



Report From Agency

February 9, 2022

Report on Chapter Ins 40, Wis. Adm. Code, relating to holding company system regulation amendments.

Clearinghouse Rule No. 21-106
Submitted Under s. 227.19 (3), Stats.

(The proposed rule-making order is attached.)

(a) A detailed statement of basis for the proposed rule and how the rule advances relevant statutory goals or purposes:

Wisconsin Statute ch. 617, and ch. Ins 40, Wis. Adm. Code, govern insurance holding companies. Wis. Stat. § 617.13 (2), governs the confidentiality of the group capital calculation and liquidity stress test filings and any related information provided by an insurer under promulgated rules.

Recent changes in the NAIC model laws 440 and 450 are the bases for the proposed rule and are anticipated to become accreditation standards in 2022, and therefore, it is important to implement these changes into the Wisconsin holding company system regulations as soon as practicable.

The rule changes would modernize Wisconsin's holding company system provisions by adopting uniform standards for determining group-wide capital requirements in alignment with requirements of the agreement between the United States of America, the European Union, and the United Kingdom regarding insurance and reinsurance ("covered agreement"). The covered agreement was authorized by Title V of the Dodd-Frank Act that authorized the Secretary of the Treasury and the United States Trade Representative to jointly negotiate a covered agreement on behalf of the United States with one or more foreign governments, authorities, or regulatory entities. Failure to adopt these group capital standards before September of 2022 could result in Wisconsin law being preempted by the covered agreement.

Current monitoring focuses primarily on the risks related to, and solvency of, individual entities. The Group Capital Calculation is a new tool for monitoring the adequacy of capital of an insurance holding company group as a whole. The Liquidity Stress Test is a new tool to help monitor group liquidity risks. It would help identify insurance groups with liquidity stress and would enable an assessment of outward impacts on the broader financial markets of a liquidity stress impacting a large number of insurers simultaneously. The Liquidity Stress Test would only be required for large life insurers that meet certain criteria.

(b) Summary of the public comments and the agency's responses to those comments:

No public comments were received.

(c) An explanation of any modifications made in proposed rule as a result of public comments or testimony received at a public hearing:

No testimony was received, comments were only requesting copies of hearing exhibits.

(d) Persons who appeared or registered for the first public hearing regarding the proposed rule:

Appearances for:

None.

Appearances against:

None.

Appearances for information:

None.

Registrations for:

Connie O'Connell, Wisconsin Council of Life Insurers
John Svoboda, QBE Insurance Company

Registrations against:

None.

Registrations neither for nor against:

Mollie Zito, UnitedHealthcare
Jill Mitchell, Medical Associates Health Plans
Tim Lundquist, Wisconsin Association of Health Plans
Jennifer Morrison, Delta Dental of Wisconsin
Jonathon Moody, Quartz Health Solutions.

Letters received:

None.

(e) An explanation of any changes made to the plain language analysis of the rule under s. 227.14 (2), Stats., or to any fiscal estimate prepared under s. 227.14 (4), Stats.

The plain language analysis was expanded in response to Legislative Council comments to provide more specific information about the proposed rule changes in light of the Legislative Council recommendations.

(f) The response to the Legislative Council staff recommendations indicating acceptance of the recommendations and a specific reason for rejecting any recommendation:

To avoid the potential for preemption under Dodd-Frank, and to achieve accreditation, states are highly recommended to implement the NAIC model language as close to verbatim as possible. Therefore, the office was unable to implement a few of the Legislative Council staff recommendations as the suggestions modified the wording from the NAIC models and risked the office's accreditation. The office was able to implement all comments except the following:

1. Statutory Authority: b. s. 617.21 (3r), Stats., surplus and capital are components of a company's net worth, when looking at group capital requirements we are looking at the solvency of both the insurer and its group for which we do have authority.
2. Form, Style and Placement in Administrative Code: i. and j., while the office was able to modify most provisions it was not able to correct all instances where a list is used due to NAIC model drafting and the request to insert "may" does not fit within the NAIC model.
5. Clarity, Grammar, Punctuation and Use of Plain Language: j., k., n., o., t., u., these comments relate to a couple key provisions of the models that are critical for accreditation.

(g) The response to the report prepared by the small business regulatory review board:

The small business regulatory review board did not prepare a report.

(h) Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses.

(i) Fiscal Effect

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations