WEST VIRGINIA CODE: §33-27-4

§33-27-4. Registration of insurers; information and form required; summary of changes to registration statement; materiality; reporting of dividends to shareholders; information to insurers; termination of registration; consolidated filing; alternative registration; exemptions; disclaimer; enterprise risk filing; group capital calculation filing; liquidity stress test filing; violations.

(a) Registration. — (1) Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in:

(A) This section;

(B) §33-27-5(a), §33-27-5(b), and §33-27-5(c) of this code; and

(C) Either §33-27-5(d) of this code or a provision such as the following: "Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within 15 days after the end of the month in which it learns of each change or addition".

(2) Any insurer which is subject to registration under this section shall register within 15 days after it becomes subject to registration and annually thereafter by June 1 of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration. The commissioner may require any authorized insurer which is a member of an insurance holding company system which is not subject to registration under this section to furnish a copy of the registration statement, the summary described in subsection (c) of this section, or other information filed by such insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(b) Information and form required. — Every insurer subject to registration shall file a registration statement with the commissioner on a form and in a format prescribed by the National Association of Insurance Commissioners (NAIC), which shall contain the following current information:

(1) The capital structure, general financial condition, ownership and management of the insurer, and any person controlling the insurer;

(2) The identity and relationship of every member of the insurance holding company system;

(3) The following agreements in force and transactions currently outstanding or which have occurred during the last calendar year between such insurer and its affiliates:

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(A) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) Purchases, sales, or exchanges of assets;

(C) Transactions not in the ordinary course of business;

(D) Guarantees or undertakings for the benefit of an affiliate which result in an 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;

(E) All management agreements, service contracts, and all cost-sharing arrangements;

(F) All reinsurance agreements;

(G) Dividends and other distributions to shareholders; and

(H) Consolidated tax allocation statements;

(4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(5) If requested by the commissioner, the insurer shall include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include, but are not limited to, annual audited financial statements filed with the U.S. Securities and Exchange Commission (SEC) pursuant to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended. An insurer required to file financial statements pursuant to this subdivision may satisfy the request by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the SEC;

(6) Other matters concerning transactions between registered insurers and any affiliates as may be included, from time to time, in any registration forms adopted or approved by the commissioner;

(7) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and

(8) Any other information required by the commissioner by rule.

(c) Summary of changes to registration statement. — All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

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(d) Materiality. — Information need not be disclosed on the registration statement filed pursuant to subsection (b) of this section if such information is not material for the purpose of this section. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one half of one percent or less of an insurer's admitted assets as of December 31 next preceding shall not be deemed material for purposes of this section. The definition of materiality provided in this subsection shall not apply for the purposes of the group capital calculation or the liquidity stress test framework.

(e) Reporting of dividends to shareholders. — Subject to §33-27-5(c) of this code, each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within 15 business days following the declaration thereof.

(f) Information to insurers. — Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, when such information is reasonably necessary to enable the insurer to comply with the provisions of this article.

(g) Termination of registration. — The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(h) Consolidated filing. — The commissioner may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(i) Alternative registration. — The commissioner may allow an insurer which is authorized to do business in this state and which is a part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under §33-27-4(a) of this code and to file all information and material required to be filed under this section.

(j) Exemptions. — The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the commissioner by rule or order shall exempt the same from the provisions of this section.

(k) Disclaimer. — Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or a disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming such affiliation. A disclaimer of affiliation shall be deemed to have been granted unless the commissioner, within 30 days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted, and the commissioner shall disallow such a disclaimer only after furnishing all parties in interest

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with notice and opportunity to be heard and after making specific findings of fact to support such disallowance. The disclaiming party shall be relieved of its duty to register under this section if approval of the disclaimer has been granted by the commissioner, or if the disclaimer is deemed to have been approved.

(l) Enterprise Risk Filings. —

(1) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.

(2) Group capital calculation. —

(A) Except as provided below, the ultimate controlling person of every insurer subject to registration shall concurrently file with the registration an annual group capital calculation as directed by the lead state commissioner. The report shall be completed in accordance with the NAIC group capital calculation instructions, which may permit the lead state commissioner to allow a controlling person that is not the ultimate controlling person to file the group capital calculation. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the commissioner in accordance with the procedures within the Financial Analysis Handbook adopted by the NAIC. The following insurance holding company systems are exempt from filing the group capital calculation:

(i) An insurance holding company system that has only one insurer within its holding company structure, that only writes business, and is only licensed in its domestic state, and assumes no business from any other insurer;

(ii) An insurance holding company system that is required to perform a group capital calculation specified by the United States Federal Reserve Board. The lead state commissioner shall request the calculation from the Federal Reserve Board under the terms of information sharing agreements in effect. If the Federal Reserve Board cannot share the calculation with the lead state commissioner, the insurance holding company system is not exempt from the group capital calculation filing;

(iii) An insurance holding company system whose non-United States group-wide supervisor is located within a reciprocal jurisdiction as described in §33-4-15a(b)(2)(F) of this code that recognizes the United States state regulatory approach to group supervision and group capital; and

(iv) An insurance holding company system:

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(I) That provides information to the lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program, either directly or indirectly through the group-wide supervisor, who has determined such information is satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the Financial Analysis Handbook adopted by the NAIC; and

(II) Whose non-United States group-wide supervisor that is not in a reciprocal jurisdiction recognizes and accepts, as specified by the commissioner in rule, the group capital calculation as the world-wide group capital assessment for United States insurance groups who operate in that jurisdiction.

(B) Notwithstanding the provisions of §33-27-4(l)(2)(A)(iii) and §33-27-4(l)(2)(A)(iv) of this code, a lead state commissioner shall require the group capital calculation for United States operations of any non-United States based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(C) Notwithstanding the exemptions from filing the group capital calculation stated in §33-27-4(l)(2)(A) of this code, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria as specified by the commissioner in rule or regulation.

(D) If the lead state commissioner determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this section, the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown.

(3) Liquidity stress test. —

(A) The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC liquidity stress test framework shall file the results of a specific year's liquidity stress test. The filing shall be made to the lead state insurance commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.

(i) The NAIC liquidity stress test framework includes scope criteria applicable to a specific data year. These scope criteria are reviewed at least annually by the NAIC Financial Stability Task Force or its successor. Any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January 1 of the year following the calendar year when such changes are adopted. Insurers meeting at least one threshold of the scope criteria are considered scoped into the NAIC liquidity stress test framework for the specified data year unless the lead state insurance commissioner, in

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consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should not be scoped into the framework for that data year. Similarly, insurers that do not trigger at least one threshold of the scope criteria are considered scoped out of the NAIC liquidity stress test framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should be scoped into the framework for that data year.

(I) Regulators wish to avoid having insurers scoped in and out of the NAIC liquidity stress test framework on a frequent basis. The lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, will assess this concern as part of the determination for an insurer.

(ii) The performance of, and filing of the results from, a specific year's liquidity stress test shall comply with the NAIC liquidity stress test framework's instructions and reporting templates for that year and any lead state insurance commissioner determinations, in consultation with the NAIC Financial Stability Task Force or its successor, provided within the framework.

(m) Violations. — The failure to file a registration statement, or any summary of the registration statement, or enterprise risk filing required by this section within the time specified for such filing shall be a violation of this section.

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