WEST VIRGINIA CODE: §33-8-3

§33-8-3. General investment qualifications.

(a) Insurers shall acquire, hold or invest in investments or engage in investment practices as set forth in this article. Investments not conforming to this article will not be admitted assets.

(b) Subject to subsection (c) of this section, an insurer may not acquire or hold an investment as an admitted asset unless at the time of acquisition it is:

(1) Eligible for the payment or accrual of interest or discount (whether in cash or other securities), eligible to receive dividends or other distributions or is otherwise income producing; or

(2) Acquired under subsection (c), section fifteen of this article; sections sixteen, eighteen or twenty of this article; subsection (c), section twenty-eight of this article; sections twenty-nine, thirty-one or thirty-two of this article; or under the authority of sections of the code other than this article.

(c) An insurer may acquire or hold as admitted assets investments that do not otherwise qualify as provided in this article if the insurer has not acquired them for the purpose of circumventing any limitations contained in this article, if the insurer acquires the investments in the following circumstances and the insurer complies with the provisions of sections five and seven of this article as to the investments:

(1) As payment on account of existing indebtedness or in connection with the refinancing, restructuring or workout of existing indebtedness, if taken to protect the insurer's interest in that investment;

(2) As realization on collateral for an obligation;

(3) In connection with an otherwise qualified investment or investment practice, as interest on or a dividend or other distribution related to the investment or investment practice or in connection with the refinancing of the investment, in each case for no additional or only nominal consideration;

(4) Under a lawful and bona fide agreement of recapitalization or voluntary or involuntary reorganization in connection with an investment held by the insurer; or

(5) Under a bulk reinsurance, merger or consolidation transaction approved by the commissioner if the assets constitute admissible investments for the ceding, merged or consolidated companies.

(d) An investment or portion of an investment acquired by an insurer under subsection (c) of

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this section shall become a nonadmitted asset three years (or five years in the case of mortgage loans and real estate) from the date of its acquisition, unless within that period the investment has become a qualified investment under a section of this article other than subsection (c) of this section, but an investment acquired under an agreement of bulk reinsurance, merger or consolidation may be qualified for a longer period if so provided in the plan for reinsurance, merger or consolidation as approved by the commissioner. Upon application by the insurer and a showing that the nonadmission of an asset held under said subsection would materially injure the interests of the insurer, the commissioner may extend the period for admissibility for an additional reasonable period of time.

(e) Except as provided in subsections (f) and (h) of this section, an investment shall qualify under this article if, on the date the insurer committed to acquire the investment or on the date of its acquisition, it would have qualified under this article. For the purposes of determining limitations contained in this article, an insurer shall give appropriate recognition to any commitments to acquire investments.

(f) Investments held and investment transactions entered into before the effective date of this article are valid as follows:

(1) An investment held as an admitted asset by an insurer on the effective date of this article which qualified under applicable law in effect before the effective date remains qualified as an admitted asset under this article; and

(2) Each specific transaction constituting an investment practice of the type described in this article that was lawfully entered into by an insurer and was in effect on the effective date of this article continues to be permitted under this article until its expiration or termination under its terms;

(g) Unless otherwise specified, an investment limitation computed on the basis of an insurer's admitted assets or capital and surplus relates to the amount required to be shown on the statutory balance sheet of the insurer most recently required to be filed with the commissioner. For purposes of computing any limitation based upon admitted assets, the insurer shall deduct from the amount of its admitted assets the amount of the liability recorded on its statutory balance sheet for:

(1) The return of acceptable collateral received in a reverse repurchase transaction or a securities lending transaction;

(2) Cash received in a dollar roll transaction; and

(3) The amount reported as borrowed money in the most recently filed financial statement to the extent not included in subdivisions (1) and (2) of this subsection.

(h) An investment qualified, in whole or in part, for acquisition or holding as an admitted asset may be qualified or requalified at the time of acquisition or a later date, in whole or in

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part, under any other section, if the relevant conditions contained in the other section are satisfied at the time of qualification or requalification.

(i) An insurer shall maintain documentation demonstrating that investments were acquired in accordance with this article, and specifying the section of this article under which they were acquired.

(j) An insurer may not enter into an agreement to purchase securities in advance of their issuance for resale to the public as part of a distribution of the securities by the issuer or otherwise guarantee the distribution, except that an insurer may acquire privately placed securities with registration rights.

(k) Notwithstanding the provisions of this article, the commissioner, for good cause, may order under the state's administrative procedures or equivalent, an insurer to nonadmit, limit, dispose of, withdraw from or discontinue an investment or investment practice. The authority of the commissioner under this subsection is in addition to any other authority of the commissioner.

(l) Insurance futures and insurance futures options are not considered investments or investment practices for purposes of this article.

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