

STATE OF WISCONSIN)
OFFICE OF THE COMMISSIONER OF INSURANCE) ss.

RECEIVED
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REVISOR OF STATUTES
BUREAU *CR*

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Harold R. Wilde, Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order amending a rule regarding insurance holding companies and intercorporate transactions relating to insurers was issued by this office on June 22, 1978.

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

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 22nd day of June, 1978.

STATE OF WISCONSIN
DEPARTMENT OF STATE
RECEIVED AND FILED

JUN 22 1978

DOUGLAS LAFOLLETTE
SECRETARY OF STATE

Harold R. Wilde

Harold R. Wilde
Commissioner of Insurance

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

STATE OF WISCONSIN
DEPARTMENT OF STATE
RECEIVED AND FILED

Adopting Rules

JUN 22 1978

Pursuant to authority vested in the Commissioner of Insurance by section 601.41 (3), Wis. Stats., the Commissioner of Insurance hereby amends section Ins 12.01 Wisconsin Administrative Code as follows:

Section Ins 12.01 title and subsection (1) are amended to read:

Ins 12.01 Insurance holding companies and intercorporate transactions relating to insurers (ss. 611.71, 611.72 and 611.73 and ch. 617, Stats.) (1) PURPOSE. This rule is promulgated to implement, interpret and set forth procedural requirements necessary to carry out the purposes and provisions of ss. 611.71, 611.72, and 611.73, Stats., and ch. 617, Stats.

Subsections (3) and (4) are amended to read:

(3) DEFINITIONS. Unless the context otherwise requires:

(a) Corresponding period in the previous year specified in s. 617.22 (3), Stats., should be determined by starting with the first day in the previous year and counting forward to the same date in the previous year as the date of the intended payment of dividend in the current year.

(b) Domiciliary state means the state of incorporation of a foreign insurer. The state of entry into the United States of an alien insurer shall be the domiciliary state of such insurer.

(c) Executive officer means any individual charged with active management and control in an executive capacity (including but not limited to a chairman of the board, president, vice president, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers) of a person, whether incorporated or unincorporated.

(d) Insurance holding company system consists of 2 or more affiliated persons, one or more of which is an insurer.

(e) Registrant is the insurer required to report under ss. 617.11, 617.21 or 617.22, Stats.

(f) Surplus as regards policyholders means the excess of total admitted assets of an insurer over total liabilities of the insurer.

(g) Other terms found in these rules and in ch. 617, Stats., unless the context otherwise requires, are used as defined in said chapter. Other nomenclature or terminology is according to the insurance code or industry usage if not defined by that code.

(4) RESPONSIBILITY OF AUTHORIZED INSURER. Each authorized insurer shall be responsible for statements and information which are required by ch. 617, Stats., and this rule from each of its affiliates.

Subsection (5) (intro) and paragraphs (g) and (h) are amended to read:

(5) REPORTS ON AFFILIATES. Each insurer required to report under s. 617.11, Stats., and which is not exempt under sub. (2) thereof, shall furnish the required information on the Insurance Holding Company System Registration Statement, Exhibit 1. This registration statement shall be filed within 60 days after September 1, 1978, or within 15 days after the insurer acquires an affiliate, whichever is later, and shall include the following information:

(g) Transactions, relationships and agreements. A brief description of any of the following transactions between a domestic insurer and any affiliate, including but not limited to the nature and purpose of the transactions, the nature and amounts of any proposed payments and transfers of assets between the parties, the identity of all parties to the transactions and the relationship of the affiliated parties to the insurer:

1. Sales, purchases, exchanges, loans, extensions of credit, or investments;

2. Reinsurance treaties or agreements covering all or substantially all of one or more lines of insurance of the ceding company;

3. Service contracts or cost-sharing arrangements except for cost allocation arrangements based on generally accepted accounting principles or sections Ins 6.30 and Ins 6.31 Wis. Adm. Code;

4. Guarantees or undertakings for the benefit of an affiliate which result in actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

5. Other transactions significantly affecting the insurer with or between affiliates and not in the ordinary course of business;

6. Management contracts, or other contracts having substantially the characteristics of management contracts and exclusive agency contracts.

(h) Amendments. In the event of any material change in the information filed in a registration under this rule, the insurer shall file an amended statement or an appropriate amendment to the original statement within 15 days after the end of the month in which such change

became effective. For the purposes of this paragraph any transaction related to a management, exclusive agency or similar contract shall be deemed to be a material transaction, and any transaction of the kind described in par. (g) 1 through 5 shall be deemed material if it involves or exposes to risk, in any single transaction or group of related transactions, more than 1/2 of 1% of the insurer's admitted assets as of December 31 next preceding. All other changes shall be reported within 120 days after the end of the reporting insurer's fiscal year.

Subsections (7) and (8) are amended to read:

(7) ADVANCE REPORT AND DISAPPROVAL OF SUBSTANTIAL TRANSACTIONS REQUIRED BY DOMESTIC INSURERS. (a) Advance Report. A report of any transaction specified in sub. (5) (g) which will have a substantial impact on the domestic insurer must be provided to the Commissioner at least 30 days prior to its effective date. For purposes of this subsection any transaction related to a management, exclusive agency or similar contract shall be deemed to have a substantial impact, and any single transaction or group of related transactions specified in sub. (5) (g) 1 through 5 involving the lesser of 2% of admitted assets or 10% of surplus as regards policyholders as of December 31 next preceding, or 1/2 of 1% of the insurer's admitted assets as of December 31 next preceding if a compulsory order under s. 623.11, Stats., has been issued and is effective with respect to the insurer shall be deemed to have a substantial impact. Any transaction reported under this subsection need not also be reported as an amendment under sub. (5) (h).

(b) Any transaction reported under this subsection may be disapproved pursuant to s. 617.21 (3), Stats.

(8) TRANSACTIONS REQUIRED TO BE REPORTED BY NONDOMESTIC INSURERS.

Every foreign or alien insurer required to report under s. 617.11, Stats., and which is not exempt under sub. (2) thereof, shall report any material transaction of the kind specified in sub. (5) (g) within 15 days after the end of the month in which the transaction became effective if not earlier reported in a registration statement and any amendment thereof.

Subsections (9) and (10) are amended to read:

(9) CONSENT TO JURISDICTION. Every authorized insurer shall promptly submit on the Consent to Jurisdiction Statement, Exhibit 2, the consent to jurisdiction from each of its affiliates in accordance with s. 611.11 (5), Stats.

(10) DIVIDENDS AND OTHER DISTRIBUTIONS.

(a) No insurer subject to registration under ch. 617, Stats., shall pay any extraordinary dividend or make any other extraordinary distribution to its stockholders until thirty days after the commissioner has received notice of the declaration thereof, unless the commissioner shall have approved such dividend within such thirty day period.

(b) An extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of 1. 10% of such insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or 2. the net gain from operations of such insurer, if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the twelve month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

(c) Notwithstanding any other provision of the law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until 1. the commissioner has approved the payment of such dividend or such distribution, or 2. the commissioner has not disapproved such payment within the thirty day period referred to above.

(d) The report of any distribution to shareholders other than a stock dividend required under s. 617.22, Stats., shall be accompanied by a statement of the amount of such distribution made for the corresponding period in the previous year and shall include the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, and the net gain from operations of the insurer, if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the twelve month period ending the thirty-first day of December next preceding.

Subsection (11) (a) is amended to read:

(a) Registration statement. Any person attempting to acquire control over a domestic insurer shall prior to the acquisition of control furnish the registration statement required by sub. (5).

Subsection (12) is created to read:

(12) ACQUISITION OF CONTROL OF OR MERGER WITH DOMESTIC INSURER.
(a) APPROVAL BY COMMISSIONER. Any merger or other acquisition of control referred to in this subsection shall be subject to prior approval by the commissioner. Persons seeking to acquire control by any method shall

satisfy the commissioner that the transaction at the time it is entered into is reasonable and fair to the interests of the insurer and that:

1. After the change of control, the domestic insurer referred to in this paragraph would be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

2. The effect of the merger or other acquisition of control would not be to substantially lessen competition in insurance in this state or tend to create a monopoly therein;

3. The financial condition of any acquiring party is not such as might jeopardize the financial stability of the insurer, or prejudice the interests of its policyholders or the interests of any remaining shareholders who are unaffiliated with any acquiring parties;

4. The terms of the offer, requests, invitations, agreement or acquisition referred to in this subsection are fair and reasonable to the shareholders of the insurer;

5. The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or make any other material change in its business or corporate structure or management are fair and reasonable to policyholders of the insurer or in the public interest; or

6. The competence and integrity of those persons who would control the operation of the insurer are such that it would be in the interest of the policyholders of the insurer and of the public to permit the merger or acquisition of control.

(b) MAILINGS TO SHAREHOLDERS: PAYMENT OF EXPENSES. All statements, amendments, or other material filed pursuant to the provisions of this subsection shall be mailed by the insurer to its shareholders within five business days after the insurer has received such statements, amendments, or other material, or notices. The expenses of mailing shall be borne by the person making the filing. As security for the payment of such expenses, the commissioner may require such person to file, with the commissioner, an acceptable bond or other deposit in an amount to be determined by the commissioner.

(c) EXEMPTIONS. The provisions of this subsection shall not apply to:

1. Any offers, requests, invitations, agreements or acquisitions by any person referred to in this subsection of any voting security which, immediately prior to the consumation of such offer, request, invitation, agreement or acquisition, was not issued or outstanding;

2. Any offer, request, invitation, agreement or acquisition which the commissioner by order shall exempt therefrom as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or as otherwise not comprehended within the purpose of this subsection.

Previous subsection (12) is renumbered (13) and as renumbered is amended to read:

(13) EXEMPTIONS. In addition to the statutory exemptions granted by s. 617.11 (2), Stats., the commissioner may from time to time exempt any person from the application of ch. 617, Stats., and this rule, when he deems the granting of such exemption consistent with the purposes of ch. 617 and this rule and in the public interest.

Previous subsection (13) is renumbered (14) and as renumbered paragraph (a) thereof is amended to read:

(a) The registration statement form is intended to be a guide in the preparation of the statements required by ss. 617.11 and 617.12, Stats. It is not intended to be a blank form furnished by the office of the commissioner of insurance. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or the instructions thereto. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to this effect shall be made.

Previous subsection (14) is renumbered (15) and as renumbered paragraph (a) thereof is amended to read:

(a) The Consent to Jurisdiction Statement form is intended to be a guide in the preparation of the statement required by s. 617.11 (5), Stats. It is not intended to be a blank form furnished by the office of the commissioner of insurance.

Previous subsection (15) is renumbered (16).

Previous subsection (16) is renumbered (17) and as renumbered is amended to read:

(17) PENALTY. Violations of this rule or any order issued thereunder shall subject the person violating the same to s. 601.64, Stats.

Subsection (18) is created to read:

(18) SEVERABILITY. If any part of this rule or its application to any person or circumstance is held invalid, the invalidity does not affect other parts or applications of the rule which can be given effect without the invalid part or application, and to this end the parts of the rule are declared to be severable.

Exhibit I is amended by creating a new item (7) Transactions, Relationships and Agreements followed by four blank lines and present item (7) is renumbered (8) Amendments.

Exhibit I is further amended by changing the signature paragraph to read:

Pursuant to the requirements of ch. 617, Stats., and section Ins. 12.01 Wis. Adm. Code the Registrant has caused this registration statement to duly signed on its behalf in the city of _____ and state of _____ on the _____ day of _____, 19__

(Name of Registrant)

(SEAL)

By _____
(Name) (Title)

Attest:

(Signature of Officer)

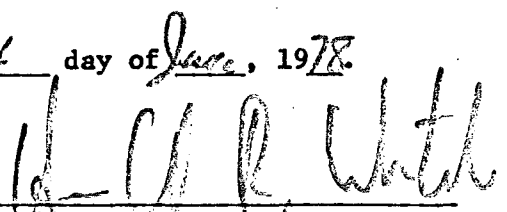
(Title)

Exhibit 2 is amended by changing the consent to jurisdiction section to read:

The, (I), _____, an affiliate of _____
(affiliate) (Insurer)

an insurer authorized to do business in the state of Wisconsin, pursuant to the requirements of ch. 617, Stats., and section Ins 12.01 Wis. Adm. Code do hereby consent to the jurisdiction of the Commissioner of Insurance and the courts of the state of Wisconsin.

Dated at Madison, Wisconsin this 22nd day of June, 1978.



Harold R. Wilde
Commissioner of Insurance