

Chapter Ins 6

GENERAL

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Ins 6.01 Foreign company to operate 2 years before admission. Experience has demonstrated that until a company has engaged in the business of insurance for at least 2 years there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact business in Wisconsin will be considered until it has continu-

ously transacted the business of insurance for at least 2 years immediately prior to the making of such application for license.

Ins 6.02 Company to transact a kind of insurance 2 years before admission. (1) Experience has demonstrated that until a company has engaged in a kind of insurance or in another kind of insurance of the same class for at least 2 years, there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business in such kind of insurance or another kind in the same class of insurance, are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact a kind of insurance business in Wisconsin will be considered until it has continuously transacted that kind of insurance, or another kind of insurance in the same class of insurance as that for which it makes such application; for at least 2 years immediately prior to making such application. For the purposes hereof, insurance is divided into kinds of insurance according to the provisions of s. Ins 6.75 each subsection setting forth a separate kind, and into classes of insurance upon the basis of and including the said kinds as follows:

- (a) Fire insurance includes the kinds in s. Ins 6.75 (2) (a).
- (b) Life insurance includes the kinds in s. Ins 6.75 (1) (a) and (b) but excluding all insurance on the health of persons other than that authorized in s. 627.06, Stats., and s. Ins 6.70.
- (c) Casualty insurance includes the kinds in s. Ins 6.75 (2) (c) through (n).

(2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in Ins 6.75 (1) (e) or (2) (c) if the applicant company has transacted any of the kinds of insurance in Ins 6.75 (1) (a) and (b) or (2) (d), (e), (k) and (n) continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in Ins 6.75 (1) (e) or (2) (c).

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76; am. Register, March, 1979, No. 279, eff. 4-1-79.

Ins 6.05 Filing of property and casualty insurance forms. (1) **PURPOSE.** This rule is intended to implement and interpret s. 631.20, Stats., for the purpose of establishing filing procedures for certain property and casualty insurance policy forms.

(2) **SCOPE.** The requirements of this rule shall apply to insurance forms as defined in s. 600.03 (21), Stats., to be used to provide any of the lines or classes of insurance listed in Ins 6.75 (2) (a), (d), (e), (f), (g), (h), (i), (j), (l), (m) and (n).

(3) **DEFINITIONS.** In this rule, unless the context otherwise requires, the following words and terms shall have the following meanings:

- (a) "Filing" shall mean:
 1. Any matter submitted under this rule.
 2. The act of filing such matter.
- (b) "Basic policy forms" shall mean the basic insurance contracts used by any insurer including coverage parts or forms necessary to complete the contracts, amendatory endorsements needed to effect statu-

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(d) Base all such rates on sound actuarial principles or a valid classification system and actual experience statistics.

(6) PENALTY. Violation of this rule shall subject the insurer to the penalties set forth in s. 601.64, Stats.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 6.57 Listing of insurance agents by insurers. (1) Submission of an application for an intermediary-agent appointment shall constitute the initial listing of such agent in accordance with s. 628.11, Stats., and such application shall be submitted to the office of the commissioner of insurance on or before the date of appointment on form OCI 11-01. Billing for initial listing shall be done annually at the same time and at the same rate as renewal listings.

(2) Notice of termination of appointment of individual intermediary-agent in accordance with s. 628.11, Stats., shall be filed prior to or within 15 calendar days of the termination date with the office of the commissioner of insurance on form 11-11. Prior to or within 7 days of filing this termination notice, the insurer must provide the agent written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency. "Termination date" means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity.

(3) In addition each insurer shall pay once each year, in accordance with an assigned billing schedule, the annual listing fee defined in s. Ins 6.57 (4), within 30 days after the mailing of a payment notice to such insurer showing the amount due for all individuals serving as agents for such insurer, according to the commissioner's records as of the notice date. A billing schedule shall be adopted by the commissioner under which listing notices shall be sent to insurers. This schedule shall also designate the calendar month of billing for the various insurers and/or insurer groups.

Note: A copy of form OCI 11-01 can be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707.

(4) Fees applicable for listing of insurance agents under s. 628.11, Stats., are hereby established to be:

Resident individual intermediary-agents	\$ 5.00
Nonresident individual intermediary-agents	15.00

(5) No insurer shall accept business directly from any intermediary unless that intermediary is a licensed intermediary-agent listed with that company or unless the intermediary holds a valid license as an intermediary-broker.

(6) No intermediary-agent shall submit an application for insurance directly to an insurer or solicit insurance on behalf of a particular insurer unless the agent is listed with that insurer.

History: Cr. Register, December, 1976, No. 262, eff. 1-1-77; r. and recr. Register, March, 1978, No. 267, eff. 4-1-78; cr., (6) and (6), Register, March, 1979, No. 279, eff. 4-1-79; am. (1) and (3), Register, September, 1981, No. 309, eff. 1-1-82.

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Ins 6.58 Licensing of corporations and partnerships as insurance intermediaries. (s. 628.04, Stats.) (1) **PURPOSE.** The purpose of this rule is to establish procedures for licensure of corporations and partnerships as insurance intermediaries.

(2) **LICENSE REQUIRED.** The following entities must obtain a license under this section:

(a) Any corporation or partnership for which or on whose behalf any person solicits, negotiates, places insurance or annuities, or advises of insurance needs and coverages;

(b) Any corporation or partnership that receives, shares or accepts assignment of commissions or compensation for services performed as an intermediary as provided in s. 628.61, except those assignments given as collateral; and

(c) Any insurance agency whose legal form is a corporation.

(3) **EXEMPTION.** A corporation or partnership shall be exempt from licensing under this section if:

(a) It conducts its insurance business principally in the name of a licensed individual intermediary and discloses the name of the licensed intermediary in substantially all of its advertising and communications with insureds and all of its officers, directors or partners are either licensed intermediaries or are members of the immediate family of a licensed intermediary;

(b) It is national or state bank, federal or state savings and loan association or a credit union; or

(c) It is an insurer licensed to do business in Wisconsin.

(4) **PROCEDURE.** Application for a permanent intermediary license for a corporation or partnership shall be made on application form 11-50 and filed with the commissioner of insurance. The application must be accompanied by:

(a) A licensing fee of \$100.00 as authorized by s. 601.31 (1) (o) [(1)], Stats.;

(b) Certification that the articles of incorporation or association include the intent, in good faith, to do business as an intermediary;

(c) Certification that the corporation or partnership will transact business in such a way that all acts that may only be performed by a licensed intermediary are performed exclusively by natural persons who are licensed under s. 628.04, Stats., and functioning within the scope of the license, and a list of such persons;

(d) If the corporation or partnership is domiciled outside of Wisconsin, an agreement to be subject to the jurisdiction of the commissioner and the courts of this state on any matter related to the corporation's or partnership's insurance activities in this state, on the basis of service of process under ss. 601.72 and 601.73, Stats.; and

(e) A list of all partners, directors or principal officers or persons in fact having comparable power.

(f) In the case of a corporation the application must be signed by an officer. In the case of a partnership the application must be signed by a partner.

(5) **STANDARDS OF COMPETENCE AND TRUSTWORTHINESS.** (a) For partners, directors or principal officers who are licensed at the time of application under sub. (4) as insurance intermediaries, those standards as set forth in s. Ins 6.59 (5), shall apply in lieu of the standards set forth in this subsection.

(b) For partners, directors or principal officers who are not licensed at the time of application under sub. (4) as insurance intermediaries, the following criteria may be used in assessing trustworthiness and competence:

1. Criminal record. The conviction for crimes which are substantially related to insurance marketing.

2. Accuracy of information. Any material misrepresentation in the information submitted on form 11-50.

3. Regulatory action. Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

4. Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(6) **FEEs.** (a) Biennially, on or before January 1 of even numbered years, a regulation fee of \$10.00 for resident and \$30.00 for non-resident intermediaries will be billed as authorized by s. 601.31 (1) (p) [(m)], Stats.

(b) If payment of the biennial regulation fee is not made within 30 days after the date of billing, the license will be suspended. If payment is made during the suspension, the license will be reinstated.

(c) The license will be revoked if payment is not made within 60 days after suspension.

(7) **NOTIFICATION OF CHANGES.** Each intermediary corporation or partnership shall, within 30 days, notify the commissioner of insurance in writing of any change in its business mailing address, location of the business records, or a change in the name and address of the designated representative.

(8) **EFFECTIVE DATE.** This rule shall take effect on the 1st day of the month following its adoption. The commissioner may grant extensions for compliance to those corporations and partnerships that exhibit unusual difficulty in meeting the effective date.

Note: Intermediary corporations and partnerships are subject to the recordkeeping requirements as set forth in Ins 6.61 (1), Wis. Adm. Code.

Application for the licensing of corporations and partnerships is made on form 11-50. Copies can be obtained at the Office of the Commissioner of Insurance.

History: Cr. Register, August, 1980, No. 296, eff. 9-1-80; am. (5) (a), Register, September, 1981, No. 309, eff. 10-1-81; cr. (6), Register, September, 1981, No. 309, eff. 1-1-82.

THIS IS THE FINAL COPY OF FORM 11-50 AS IT WILL BE PRINTED

APPLICATION FOR PERMANENT CORPORATION OR PARTNERSHIP INSURANCE INTERMEDIARY LICENSE Form 11-50

STATE OF WISCONSIN OFFICE OF THE COMMISSIONER OF INSURANCE 123 W. WASHINGTON AVENUE MADISON, WISCONSIN 53702

SECTION I PLEASE COMPLETE THE BLANKS AND CHECK THE APPROPRIATE BOXES BELOW.

1. LICENSE NUMBER _____ (For office use only.) CR # _____

2. BUSINESS NAME _____

3. BUSINESS MAILING ADDRESS _____ Number, Street, City, Zip

4. NAME OF CORPORATION OR PARTNERSHIP _____

5. ADDRESS OF DOMICILE _____ Number, Street, City, Zip

6. RESIDENT CODE Wisconsin _____ Other _____

7. TYPE Corporation _____ Partnership _____ 8. LICENSE FEE (Initial Application Only) \$100.00 _____ REGULATION FEE Resident \$ 5.00 _____ (Each year after initial application) Nonresident \$ 15.00 _____

9. DESIGNATED REPRESENTATIVE NAME _____ TITLE _____ ADDRESS _____ Number, Street, City, Zip PHONE _____

(CONTINUED)
FINAL COPY OF FORM 11-50 AS IT WILL BE PRINTED

SECTION II STANDARDS OF COMPETENCE AND TRUSTWORTHINESS

- a. Have you been fined, reprimanded, or been the subject of a consent decree in any state for a violation of its insurance, real estate or securities statutes or administrative regulations?
- b. Have you had your license to solicit insurance, real estate or securities refused, suspended, denied or revoked in any state?
- c. Have you been convicted on a misdemeanor or felony offense, other than a traffic violation, in the past three years?
- d. If you have ever been employed by an insurance company, has your employment contract been terminated or non-renewed because of allegations of misconduct or wrongdoing by an insurance company?

A separate sheet of detailed explanation must be included for each principal officer, director or partner answering yes to any of the above questions in Section III.

SECTION III

PLEASE LIST ALL PARTNERS, DIRECTORS AND PRINCIPAL OFFICERS OR PERSONS HAVING COMPARABLE POWERS AND THEIR TITLES (PARTNER, DIRECTOR, PRESIDENT, VICE PRESIDENT, SECRETARY, TREASURER).

Name	Title	Wisconsin Ins. Intermediary License Number (if applicable)	Section II Answers*			
			a.	b.	c.	d.

*Answer Y for "Yes" and N for "No" for all questions in Section II. If you answered "Yes" to any of the questions in Section II, attach a detailed explanation.

(CONTINUED)

FINAL COPY OF FORM 11-50 AS IT WILL BE PRINTED

PLEASE LIST ALL WISCONSIN LICENSED AGENTS AUTHORIZED TO DO BUSINESS IN THE CORPORATION'S OR PARTNERSHIP'S NAME. ATTACH A SEPARATE SHEET IF NECESSARY.

Name	Wisconsin Ins. Intermediary License Number
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

I, the undersigned, hereby testify that the corporation or partnership of which I am a partner, director or officer has included in its articles of incorporation or association, the intent, in good faith, to do business as an intermediary and will transact business in such a way that all acts that may be performed only by a licensed intermediary, are performed exclusively by natural persons who are licensed under s. 628.04, Stats., and functioning within the scope of the license. If the corporation or partnership is domiciled outside of Wisconsin, it agrees to be subject to the jurisdiction of the commissioner and the courts of this state on any matter related to the corporation's or partnership's insurance activities in this state, on the basis of service of process under ss. 601.72 and 601.73, Stats.

I also certify that the principal officers, directors or partners are competent and trustworthy according to the standards listed in Section II. I further state that I have read and knowingly made the foregoing statements and representations and that each and all statements and representation are true to the best of my knowledge. I understand that any misrepresentation, false statement, or fraud in connection with this application may be cause for revocation or suspension of a license issued thereon or may be cause for denial of application in addition to any other actions or penalties or both.

Signature of Applicant (Officer or Partner) _____ Date _____

Name (Please Print)	Title	Signature
_____	_____	_____

Ins 6.59 Licensing of individuals as agents. (s. 628.04, Stats.) (1) **PURPOSE.** The purpose of this rule is to establish procedures for original licensure and license enlargement of an individual as an insurance agent.

(2) **EXAMINATION.** A written examination is required of each resident applicant for each kind of agent license authority listed in s. Ins 6.50. Each written examination will test the applicant's basic knowledge of the kinds of insurance to be solicited and the applicant's basic understanding of the applicable laws and regulations.

(3) **FEES.** The following fee schedule is established for residents and non-residents:

Application for one or 2 lines of authority	\$40
Application for 3 or 4 lines of authority	\$60

(4) **PROCEDURE.** (a) *Application form.* Application for a permanent agent license or an enlargement of authority shall be made on form OCI 11-41 (rev.) and filed with the commissioner of insurance.

(b) *Time of filing.* Applications and appropriate fees shall be filed with the commissioner of insurance, at least 30 days prior to the scheduled date of the written examination.

(c) *Issuance of license.* An applicant for an original license or a license enlargement who passes the written examination, pays the fees, submits a satisfactory application and meets the standards of competence and trustworthiness as described in sub. (5) shall be issued an agent license for those kinds of authority for which the applicant is qualified.

(5) **COMPETENCE AND TRUSTWORTHINESS.** The following criteria may be used in assessing trustworthiness and competence:

(a) *Criminal record.* The conviction for crimes which are substantially related to insurance marketing.

(b) *Accuracy of information.* Any material misrepresentation in the information submitted on form 11-41.

(c) *Regulatory action.* Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

(d) *Other criteria.* Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(6) **FREQUENCY AND LOCATION.** Written examinations for each kind of agent authority will be administered at least once a month in accordance with a schedule adopted by the commissioner at the following examination centers: Eau Claire, Green Bay, LaCrosse, Oshkosh, Madison, Rhinelander, Racine, Superior, and Stevens Point. Written examinations will be administered twice a month in Milwaukee and at least one other center.

(7) **EXEMPTIONS.** A town mutual agent exempt from licensing under s. 628.03 (1), Stats., by s. 628.05 (1), Stats., includes an agent for a town mutual not authorized to insure members against loss to property by windstorm or hail insurance as provided in ss. 612.31 (2) (a) 3 and 612.33 (2) (a), Stats., who provides windstorm or hail insurance to the

town mutual's members through an insurance policy issued by another authorized insurer operating on an assessment plan. The town mutual agent need not be licensed but the other insurer must list the agent and pay the listing fee in accordance with s. Ins 6.57.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77; am. (8), Register, June, 1978, No. 270, eff. 7-1-78; cr. (10), Register, September, 1978, No. 273, eff. 10-1-78; am. (3) and (7), Register, February, 1980, No. 290, eff. 3-1-80; r. (6) and (9), renum. (7), (8) and (10) to be (6), (7) and (8), Register, August, 1980, No. 296, eff. 9-1-80; r. and recr. Register, September, 1981, No. 309, eff. 10-1-81.

Ins 6.61 Intermediary records. (1) Each intermediary shall maintain or have maintained, for a 3 year period, unless a specific period is provided elsewhere, records of the intermediary's policyholder financial transactions and records of transactions with brokerage clientele which occur in the regular course of business or are prescribed by rule, in accordance with accepted accounting principles. Such records shall include an accounting of such billings to and receipts from purchasers of insurance and payments to insurers or others for coverage provided, as have passed through the hands of the intermediary, or comparable records on an agency or partnership-wide basis. An insurer may by written agreement assume the responsibility to maintain these records for an individual intermediary-agent if the records can be made immediately available to the commissioner of insurance on demand.

(2) Each individual intermediary-agent shall maintain records for a 3 year period giving the effective date of the coverage on all newly issued contracts and indicating that the necessary suitability inquiry and replacement procedures required by Ins 2.07, 2.14 (5) (f), 3.27 (7), and 3.29 were followed for each individually-issued life and accident and health contract written and/or replaced.

(3) Records required by subs. (1) and (2) are to be maintained at the business address of the intermediary or the insurer recorded with the commissioner of insurance, or at another location only if notice has been provided the commissioner of insurance of such alternate location.

(4) Each agent intermediary shall, within 30 days, notify the commissioner of insurance in writing of any change in the intermediary's business or residence address or any change of address of location of the intermediary's records.

(5) Each Wisconsin licensed agent must notify the commissioner within 30 days of any felony conviction or any formal disciplinary action against the agent taken by any state's insurance regulatory agency, commission or board, excepting action taken by the Wisconsin office of the commissioner of insurance. Formal disciplinary action means consent decrees, cease and desist orders, stipulations, suspensions, revocations, license denials, fines, forfeitures or actions limiting the agent's method of conducting an insurance business. The notification must be in writing and give a description of the conviction or disciplinary action.

Note: Individual intermediary-agent records which are to be maintained and subject to examination by the commissioner of insurance, are limited to transactions where the individual intermediary-agent serves in a fiduciary capacity (i.e., collects or handles premiums from clients and remits that amount of the premium due the carrier providing the coverage). This record maintenance requirement is not intended to apply to individual intermediary-agent office expense accounts, general office management records, income tax returns, or any other individual intermediary-agent financial transactions other than financial and other records directly pertaining to the individual intermediary-agent insurance transactions between clients and providers of coverage. Amendments to the rule comprehend the records of account

and disclosure set forth in Ins 6.64 which are to be maintained by intermediary-brokers and do not alter the previous requirements for intermediary-agents. Some intermediary-broker records are required to be maintained for 5 years as opposed to 3 years for intermediary-agent.

History: Cr. Register, March, 1977, No. 265, eff. 4-1-77; am., Register, March, 1979, No. 279, eff. 4-1-79; cr. (5), Register, September, 1981, No. 309, eff. 10-1-81.

Ins 6.62 Competence and trustworthiness standards. **History:** Cr. Register, March, 1977, No. 265, eff. 4-1-77; am. (3) (intro.) and (a), r. (3) (c), (d) and (f), renum. (3) (e) to be (3) (c), Register, April, 1979, No. 280, eff. 5-1-79; r. Register, September, 1981, No. 309, eff. 10-1-81.

Ins 6.63 Regulation charge. (1) The regulation amount to be paid biennially, by each licensed individual intermediary-agent is established to be as follows:

Resident agent	\$ 10.00
Non-resident agent	\$ 30.00

(2) The commissioner shall mail notification on form OCI 11-51 of the biennial regulation charge due and payable to each agent to the resident address on file with the office of the commissioner of insurance.

(3) Biennially on or before January 1 of each even numbered year the regulation fee is billed, and shall be paid within 30 days after the mailing by the office of the commissioner of insurance of a notification that the charge is due.

Note: A copy of form OCI 11-51 can be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707.

(4) The license of any individual intermediary-agent not making timely payment of the annual regulation amount may, by order of the commissioner, be suspended.

(5) Any suspended individual intermediary-agent can, within one year of the license suspension date, make application for termination of the suspension by payment of double the regulation fee as authorized by s. 628.10 (4), Stats.

(6) Any individual intermediary-agent whose license has been suspended for a period of longer than one year for non-payment of fees may be required to:

(a) Satisfy the examination and licensing requirements established by Ins 6.59, and

(b) In addition to any other charges required, make payment of double the regulation fees which would have been payable if the license had not been suspended.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) to (3), Register, September, 1981, No. 309, eff. 1-1-82.

Ins 6.64 Insurance marketing intermediary-broker. (ss. 628.01 to 628.04, 628.07, 628.32, 628.34, 628.40, 628.45, 628.51 and 628.61, Stats.)

(1) **PURPOSE.** The purpose of this rule is to define the powers and responsibilities of a licensed intermediary-broker, to describe acceptable practices in the conduct of a brokerage business and to ensure fulfillment of the fiduciary obligation of an intermediary-broker to the client through disclosure agreements, bonding, trust accounts, fee regulation

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and record keeping. An intermediary-broker not also licensed pursuant to ss. 618.41 and 628.04 (2), Stats., may not engage in direct placement of surplus lines insurance. This rule implements sections of ch. 628, Stats., entitled Insurance Marketing.

(2) INTERMEDIARY-BROKER. (a) An intermediary-broker is a person engaged in searching out, negotiating or procuring contracts of insurance with insurers with which the intermediary is not listed as an intermediary-agent, with the consent and on behalf of the insured.

(b) An intermediary-broker licensed in this state pursuant to s. Ins 6.65 shall be responsible in a fiduciary capacity to the insured or prospective insured for all representations and promises, all funds received or collected in the capacity of a broker, and all funds received or collected from the insurer on the policy.

(c) An intermediary-broker shall not be empowered to bind an insurer or an insured and shall disclose the lack of binding authority to the insured.

(d) An application for insurance that is brokered by an intermediary-broker directly to an insurer or through a listed intermediary-agent or that is brokered upon receipt from an intermediary-agent shall be signed by the intermediary-broker as well as by any other intermediaries involved.