STATEMENT OF SCOPE

OFFICE OF THE COMMISSIONER OF INSURANCE

Rule No.: 145 Ch. Ins 52, Wis. Adm. Code

Relating to: Credit for reinsurance accreditation amendments

Rule Type: Permanent

Detailed description of the objective of the proposed rule:

The National Association of Insurance Commissioners (NAIC) is a standard setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. It develops model laws and regulations using a committee structure that includes both members of the committee and interested regulators. The NAIC also provides an accreditation process for state insurance departments. Accreditation of the Office of the Commissioner of Insurance (OCI) by the NAIC helps Wisconsin insurers by ensuring that the OCI has full regulatory authority over its domestic insurers. It accomplishes this by subjecting domestic insurers to financial regulation only by their domestic commissioner if the state is accredited. Because Wisconsin is accredited, Wisconsin insurers are not subject to separate financial regulation in every state in which they do business. Recent changes in the NAIC model law 785 and NAIC model regulations 786 and 787 that are the bases for the proposed rule are anticipated to become accreditation standards in 2022, and therefore, it is important to implement these changes into the Wisconsin credit for reinsurance regulations as soon as practicable.

The rule change would modernize Wisconsin's credit for reinsurance provisions to align them 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. The amendments proposed by this rule would introduce the concept of reciprocal reinsurers as a classification consistent with the NAIC model law and regulation. Reinsurers from certain foreign jurisdictions could be certified by the Commissioner as reciprocal reinsurers if they meet stringent capitalization and solvency requirements.

The proposed rule would also establish standards governing certain reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees. The proposed rule will bring Wisconsin's requirements into alignment with other states and meet a NAIC accreditation requirement. No Wisconsin-domiciled insurers are currently engaged in the financing arrangements addressed by the rule. However, should that change, the rule would ensure that with respect to each such financing arrangement, funds would be held by or on behalf of the ceding insurers in the forms and amounts prescribed in the rule.

Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter Ins 52, Wis. Adm. Code, establishes the requirements for accounting treatment of reinsurance recoverables from reinsurers. The regulation as currently written requires different levels of collateral based on a reinsurer's classification. The current classifications defined in the rule are authorized, accredited, certified, and unauthorized.
The proposed rule would modernize the provisions for credit for reinsurance and establish alternative collateral requirements and making them similar to those adopted, or in the process of being adopted, in other states creating national uniformity. The proposed changes would bring the rules into compliance with the covered agreement and bring the OCI into alignment with NAIC accreditation requirements. The alternative is to risk preemption by federal law or risk OCI losing its accreditation which would have a significant financial impact on all domestic insurers.

Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The statutory authority for this rule is specifically Wis. Stat. § 627.23, which establishes that subject to the rules promulgated by the commissioner for the calculation of reserves and surplus, and subject to Wis. Stat. § 627.23 (3), an authorized insurer may cede reinsurance to an unauthorized insurer. Wis. Stat. § 623.02 provides that when promulgating accounting rules, the commissioner shall consider recommendations made by the NAIC. Wis. Stats.§§ 623.03 and 623.04, grant the commissioner authority to promulgate rules specifying how insurers should account for assets and liabilities which would include credit for reinsurance. Wis. Stat. §§ 620.03 and 620.21, provide that the commissioner will promulgate rules for special investments and for the manner in which assets may be counted towards compulsory or security surplus. Additionally, the commissioner has general rule-making authority under Wis. Stat. §§ 601.41 and 227.11 (2) (a).

Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

200 hours and no other resources are necessary to develop the rule.

List with description of all entities that may be affected by the proposed rule:

The update of Wisconsin's standards to match those in other states will create uniformity. The potential to lower collateral requirements could entice more reinsurers to do business with insurers domiciled in Wisconsin. Ceding insurers domiciled in the state will be subject to new rules and lower collateral requirements.

Domestic insurers who cede liabilities to reciprocal reinsurers would be affected by the proposed rule change. In the event a reciprocal reinsurer has difficulty reimbursing recoverables to the ceding domestic insurer, the lack of a collateral requirement could increase the risk that a ceding domestic insurer will not timely receive all amounts due. Because the reduced collateral requirements consider a reciprocal reinsurer's financial strength and the strength of a reciprocal reinsurer's financial regulation, this risk should be mitigated.

Additionally, domestic life insurers may gain competitive options allowing alternative collateral requirements when ceding business in the affected lines of business.

Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

Currently, there are no existing federal regulations intended to address this area. The United States has entered into a covered agreement with the European Union and United Kingdom which could preempt regulation of reinsurance if a state does not enact its requirements by September of 2022. There is also a provision where federal preemption could occur if substantial progress has not been made by September of 2021.

Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The anticipated economic impact of implementing the rule is minimal as the proposed rule will primarily change accounting practices. It is possible that reduced collateral could slightly lower the cost of reinsurance ceded to reciprocal reinsurers. The rule would also allow domestic life insurers alternatives for ceding reinsurance in the affected lines of business.

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