

Chapter Ins 50

ANNUAL AUDITED FINANCIAL REPORTS, ANNUAL
FINANCIAL STATEMENTS AND EXAMINATIONS

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Note: Chapter Ins 50 was created as an emergency rule effective March 12, 1993.

Subchapter I — Annual Audited Financial Reports

Ins 50.01 Definitions. In this chapter:

(1) "Alien insurer" has the meaning provided under s. 600.03 (2), Stats.

(2) "Audited financial report" means a financial report prepared and conforming to s. Ins 50.06.

(3) "Executive officer" means any individual charged with the active management and control in an executive capacity of a person, whether incorporated or unincorporated and includes, but is not limited to, a chair of the board, president, vice president, treasurer, secretary, controller, and any individuals performing similar functions.

(4) "Foreign insurer" has the meaning provided under s. 600.01 (20), Stats.

(5) "Independent certified public accountant" means:

(a) An independent certified public accountant, or independent accounting firm, in good standing with the American institute of certified public accountants and in all states in which the accountant or firm is licensed, or required to be licensed, to practice; or

(b) For Canadian and British companies, a Canadian chartered or British chartered accountant.

(6) "Insurer" means an insurer licensed under s. 185.981 or ch. 611, 612, 613, 614 or 618, Stats., and the state life fund.

- (7) "Policyholder surplus" means capital and surplus.
- (8) "State of domicile" means the state where an insurer is domiciled or, for an alien insurer, its port of entry state.
- (9) "Work papers" means records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the independent certified public accountant's examination of the financial statements of an insurer. "Work papers" include, but are not limited to, audit planning documentation, audit guides, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of examination of the financial statements of an insurer or which support the opinion of the independent certified public accountant regarding the financial statements.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.02 Applicability. Unless otherwise ordered by the commissioner, this subchapter applies to all insurers except:

(1) An insurer is not subject to this subchapter for a calendar year in which the insurer has:

- (a) Direct premiums written in this state of less than \$100,000 and less than 1,000 policyholders or certificate holders of directly written policies in the state at the end of the calendar year; and
- (b) Assumed premiums nationwide of less than \$1,000,000 under reinsurance contracts or treaties.

(2) A foreign or alien insurer is exempt from this chapter except for s. Ins 50.03 if:

- (a) It complies with another state's requirement to submit audited financial reports and the other state's requirement is found by the commissioner, in writing, to be substantially similar to the requirements of this chapter; and
- (b) It files audited financial reports with that state's commissioner of insurance or equivalent agency.

(3) An insurer licensed under ch. 612, Stats., if the insurer:

- (a) Has direct total written premium for the calendar year, including premiums on nonproperty coverage, of less than \$300,000;
- (b) Has a net of reinsurance premium to policyholder surplus ratio of less than 6 to 1 as of the December 31 of the year for which an audited financial report is otherwise required;
- (c) Is not authorized under its articles of incorporation to do business in more than 4 counties;
- (d) Does not engage in the writing of nonproperty coverage unless the nonproperty coverage is 100% reinsured;

(e) Does not engage in the interchange of reinsurance with other insurers licensed under ch. 612, Stats., except town mutual reinsurance corporations.
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rations organized under s. 612.71, Stats., where the interchange reinsurance premiums exceed 20% of the annual net premiums written by the assuming insurer licensed under ch. 612, Stats.; and

(f) Does not own real estate, including, but not limited to, home office headquarters, whose cost or book value exceeds 10% of its total assets.

Note: Sections 50.01 to 50.17 first applies to financial reports for fiscal years ending on or after December 31, 1993.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.03 Filing by exempt foreign and alien insurers. A foreign or alien insurer which is exempt from this subchapter under s. Ins 50.02 (2) shall:

(1) File a copy of the audited financial report, report on significant deficiencies in internal controls, and the accountant's letter of qualifications which are filed with the other state with the commissioner not later than the filing dates specified in ss. Ins 50.05, 50.12 and 50.13, respectively. Canadian insurers which are not subject to this subchapter under s. Ins 50.02 (2) shall submit to the commissioner accountants' reports as filed with the Canadian Dominion department of insurance not later than the filing dates specified in s. Ins 50.05.

(2) File with the commissioner a copy of any notification of adverse financial condition report filed with, or required to be filed with, the other state within the time specified in s. Ins 50.11.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.04 Authority to obtain information or examine not restricted. This subchapter does not limit the authority of the commissioner to require an insurer or any other person to provide information, or to conduct an examination of an insurers or any other person, under any other statute or rule.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.05 Filing and extensions for filing of annual audited financial reports. (1) An insurer shall:

(a) Annually obtain or cause an audit of the insurer by an independent certified public accountant; and

(b) File an audited financial report that complies with s. Ins 50.06 with the commissioner on or before June 1 for the immediately preceding calendar year.

(2) The commissioner may require an insurer to file the audited financial report earlier than the date specified under sub. (1) if the commissioner gives 90 days advance notice to the insurer.

(3) The commissioner may grant extensions of the filing date under sub. (1) for 31-day periods if the insurer and independent certified public accountant establish there is good cause for an extension. A request for extension shall be submitted in writing not less than 10 days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

(4) An insurer may not retain an accountant or accounting firm to comply with sub. (1) or s. Ins 50.07 unless the accountant or accounting firm is an independent certified public accountant, regardless of whether

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the commissioner has issued a ruling under s. Ins. 50.08 (1). An insurer may not retain an accountant or accounting firm to comply with sub. (1) or s. Ins 50.07 if the commissioner under s. Ins 50.08 (1) rules that the accountant or accounting firm is not qualified or if the accountant or accounting firm does not comply with s. Ins 50.08 (2).

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.06 Contents of annual audited financial report. The annual audited financial report required under s. Ins 50.05 shall comply with all of the following:

(1) Report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the department of insurance, or equivalent agency, of the state of domicile, or, for a domestic insurer, in conformity with accounting practices prescribed or permitted in annual statements filed with the commissioner, as provided under s. Ins 7.02.

(2) Include all of the following:

(a) The report of the independent certified public accountant.

(b) A balance sheet reporting admitted assets, liabilities, capital and surplus.

(c) A statement of operations.

(d) A statement of cash flows.

(e) A statement of changes in capital and surplus.

(f) Notes to financial statements. These notes shall be those required by the appropriate national association of insurance commissioners' annual statement instructions and any other notes required by generally accepted accounting principles and shall also include:

1. A reconciliation of differences, if any, between the audited statutory financial statements and the annual statement required under subch. II of this chapter with a written description of the nature of these differences.

2. A summary of ownership and relationships of the insurer and all affiliates.

(3) Include financial statements prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner. The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31, except in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.07 Designation of independent certified public accountant. (1) An insurer shall, within 60 days after the insurer becomes subject to this subchapter:

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(2) Factors the commissioner may consider in determining the scheduling of an examination include, but are not limited to, results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, other criteria in the Examiners' Handbook adopted by the national association of insurance commissioners, and the priority of conducting an examination of an insurer relative to other insurers.

(3) The commissioner may determine the nature and scope of an examination. An examination may, but need not, cover all aspects of the insurer's assets, condition, affairs and operations, and may involve or be supplemented by review of audit procedures performed by accountants. Examinations may include, but are not limited to, the following types of examinations:

(a) Compliance examinations which are a general review of the insurer's corporate affairs and insurance operations to determine compliance with chs. 600 to 646, Stats. A compliance examination may consist of review of an accountant's work papers or be supplemented by such a review.

(b) Targeted examinations are limited to a review of specified areas. Areas that may be targeted may include, but are not limited to, life reserve valuations, claims analyses, organizational and capital changes, loss reserves or market conduct.

(c) Comprehensive examinations which are complete examinations of the condition and affairs of the insurer.

(4) After the commissioner issues an adopted examination report, the insurer examined shall promptly file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(5) The office of the commissioner of insurance, under s. 601.465, Stats., may refuse to disclose and prevent any person from disclosing, in response to a request for production, deposition, subpoena, or otherwise, information obtained from the national association of insurance commissioners or another insurance department under pledge of confidentiality or for the purpose of conducting an investigation or examination or obtained, produced or created in the course of an inquiry under s. 601.42, Stats., or examination under s. 601.43, Stats. This privilege applies to information obtained, produced or created before or after the effective date of s. 601.465, Stats., and regardless of whether an inquiry, investigation or examination has been concluded, except it does not apply to a document which is an adopted examination report. An adopted examination report is available for public inspection as required under s. 601.44 (6), Stats. The office or the commissioner may disclose the content of an examination report, preliminary examination report or results, or any matter relating a report or the results of an examination to further legal or regulatory action, or to the insurance department of any other state or country or to law enforcement officials of this or any other state or agency of the federal government, so long as the department, agency or office agrees in writing to hold it confidential.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 50.55 Examination of foreign and alien insurers. (1) The commissioner may accept, under s Ins 50.50, an examination report on a licensed

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foreign or alien insurer which is prepared by the insurance department for the insurer's state of domicile until December 31, 1993. After December 31, 1993, an examination report from the insurance department of the insurer's state of domicile may only be accepted if:

(a) The insurance department is at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or

(b) The examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by an accredited state insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

(2) A foreign or alien insurer shall file written notice with the commissioner if it has not received an examination call for an examination which will be acceptable under this section for the determination of the financial condition of the insurer within 4 years after the date for which the last examination of the insurer examined the financial condition of the insurer.

History: Cr. Register, July, 1993, No. 451, eff. 8-1-93.