



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Sean Dilweg, Commissioner

Wisconsin.gov

125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ociinformation@wisconsin.gov
Web Address: oci.wi.gov

September 19, 2008

The Honorable Jon Erpenbach, State Senator
Chairperson, Senate Committee on Health,
Human Services, Insurance, and Job Creation
State Capitol Room 8 South
Madison WI 53702

Re: Section Ins 50.01, 50.02, 50.05, 50.08, 50.11, 50.12, 50.13, 50.14, 50.15,
50.16, 50.17, 50.18, 50.19,, Wis. Adm. Code, relating to audit, control and
financial reporting requirements

Clearinghouse Rule No. 08-053

Dear Senator Erpenbach:

I am submitting a modification to this proposed rule for your consideration
under s. 227.19 (4) (b), Wis. Stat. It is necessary to modify the rule as follows:

1. Modify s. Ins 50.02(2)(a) to read:

Ins 50.02 (2) (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

2. Modify s. Ins 50.08(2) to read:

Ins 50.08 (2) After December 31, 1994, and prior to January 1, 2010, no accounting firm partner or other person responsible for rendering a report required of an independent certified public accountant may act in that capacity for more than ~~seven~~ 7 consecutive years. Following any period of service such a person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 2 years. Effective January 1, 2010, the lead or coordinating audit partner having primary responsibility for the audit may not act in that capacity for more than 5 consecutive years, including consecutive years immediately preceding January 1, 2010, and shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 5 consecutive years. The commissioner may grant An insurer may make application to the commissioner for relief from the rotation requirement on the basis of unusual circumstances. The application should be made at least thirty

days before the end of the calendar year. Factors the commissioner may consider in determining if the relief should be granted include, but are not limited to:

- (a) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
- (b) Premium volume of the insurer; or
- (c) Number of jurisdictions in which the insurer transacts business.

3. Modify s. Ins 50.17(4) to read:

- (4) An insurer qualifying under sub. (3) may file its or its parent's Section 404 report and an addendum in satisfaction of the requirements under sub. (1) or (2), provided that the internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurer's audited statutory financial statements, those items included in s. Ins 50.06 (2) (b) to (3), were included in the scope of the Section 404 report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements, those items included in s. Ins 50.06 (2) (b) to (3), excluded from the Section 404 report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 report, the insurer or group of insurers may either file:

- ~~(d)~~ (a) A management's report of internal control over financial reporting pursuant to sub. (1) or (2); or

- (b) The Section 404 report and a management's report of internal control over financial reporting for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 report.

4. Modify s. Ins 50.18(1) to read:

Ins 50.18 Exemptions and effective dates. (1) The commissioner may grant an exemption from compliance with this subchapter if the commissioner finds that compliance would constitute a financial or organizational hardship upon the insurer, except as provided in subs. 50.08(2), 50.08(9)(a) and 50.15(9).

5. Modify ss. Ins 50.18(3) to (7) to read:

Ins 50.18(3) Subject to subs. (6) and (7), this subchapter shall apply to domestic insurers retaining a certified public accountant on the effective date of

~~this subsection who qualifies as independent, for the year ending December 31, 2008, and each year thereafter. Domestic insurers retaining a certified public accountant on the effective date of this subchapter who qualifies as independent shall comply with this subchapter for the year ending December 31, 2008, and each year thereafter unless the commissioner permits otherwise.~~

~~(4) Subsections Ins 50.08 (3) to (9) shall apply to domestic insurers not retaining a certified public accountant on the effective date of this subsection who qualifies as independent, for the year ending December 31, 2009, and each year thereafter. Domestic insurers not retaining a certified public accountant on the effective date of this subchapter who qualifies as independent shall be exempt from the application of the requirements of s. Ins 50.08(4) to (8) for the year ending December 31, 2008. For the year ending December 31, 2009, and each year thereafter such insurers shall comply with this subchapter and shall file with the commissioner all reports and communications required by this subchapter.~~

~~(5) Sections Ins 50.08 (3) to (9), 50.11 (5), 50.12 (2) and 50.16 shall apply to foreign and alien insurers otherwise subject to this subchapter for the year ending December 31, 2010, and each year thereafter. Foreign insurers shall comply with this subsection for the year ending December 31, 2010, and each year thereafter, unless the commissioner permits otherwise.~~

~~(6) The requirements 5 consecutive year limitation and disqualification provisions of s. Ins 50.08(2) shall be in effect for audits of the year beginning January 1, 2010, and thereafter.~~

~~(7) (6) The requirements of s. Ins 50.15 are effective January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members, as opposed to a supermajority, because the total written and assumed premium is below the threshold, and subsequently becomes subject to one of the independence requirements due to changes in premium shall have one year following the year the threshold is exceeded, but not earlier than January 1, 2010, to comply with the independence requirements. An insurer that becomes subject to one of the independence requirements as a result of a business combination shall have one calendar year following the date of acquisition or combination to comply with the independence requirements.~~

~~(8) (7) The requirements of s. Ins 50.17 are effective beginning with the reporting period ending December 31, 2010, and each year thereafter. An insurer or group of insurers that is not required to file a report because the total written and assumed premium is below the threshold and subsequently becomes subject to the reporting requirements shall have 2 years following the year the threshold is exceeded, but not earlier than December 31, 2010, to file a report. An insurer acquired in a business combination shall have 2 calendar years following the date of acquisition or combination to comply with the reporting requirements.~~

If you have any questions regarding this, please contact John Montgomery at 264-8113.

Sincerely,

Kimberly A. Shaul
Deputy Commissioner of Insurance

KAS:JWH

Enc: copy proposed rule



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Sean Dilweg, Commissioner

Wisconsin.gov

125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ociinformation@wisconsin.gov
Web Address: oci.wi.gov

September 19, 2008

The Honorable Frank Lasee, State Representative
Chairperson, Assembly Committee on Insurance
State Capitol Room 105 West
Madison WI 53702

Re: Section Ins 50.01, 50.02, 50.05, 50.08, 50.11, 50.12, 50.13, 50.14, 50.15,
50.16, 50.17, 50.18, 50.19,, Wis. Adm. Code, relating to audit, control and
financial reporting requirements

Clearinghouse Rule No. 08-053

Dear Representative Lasee:

I am submitting a modification to this proposed rule for your consideration
under s. 227.19 (4) (b), Wis. Stat. It is necessary to modify the rule as follows:

1. Modify s. Ins 50.02(2)(a) to read:

Ins 50.02 (2) (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

2. Modify s. Ins 50.08(2) to read:

Ins 50.08 (2) After December 31, 1994, and prior to January 1, 2010, no accounting firm partner or other person responsible for rendering a report required of an independent certified public accountant may act in that capacity for more than ~~seven~~ 7 consecutive years. Following any period of service such a person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 2 years. Effective January 1, 2010, the lead or coordinating audit partner having primary responsibility for the audit may not act in that capacity for more than 5 consecutive years, including consecutive years immediately preceding January 1, 2010, and shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 5 consecutive years. The commissioner may grant An insurer may make application to the commissioner for relief from the rotation requirement on the basis of unusual circumstances. The application should be made at least thirty days before the end of the calendar year. Factors the commissioner may

consider in determining if the relief should be granted include, but are not limited to:

- (d) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
- (e) Premium volume of the insurer; or
- (f) Number of jurisdictions in which the insurer transacts business.

3. Modify s. Ins 50.17(4) to read:

- (4) An insurer qualifying under sub. (3) may file its or its parent's Section 404 report and an addendum in satisfaction of the requirements under sub. (1) or (2), provided that the internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurer's audited statutory financial statements, those items included in s. Ins 50.06 (2) (b) to (3), were included in the scope of the Section 404 report. The addendum shall be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements, those items included in s. Ins 50.06 (2) (b) to (3), excluded from the Section 404 report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 report, the insurer or group of insurers may either file:

- ~~(d)~~ (a) A management's report of internal control over financial reporting pursuant to sub. (1) or (2); or

- (c) The Section 404 report and a management's report of internal control over financial reporting for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 report.

4. Modify s. Ins 50.18(1) to read:

Ins 50.18 Exemptions and effective dates. (1) The commissioner may grant an exemption from compliance with this subchapter if the commissioner finds that compliance would constitute a financial or organizational hardship upon the insurer, except as provided in subs. 50.08(2), 50.08(9)(a) and 50.15(9).

5. Modify ss. Ins 50.18(3) to (7) to read:

Ins 50.18(3) Subject to subs. (6) and (7), this subchapter shall apply to domestic insurers retaining a certified public accountant on the effective date of this subsection who qualifies as independent, for the year ending December 31,

~~2008, and each year thereafter. Domestic insurers retaining a certified public accountant on the effective date of this subchapter who qualifies as independent shall comply with this subchapter for the year ending December 31, 2008, and each year thereafter unless the commissioner permits otherwise.~~

~~(4) Subsections Ins 50.08 (3) to (9) shall apply to domestic insurers not retaining a certified public accountant on the effective date of this subsection who qualifies as independent, for the year ending December 31, 2009, and each year thereafter. Domestic insurers not retaining a certified public accountant on the effective date of this subchapter who qualifies as independent shall be exempt from the application of the requirements of s. Ins 50.08(4) to (8) for the year ending December 31, 2008. For the year ending December 31, 2009, and each year thereafter such insurers shall comply with this subchapter and shall file with the commissioner all reports and communications required by this subchapter.~~

~~(5) Sections Ins 50.08 (3) to (9), 50.11 (5), 50.12 (2) and 50.16 shall apply to foreign and alien insurers otherwise subject to this subchapter for the year ending December 31, 2010, and each year thereafter. Foreign insurers shall comply with this subsection for the year ending December 31, 2010, and each year thereafter, unless the commissioner permits otherwise.~~

~~(6) The requirements 5 consecutive year limitation and disqualification provisions of s. Ins 50.08(2) shall be in effect for audits of the year beginning January 1, 2010, and thereafter.~~

~~(7)~~ (6) The requirements of s. Ins 50.15 are effective January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members, as opposed to a supermajority, because the total written and assumed premium is below the threshold, and subsequently becomes subject to one of the independence requirements due to changes in premium shall have one year following the year the threshold is exceeded, but not earlier than January 1, 2010, to comply with the independence requirements. An insurer that becomes subject to one of the independence requirements as a result of a business combination shall have one calendar year following the date of acquisition or combination to comply with the independence requirements.

~~(8)~~ (7) The requirements of s. Ins 50.17 are effective beginning with the reporting period ending December 31, 2010, and each year thereafter. An insurer or group of insurers that is not required to file a report because the total written and assumed premium is below the threshold and subsequently becomes subject to the reporting requirements shall have 2 years following the year the threshold is exceeded, but not earlier than December 31, 2010, to file a report. An insurer acquired in a business combination shall have 2 calendar years following the date of acquisition or combination to comply with the reporting requirements.

If you have any questions regarding this, please contact John Montgomery at 264-8113.

Sincerely,

Kimberly A. Shaul
Deputy Commissioner of Insurance

KAS:JWH

Enc: copy proposed rule