652, 6678, and the analysis preceding of sections 401 and 6031, and renumbering former section 3039 as 3040 of this title] shall apply to taxable years ending after December 31, 1963.

"(2) The amendments made by paragraphs (1) and (3) of subsection (b) [adding section 3039, renumbering former section 3039 as 3040, and amending section 6678 of this title] and paragraph (2) of section 6652(a) of the Internal Revenue Code of 1954 (as amended by paragraph (2) of subsection (b)), shall apply to stock transferred pursuant to options exercised on or after January 1, 1964.

"(3) In the case of an option granted after December 31, 1963, and before January 1, 1965—

"(A) paragraphs (1) and (2) of section 422(b) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply, and

"(B) paragraph (1) of section 425(h) of such Code (as added by subsection (a)) shall not apply to any change in the terms of such option made before January 1, 1965, to permit such option to qualify under paragraphs (3), (4), and (5) of such section 422(b)."

EFFECTIVE DATE OF 1958 AMENDMENTS

Amendment of subsec. (a) of this section by Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 1(c) of Pub. L. 85-866, set out as a note under section 165 of this title.

Section 26 (b) of Pub. L. 85-866 provided that: "The amendments made by subsection (a) [amending subsec. (d) (1) (A) (ii) and adding subsec. (d) (7) of this section] shall apply with respect to taxable years ending after September 30, 1958."

Section 3 of Pub. L. 85-320 provided that: "The amendments made by this Act [adding subpar. (C) to subsec. (d) (6) of this section and repealing subsec. (d) of section 1014 of this title] shall apply with respect to taxable years ending after December 31, 1956, but only in the case of employees dying after such date."

§ 422. Qualified stock options.

(a) In general.

Subject to the provisions of subsection (c) (1), section 421(a) shall apply with respect to the transfer of a share of stock to an individual pursuant to his exercise of a qualified stock option if—

(1) no disposition of such share is made by such individual within the 3-year period beginning on the day after the day of the transfer of such share, and

(2) at all times during the period beginning with the date of the granting of the option and ending on the day 3 months before the date of such exercise, such individual was an employee of either the corporation granting such option, a parent or subsidiary corporation of such corporation, or a corporation or a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which section 425(a) applies.

(b) Qualified stock option.

For purposes of this part, the term "qualified stock option" means an option granted to an individual after December 31, 1963 (other than a restricted stock option granted pursuant to a contract described in section 424(c) (3) (A)), for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any of such corporations, but only if—

(1) the option is granted pursuant to a plan which includes the aggregate number of shares which may be issued under options, and the employees (or class of employees) eligible to receive options, and which is approved by the stockholders of the granting corporation within 12 months before or after the date such plan is adopted;

(2) such option is granted within 10 years from the date such plan is adopted, or the date such plan is approved by the stockholders whichever is earlier;

(3) such option by its terms is not exercisable after the expiration of 5 years from the date such option is granted;

(4) except as provided in subsection (c) (1), the option price is not less than the fair market value of the stock at the time such option is granted;

(5) such option by its terms is not exercisable while there is outstanding (within the meaning of subsection (c) (2)) any qualified stock option (or restricted stock option) which was granted, before the granting of such option, to such individual to purchase stock in his employer corporation or in a corporation which (at the time of the granting of such option) is a parent or subsidiary corporation of the employer corporation, or in a predecessor corporation of any of such corporations;

(6) such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him; and

(7) such individual, immediately after such option is granted, does not own stock possessing more than 5 percent of the total combined voting power or value of all classes of stock of the employer corporation or of its parent or subsidiary corporation; except that if the equity capital of such corporation or corporations (determined at the time the option is granted) is less than \$2,000,000, then, for purposes of applying the limitation of this paragraph, there shall be added to such 5 percent the percentage (not higher than 5 percent) which bears the same ratio to 5 percent as the difference between such equity capital and \$2,000,000 bears to \$1,000,000.

(c) Special rules.

(1) Exercise of option when price is less than value of stock.

If a share is transferred pursuant to the exercise by an individual of an option which fails to qualify as a qualified stock option under subsection (b) because there was a failure in an attempt, made in good faith, to meet the requirement of subsection (b) (4), the requirement of subsection (b) (4) shall be considered to have been met, but there shall be included as compensation (and not as gain upon the sale or exchange of a capital asset) in his gross income for the taxable year in which such option is exercised, an amount equal to the lesser of—

(A) 150 percent of the difference between the option price and the fair market value of the share at the time the option was granted, or

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(B) the difference between the option price and the fair market value of the share at the time of such exercise.

The basis of the share acquired shall be increased by an amount equal to the amount included in his gross income under this paragraph in the taxable year in which the exercise occurred.

(2) Certain options treated as outstanding.

For purposes of subsection (b) (5) —

(A) any restricted stock option which is not terminated before January 1, 1965, and

(B) any qualified stock option granted after December 31, 1963,

shall be treated as outstanding until such option is exercised in full or expires by reason of the lapse of time. For purposes of the preceding sentence, a restricted stock option granted before January 1, 1964, shall not be treated as outstanding for any period before the first day on which (under the terms of such option) it may be exercised.

(3) Options granted to certain shareholders.

For purposes of subsection (b) (7) —

(A) the term "equity capital" means —

(i) in the case of one corporation, the sum of its money and other property (in an amount equal to the adjusted basis of such property for determining gain), less the amount of its indebtedness (other than indebtedness to shareholders), and

(ii) in the case of a group of corporations consisting of a parent and its subsidiary corporations, the sum of the equity capital of each of such corporations adjusted, under regulations prescribed by the Secretary or his delegate, to eliminate the effect of intercorporate ownership and transactions among such corporations;

(B) the rules of section 425(d) shall apply in determining the stock ownership of the individual; and

(C) stock which the individual may purchase under outstanding options shall be treated as stock owned by such individual.

If an individual is granted an option which permits him to purchase stock in excess of the limitation of subsection (b) (7) (determined by applying the rules of this paragraph), such option shall be treated as meeting the requirement of subsection (b) (7) to the extent that such individual could, if the option were fully exercised at the time of grant, purchase stock under such option without exceeding such limitation. The portion of such option which is treated as meeting the requirement of subsection (b) (7) shall be deemed to be that portion of the option which is first exercised.

(4) Certain disqualifying dispositions where amount realized is less than value at exercise.

If —

(A) an individual who has acquired a share of stock by the exercise of a qualified stock option makes a disposition of such share within the 3-year period described in subsection (a) (1), and

(B) such disposition is a sale or exchange with respect to which a loss (if sustained) would be recognized to such individual,

then the amount which is includible in the gross income of such individual, and the amount which is deductible from the income of his employer corporation, as compensation attributable to the exercise of such option shall not exceed the excess (if any) of the amount realized on such sale or exchange over the adjusted basis of such share.

(5) Certain transfers by insolvent individuals.

If an insolvent individual holds a share of stock acquired pursuant to his exercise of a qualified stock option, and if such share is transferred to a trustee, receiver, or other similar fiduciary, in any proceeding under the Bankruptcy Act or any other similar insolvency proceeding, neither such transfer, nor any other transfer of such share for the benefit of his creditors in such proceeding, shall constitute a "disposition of such share" for purposes of subsection (a) (1).

(6) Application of subsection (b) (5) where options are for stock of same class in same corporation.

The requirement of subsection (b) (5) shall be considered to have been met in the case of any option (referred to in this paragraph as "new option") granted to an individual if —

(A) the new option and all outstanding options referred to in subsection (b) (5) are to purchase stock of the same class in the same corporation, and

(B) the new option by its terms is not exercisable while there is outstanding (within the meaning of paragraph (2)) any qualified stock option (or restricted stock option) which was granted, before the granting of the new option, to such individual to purchase stock in such corporation at a price (determined as of the date of grant of the new option) higher than the option price of the new option.

(Added Pub. L. 88-272, title II, § 221(a), Feb. 26, 1964, 78 Stat. 64.)

EFFECTIVE DATE

Section applicable to taxable years ending after Dec. 31, 1963, except in cases of options granted after Dec. 31, 1963, and before Jan. 1, 1965, in which case pars. (1) and (2) of subsec. (b) shall not apply, see section 221(e) of Pub. L. 88-272 set out as a note under section 421 of this title.

§ 423. Employee stock purchase plans.

(a) General rule.

Section 421(a) shall apply with respect to the transfer of a share of stock to an individual pursuant to his exercise of an option granted after December 31, 1963 (other than a restricted stock option granted pursuant to a plan described in section 424(c)(3) (B)), under an employee stock purchase plan (as defined in subsection (b)) if —

(1) no disposition of such share is made by him within 2 years after the date of the granting of the option nor within 6 months after the transfer of such share to him; and

(2) at all times during the period beginning with the date of the granting of the option and ending on the day 3 months before the date of such exercise, he is an employee of the corporation granting such option, a parent or subsidiary corporation of such corporation, or a corporation or a parent subsidiary corporation of such corporation issuing or

assuming a stock option in a transaction to which section 425(a) applies.

(b) Employee stock purchase plan.

For purposes of this part, the term "employee stock purchase plan" means a plan which meets the following requirements:

(1) the plan provides that options are to be granted only to employees of the employer corporation or of its parent or subsidiary corporation to purchase stock in any such corporation;

(2) such plan is approved by the stockholders of the granting corporation within 12 months before or after the date such plan is adopted;

(3) under the terms of the plan, no employee can be granted an option if such employee, immediately after the option is granted, owns stock possessing 5 percent or more of the total combined voting power or value of all classes of stock of the employer corporation or of its parent or subsidiary corporation. For purposes of this paragraph, the rules of section 425(d) shall apply in determining the stock ownership of an individual, and stock which the employee may purchase under outstanding options shall be treated as stock owned by the employee;

(4) under the terms of the plan, options are to be granted to all employees of any corporation whose employees are granted any of such options by reason of their employment by such corporation, except that there may be excluded—

(A) employees who have been employed less than 2 years,

(B) employees whose customary employment is 20 hours or less per week,

(C) employees whose customary employment is for not more than 5 months in any calendar year, and

(D) officers, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees;

(5) under the terms of the plan, all employees granted such options shall have the same rights and privileges, except that the amount of stock which may be purchased by any employee under such option may bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of employees, and the plan may provide that no employee may purchase more than a maximum amount of stock fixed under the plan;

(6) under the terms of the plan, the option price is not less than the lesser of—

(A) an amount equal to 85 percent of the fair market value of the stock at the time such option is granted, or

(B) an amount which under the terms of the option may not be less than 85 percent of the fair market value of the stock at the time such option is exercised;

(7) under the terms of the plan, such option cannot be exercised after the expiration of—

(A) 5 years from the date such option is granted if, under the terms of such plan, the option price is to be not less than 85 percent of the fair market value of such stock at the time of the exercise of the option, or

(B) 27 months from the date such option is granted, if the option price is not determinable in the manner described in subparagraph (A)

(8) under the terms of the plan, no employee may be granted an option which permits his rights to purchase stock under all such plans of his employer corporation and its parent and subsidiary corporations to accrue at a rate which exceeds \$25,000 of fair market value of such stock (determined at the time such option is granted) for each calendar year in which such option is outstanding at any time. For purposes of this paragraph—

(A) the right to purchase stock under an option accrues when the option (or any portion thereof) first becomes exercisable during the calendar year;

(B) the right to purchase stock under an option accrues at the rate provided in the option, but in no case may such rate exceed \$25,000 of fair market value of such stock (determined at the time such option is granted) for any one calendar year; and

(C) a right to purchase stock which has accrued under one option granted pursuant to the plan may not be carried over to any other option; and

(9) under the terms of the plan, such option is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him.

For purposes of paragraphs (3) to (9), inclusive, where additional terms are contained in an offering made under a plan, such additional terms shall, with respect to options exercised under such offering, be treated as a part of the terms of such plan.

(c) Special rule where option price is between 85 percent and 100 percent of value of stock.

If the option price of a share of stock acquired by an individual pursuant to a transfer to which subsection (a) applies was less than 100 percent of the fair market value of such share at the time such option was granted, then, in the event of any disposition of such share by him which meets the holding period requirements of subsection (a), or in the event of his death (whenever occurring) while owning such share, there shall be included as compensation (and not as gain upon the sale or exchange of a capital asset) in his gross income, for the taxable year in which falls the date of such disposition or for the taxable year closing with his death, whichever applies, an amount equal to the lesser of—

(1) the excess of the fair market value of the share at the time of such disposition or death over the amount paid for the share under the option, or

(2) the excess of the fair market value of the share at the time the option was granted over the option price.

If the option price is not fixed or determinable at the time the option is granted, then for purposes of this subsection, the option price shall be determined as if the option were exercised at such time. In the case of the disposition of such share by the individual, the basis of the share in his hands at the time of such disposition shall be increased by an amount equal to the amount so includible in his

gross income. (Added Pub. L. 88-272, title II, § 221(a), Feb. 26, 1964, 78 Stat. 67.)

EFFECTIVE DATE

Section applicable to taxable years ending after Dec. 31, 1963, see section 221(e) of Pub. L. 88-272, set out as a note under section 421 of this title.

§ 424. Restricted stock options.

(a) In general.

Section 421(a) shall apply with respect to the transfer of a share of stock to an individual pursuant to his exercise after 1949 of a restricted stock option, if—

(1) no disposition of such share is made by him within 2 years from the date of the granting of the option nor within 6 months after the transfer of such share to him, and

(2) at the time he exercises such option—

(A) he is an employee of either the corporation granting such option, a parent or subsidiary corporation of such corporation, or a corporation or a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which section 425(a) applies, or

(B) he ceased to be an employee of such corporations within the 3-month period preceding the time of exercise.

(b) Restricted stock option.

For the purposes of this part, the term "restricted stock option" means an option granted after February 26, 1945, and before January 1, 1964 (or, if it meets the requirements of subsection (c)(3), an option granted after December 31, 1963), to an individual, for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiaries corporation, to purchase stock of any of such corporations but only if—

(1) at the time such option is granted—

(A) the option price is at least 85 percent of the fair market value at such time of the stock subject to the option, or

(B) in the case of a variable price option, the option price (computed as if the option had been exercised when granted) is at least 85 percent of the fair market value of the stock at the time such option is granted;

(2) such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him;

(3) such individual, at the time the option is granted, does not own stock possessing more than 10 percent of the total combined voting power of all classes of stock of the employer corporation or of its parent or subsidiary corporation. This paragraph shall not apply if at the time such option is granted the option price is at least 110 percent of the fair market value of the stock subject to the option, and such option either by its terms is not exercisable after the expiration of 5 years from the date such option is granted or is exercised within one year after August 16, 1954. For purposes of this paragraph, the provisions of

section 425(a) shall apply in determining the stock ownership of an individual; and

(4) such option by its terms is not exercisable after the expiration of 10 years from the date such option is granted, if such option has been granted on or after June 22, 1954.

(c) Special rules.

(1) Options under which option price is between 85 percent and 95 percent of value of stock.

If no disposition of a share of stock acquired by an individual on his exercise after 1949 of a restricted stock option is made by him within 2 years from the date of the granting of the option nor within 6 months after the transfer of such share to him, at the time the restricted stock option was granted, the option price (computed under subsection (b)(1)) was less than 95 percent of the fair market value at such time of such share, then, in the event of any disposition of such share by him, or in the event of his death (whenever occurring) while owning such share, there shall be included as compensation (and not as gain upon the sale or exchange of a capital asset) in his gross income, for the taxable year in which falls the date of such disposition or for the taxable year closing with his death, whichever applies—

(A) in the case of a share of stock acquired under an option qualifying under subsection (b)(1)(A), an amount equal to the amount (if any) by which the option price is exceeded by the lesser of—

(i) the fair market value of the share at the time of such disposition or death, or

(ii) the fair market value of the share at the time the option was granted; or

(B) in the case of stock acquired under an option qualifying under subsection (b)(1)(B), an amount equal to the lesser of—

(i) the excess of the fair market value of the share at the time of such disposition or death over the price paid under the option, or

(ii) the excess of the fair market value of the share at the time the option was granted over the option price (computed as if the option had been exercised at such time).

In the case of a disposition of such share by the individual, the basis of the share in his hands at the time of such disposition shall be increased by an amount equal to the amount so includible in his gross income.

(2) Variable price option.

For purposes of subsection (b)(1), the term "variable price option" means an option under which the purchase price of the stock is fixed or determinable under a formula in which the only variable is the fair market value of the stock at any time during a period of 6 months which includes the time the option is exercised; except that in the case of options granted after September 30, 1958, such term does not include any such option in which such formula provides for determining such price by reference to the fair market value of the stock at any time before the option is exercised if such value may be greater



STATE OF WISCONSIN
DEPARTMENT OF INSURANCE

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WARREN P. KNOWLES, GOVERNOR

July 18, 1966

The Honorable Bronson C. La Follette
Attorney General
114 East - State Capitol
Madison, Wisconsin 53702

Mr. James J. Burke
Revisor of Statutes
321 N.E. - State Capitol
Madison, Wisconsin 53702

Gentlemen:

Wisconsin Administrative Code section Ins 6.41
Insider trading of equity securities of domestic stock insurers

This department intends to adopt the captioned administrative rule. This rule sets forth certain rules and regulations concerning the insider trading of securities pursuant to section 201.105, Wisconsin Statutes.

Section 201.105 of the Statutes is a recent enactment of the 1965 Legislature. Both the new statute and the proposed rule are suggested uniform acts of the National Association of Insurance Commissioners. The need for both the new statute and this rule was brought about by the Securities Acts Amendments of 1964 (Public Law 88-467) which exempt securities issued by insurance companies from the application of the Federal requirement of regulation by and periodic filings with the Securities and Exchange Commission provided certain conditions are met. The enactment of the provisions of section 201.105 of the Statutes and the adoption of the rules and regulations in proposed Wis. Adm. Code section Ins 6.41 are two of the required conditions. Subsections (4) and (7) of section 201.105 refer to the Federal Securities Exchange Act of 1934.

You will note that subsection (4) of the rule relates to regulations under section 201.105 (2) of the Statutes. The substance of the regulations cited in subsection (4) is that of spelling out certain exemptions of the impact of section 201.105 (2) of the Statutes. It is proposed in subsection (4), paragraphs (b) 4. b. and (d) 3., to incorporate definitions of the terms "qualified stock option", "employee stock purchase plan", "restricted stock option", and "control" as provided in certain sections of the Internal Revenue Code of 1954, as amended.

The Hon. Bronson C. La Follette
Mr. James J. Burke

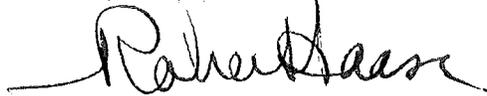
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July 18, 1966

The Internal Revenue Code is contained in numerous publications. It is also in many law libraries. It can be procured from the Government Printing Office.

It is requested that you consent, under the authority granted by section 227.025, Wis. Stats., to the proposed incorporation by reference of the appropriate paragraphs of the Internal Revenue Code defining the terms referred to above. Copies of the appropriate paragraphs of the Internal Revenue Code will be on file in this office, with the secretary of state, and with the revisor of statutes.

Very truly yours,



Robert D. Haase
Commissioner of Insurance

RDH:ECM
Enc. Ins 6.41

