WEST VIRGINIA CODE: §33-8-23

§33-8-23. Same - General five percent diversification, medium and lower grade investments and Canadian investments.

(a) Except as otherwise specified in this article, an insurer may not acquire directly or indirectly through an investment subsidiary an investment under this article if, as a result of and after giving effect to the investment, the insurer would hold more than five percent of its admitted assets in investments of all kinds issued, assumed, accepted, insured or guaranteed by a single person.

(b) The five percent limitation set forth in subsection (a) of this section does not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.

(c) Asset-backed securities are not subject to the limitations of subsection (a) of this section, however an insurer may not acquire an asset-backed security if, as a result of and after giving effect to the investment, the aggregate amount of asset-backed securities secured by or evidencing an interest in a single asset or single pool of assets held by a trust or other business entity, then held by the insurer would exceed five percent of its admitted assets.

(d) An insurer may not acquire, directly or indirectly through an investment subsidiary, an investment under sections twenty-four, twenty-seven and thirty of this article or counterparty exposure under subsection (d), section thirty-one of this article if, as a result of and after giving effect to the investment:

(1) The aggregate amount of all medium and lower grade investments then held by the insurer would exceed twenty percent of its admitted assets;

(2) The aggregate amount of lower grade investments then held by the insurer would exceed ten percent of its admitted assets;

(3) The aggregate amount of investments rated 5 or 6 by the SVO then held by the insurer would exceed five percent of its admitted assets;

(4) The aggregate amount of investments rated 6 by the SVO then held by the insurer would exceed one percent of its admitted assets; or

(5) The aggregate amount of medium and lower grade investments then held by the insurer that receive as cash income less than the equivalent yield for treasury issues with a comparative average life, would exceed one percent of its admitted assets.

(e) An insurer may not acquire, directly or indirectly through an investment subsidiary, an investment under section twenty-four, twenty-seven or thirty of this article or counterparty exposure under subsection (d), section thirty-one of this article if, as a result of and after

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giving effect to the investment:

(1) The aggregate amount of medium and lower grade investments issued, assumed, guaranteed, accepted or insured by any one person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer would exceed one percent of its admitted assets; or

(2) The aggregate amount of lower grade investments issued, assumed, guaranteed, accepted or insured by any one person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, then held by the insurer would exceed one half of one percent of its admitted assets.

(f) If an insurer attains or exceeds the limit of any one rating category referred to in subsection (d) or (e) of this section, the insurer may not be precluded from acquiring investments in other rating categories subject to the specific and multicategory limits applicable to those investments.

(g) An insurer may not acquire, directly or indirectly through an investment subsidiary, any Canadian investments authorized by this article, if as a result of and after giving effect to the investment, the aggregate amount of these investments then held by the insurer would exceed forty percent of its admitted assets, or if the aggregate amount of Canadian investments not acquired under subsection (b), section twenty-four of this article then held by the insurer would exceed twenty-five percent of its admitted assets. However, as to an insurer that is authorized to do business in Canada or that has outstanding insurance, annuity or reinsurance contracts on lives or risks resident or located in Canada and denominated in Canadian currency, the limitations of this subsection shall be increased by the greater of:

(1) The amount the insurer is required by Canadian law to invest in Canada or to be denominated in Canadian currency; or

(2) One hundred twenty-five percent of the amount of its reserves and other obligations under contracts on risks resident or located in Canada.

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