

Chapter Ins 14

CAPITAL REQUIREMENTS

Ins 14.02 Capital, compulsory and security surplus

Ins 14.01 Valuation of assets — salvage and subrogation. History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; r. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 14.02 Capital, compulsory and security surplus. (1) PURPOSE. This section implements and interprets ss. 600.03 (45), 618.21 (1) (a), 623.11 and 623.12, Stats., for the purpose of establishing the amount of capital and compulsory surplus an insurer is required to maintain to provide reasonable security against contingencies affecting its financial position that are not fully covered by reserves or by reinsurance, and the amount of security surplus that an insurer should maintain in order to provide an ample margin of safety and clearly assure a sound operation.

(2) **SCOPE.** This section shall apply to all lines of insurance except title insurance and mortgage guarantee insurance as defined in s. Ins 6.75 (2) (h) and (i), and to each insurer subject to ss. 623.11 and 645.41, Stats., except insurers licensed under chs. 612, 613, 615 or 616, Stats., and life insurers domiciled in foreign countries.

(3) **COMPULSORY SURPLUS.** Except for the adjustments to the circumstances of individual insurers provided in s. 623.11 (1) (b), Stats., and sub. (6), the amount of compulsory surplus of an insurer shall be the greater of:

(a) The sum of:

1. 15% of premiums for individual life and disability insurance;
2. 10% of premiums for group life and disability insurance;
3. The greater of 2% of reserves or 7½% of premiums for annuities and deposit administration funds;
4. 20% of premiums for all other covered lines of insurance; or

(b) \$2 million for an insurer first authorized to do business in Wisconsin on or after January 1, 1982, or the amount required by statute or administrative order before that date for other insurers.

(4) **SECURITY SURPLUS.** The security surplus of an insurer shall be the compulsory surplus plus:

(a) 40% of compulsory surplus for insurers restricted under s. 620.04, Stats.

(b) 40% of compulsory surplus for other insurers with premiums of \$10 million or less reduced by 1% of compulsory surplus for each \$33 million of additional premiums in excess of \$10 million, but not less than 10% of compulsory surplus.

(5) **SEPARATE DETERMINATION.** Compulsory surplus and security surplus are computed separately and are not added together for purposes of determining compliance with this rule.

(6) **PREMIUMS.** For purposes of subs. (3) and (4), premiums are gross premiums and other considerations received for insurance and annuities in the 12-month period ending on or not more than 60 days before the date as of which the calculation is made with the following deductions and exclusions:

(a) Exclude annual and initial reinsurance premiums for contracts of modified coinsurance and premium deposits.

(b) Deduct return premiums; premiums ceded to authorized reinsurers other than premiums of contracts of modified coinsurance; and retrospective premium refunds and dividends paid or credited to policyholders.

(7) **INDIVIDUAL CIRCUMSTANCES.** In the event of special circumstances of an individual insurer, the commissioner may by order:

(a) Adjust the factors in this section to calculate the compulsory or security surplus as a higher or lower amount than the amount determined under sub. (3) or (4);

(b) Establish additional factors in relation to any relevant variables in determining the amount of compulsory surplus required for such insurer; and

(c) Require minimum capital in an amount of less than \$2 million.

(8) **COMBINING INSURERS.** The commissioner may require the combination of 2 or more insurers for application of this section or may permit such combination upon request by such insurers.

(9) **REPORTING.** Every insurer to which this section applies shall compute its compulsory surplus and security surplus, as of the preceding December 31, and include a copy of such computation as a part of its annual statement filed with the commissioner under s. 601.42, Stats., and s. Ins 7.02.

(10) **EXISTING ORDERS.** This section shall not affect orders of the commissioner requiring a different level of surplus existing on August 1, 1982.

(11) **DATE OF FIRST REPORT.** The first report required by sub. (9) shall be computed as of December 31, 1982 and filed with the insurer's annual statement due March 1, 1983.

Note: Compulsory surplus is the amount of surplus that an insurer is required to have in order not to be financially hazardous under s. 645.41 (4), Stats. An insurer must comply with investment restrictions and permitted classes of investments in meeting required reserves and compulsory and security surplus. Security surplus is not required beyond its use as a standard in investment regulation.

The rule is not intended to determine the optimum level of surplus an insurer should have. That level should be decided by the officials of each insurer to reflect the individual circumstances and goals of the insurer. The rule is intended instead to establish a basic minimum level with which most insurers can easily comply.

The commissioner may see fit to require a higher level of surplus, or permit a lower level, based on special circumstances.

For example, a specific order might establish a higher surplus requirement for a small insurer writing primarily surety business or a lower requirement for certain kinds of annuity business or for contracts providing benefits payable in variable dollar amounts within the meaning of s. 611.25, Stats., and s. Ins 2.13. Other contingencies, factors and variables which may be considered are set forth in s. 623.11, Stats.

Since the rule does not apply to some lines of insurance and certain types of insurers, other requirements may be necessary for those companies. This might entail separate rules or specific orders. However, the proposed rule will apply to a high percentage of the insurance business written in Wisconsin.

The treatment of reinsurance premiums in the rule may not be clear. In the case of all reinsurance other than modified coinsurance, it is intended that premiums on direct business be initially included by the originating company under sub. (6) (intro.) and that reinsurance premiums ceded to a reinsurer be deducted under sub. (6) (b). The reinsurance premiums ceded would be included as premiums of the reinsurer under sub. (6) (intro.). In the case of modified coinsurance, the direct premiums are included by the originating company under sub. (6) (intro.) and the reinsurance premiums are excluded for purposes of the rule by both the originating company and the reinsurer.

Note: Copies of forms OCI 22-008 and OCI 22-009, for use under sub. (9), may be obtained from the Office of the Commissioner of Insurance, P.O. Box 7873, Madison, WI 53707-7873.

History: Cr. Register, July, 1982, No. 319, eff. 8-1-82; am (1) and (7), Register, January, 1989, No. 397, eff. 2-1-89; reprinted to correct error in (3) (a) 3., Register, March, 1989, No. 399; am. (9), Register, January, 1992, No. 433, eff. 2-1-92.