

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 71

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO ACQUISITIONS OF CONTROL AND INSURANCE HOLDING COMPANY SYSTEMS;
2 AMENDING SECTION 41-3802, IDAHO CODE, TO DEFINE TERMS AND TO REVISE A
3 DEFINITION; AMENDING SECTION 41-3809, IDAHO CODE, TO ESTABLISH PROVI-
4 SIONS REGARDING GROUP CAPITAL CALCULATION, TO PROVIDE FOR A LIQUIDITY
5 STRESS TEST, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING CHAPTER 38,
6 TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-3809A, IDAHO
7 CODE, TO ESTABLISH PROVISIONS REGARDING GROUP CAPITAL CALCULATION RE-
8 PORTING; AMENDING SECTION 41-3810, IDAHO CODE, TO REVISE A PROVISION
9 REGARDING STANDARDS OF AN INSURER WITHIN AN INSURANCE HOLDING COMPANY
10 SYSTEM, TO PROVIDE FOR CERTAIN STANDARDS OF AN INSURER WITHIN AN INSUR-
11 ANCE HOLDING COMPANY SYSTEM, TO PROVIDE FOR CERTAIN AFFILIATE AGREE-
12 MENTS, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3816,
13 IDAHO CODE, TO REVISE PROVISIONS REGARDING CONFIDENTIAL TREATMENT, TO
14 ESTABLISH PROVISIONS REGARDING CONFIDENTIAL TREATMENT, AND TO MAKE
15 TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Section 41-3802, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 41-3802. DEFINITIONS. As used in this chapter, the following terms
21 shall have the following meanings:

22 (1) "Affiliate" of, or a person "affiliated" with, a specific person,
23 means a person who directly or indirectly through one (1) or more intermedi-
24 aries controls or is controlled by, or is under common control with, the per-
25 son specified.

26 (2) "Control," including "controlling," "controlled by" and "under
27 common control with," means the possession, direct or indirect, of the power
28 to direct or cause the direction of the management and policies of a person,
29 whether through the ownership of voting securities, by contract other than
30 a commercial contract for goods or nonmanagement services, or otherwise,
31 unless the power is the result of an official position with or a corporate
32 office held by the person. Control shall be presumed to exist if any person,
33 directly or indirectly, owns, controls, holds with the power to vote or holds
34 proxies representing ten percent (10%) or more of the voting securities of
35 any other person. This presumption may be rebutted by a showing made in the
36 manner provided in section 41-3809(11), Idaho Code, that control does not
37 exist in fact. The director may determine, after furnishing all persons in
38 interest notice and opportunity to be heard and making specific findings of
39 fact to support the determination, that control exists in fact, notwith-
40 standing the absence of a presumption to that effect.

41 (3) "Enterprise risk" means any activity, circumstance, event or se-
42 ries of events involving one (1) or more affiliates of an insurer that, if

1 not remedied promptly, is likely to have a material adverse effect ~~upon~~ on
 2 the financial condition or liquidity of the insurer or its insurance holding
 3 company system as a whole, ~~including,~~ but not limited to, ~~anything~~ that would
 4 cause the insurer's risk-based capital to fall into company action level as
 5 set forth in section 41-5403, Idaho Code, or would cause the insurer to be in
 6 hazardous financial condition as set forth by rule ~~in IDAPA 18.01.66.~~

7 (4) "Group capital calculation instructions" means the group capital
 8 calculation instructions as adopted and amended by the national association
 9 of insurance commissioners (NAIC) effective January 1, 2024, or any subse-
 10 quent version adopted for use by the director by rule, administrative order,
 11 or bulletin, provided that no such instructions shall contradict any section
 12 of this chapter.

13 ~~(4)~~ (5) "Group-wide supervisor" means the regulatory official au-
 14 thorized to engage in conducting and coordinating group-wide supervision
 15 activities who is determined or acknowledged by the director under section
 16 41-3815A, Idaho Code, to have sufficient significant contacts with the in-
 17 ternationally active insurance group.

18 ~~(5)~~ (6) "Insurance holding company system" means two (2) or more affil-
 19 iated persons, one (1) or more of whom is an insurer.

20 ~~(6)~~ (7) "Insurer" has the same meaning as that set forth in section
 21 41-103, Idaho Code, except that it shall not include agencies, authorities
 22 or instrumentalities of the United States, its possessions and territories,
 23 the Commonwealth of Puerto Rico, the District of Columbia or a state or po-
 24 litical subdivision of a state.

25 ~~(7)~~ (8) "Internationally active insurance group" means an insurance
 26 holding company system that:

27 (a) Includes an insurer registered under section 41-3809, Idaho Code;
 28 and

29 (b) Meets the following criteria:

30 (i) Premiums written in at least three (3) countries;

31 (ii) The percentage of gross premiums written outside the United
 32 States is at least ten percent (10%) of the insurance holding com-
 33 pany system's total gross written premiums; and

34 (iii) Based on a three (3) year rolling average, the total assets
 35 of the insurance holding company system are at least fifty billion
 36 dollars (\$50,000,000,000) or the total gross written premiums of
 37 the insurance holding company system are at least ten billion dol-
 38 lars (\$10,000,000,000).

39 (9) "NAIC liquidity stress test framework" means the NAIC publication
 40 as adopted and amended by the NAIC effective December 13, 2022, or any subse-
 41 quent version adopted for use by the director by rule, administrative order,
 42 or bulletin. The term includes a history of the development of regulatory
 43 liquidity stress testing, the scope criteria applicable for a specific data
 44 year, and the liquidity stress test instructions and reporting templates for
 45 a specific data year.

46 ~~(8)~~ (10) "Person" means an individual, a corporation, a limited li-
 47 ability company, a partnership, an association, a joint stock company, a
 48 business trust, an unincorporated organization, or any similar entity or any
 49 combination of the foregoing acting in concert, but shall not include any

1 joint venture partnership exclusively engaged in owning, managing, leasing
2 or developing real or tangible personal property.

3 (11) "Scope criteria" means the designated exposure bases along with
4 minimum magnitudes thereof for the specified data year used to establish a
5 preliminary list of insurers that are considered scoped into the NAIC liq-
6 uidity stress test framework for that data year.

7 ~~(9)~~ (12) "Security holder" means a person who owns any security of a
8 specified person, including common stock, preferred stock, debt obligations
9 and any other security convertible into or evidencing the right to acquire
10 any of the foregoing.

11 ~~(10)~~ (13) "Subsidiary" means a specified person who is an affiliate con-
12 trolled by such person directly or indirectly through one (1) or more inter-
13 mediaries.

14 ~~(11)~~ (14) "Voting security" means any security convertible into or evi-
15 dencing a right to acquire a voting security.

16 SECTION 2. That Section 41-3809, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 41-3809. REGISTRATION OF HOLDING COMPANY SYSTEM INSURERS.

19 (1) (a) Every insurer authorized to do business in this state and that
20 is a member of an insurance holding company system shall register
21 with the director, except a foreign insurer subject to registration
22 requirements and standards adopted by statute or regulation in the ju-
23 risdiction of its domicile, which are substantially similar to those
24 contained in this section and in:

25 ~~(a)~~ (i) Sections 41-3810 (1), 41-3811 and 41-3812, Idaho Code; and

26 ~~(b)~~ (ii) The provisions of section 41-3810 (2), Idaho Code, or a
27 provision such as the following: ~~Each~~ each registered insurer
28 shall keep current the information required to be disclosed in its
29 registration statement by reporting all material changes or addi-
30 tions within fifteen (15) days after the end of the month in which
31 it learns of each change or addition.

32 (b) Any insurer that is subject to registration under this section
33 shall register within fifteen (15) days after it becomes subject to
34 registration, and annually thereafter for the year ending December 31
35 immediately preceding, on the due date provided for filing of audited
36 financial reports, or, if the insurer is not subject to filing of au-
37 dited financial reports, on June 1, unless the director, for good cause
38 shown, extends the time for registration, and then within the extended
39 time. The director may require any insurer authorized to do business in
40 the state that is a member of an insurance holding company system, ~~and~~
41 ~~which that~~ is not subject to registration under this section, ~~to~~
42 a copy of the registration statement, the summary specified in subsec-
43 tion (3) of this section or other information filed by the insurance
44 company with the insurance regulatory authority of its domiciliary ju-
45 risdiction. Upon request of the insurer or of the insurance regulatory
46 authority of another jurisdiction in which the insurer is authorized to
47 transact insurance, the director at the insurer's expense shall furnish
48 a copy of the registration statement or other information filed by a
49 domestic insurer with the director pursuant to this chapter.

1 (2) Every insurer subject to registration under this chapter shall file
2 the registration statement with the director on a form and in a manner pre-
3 scribed by the director. The registration statement shall contain the fol-
4 lowing current information:

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

7 (b) The identity and relationship of every member of the insurance
8 holding company system;

9 (c) The following agreements in force and transactions currently out-
10 standing or that have occurred during the last calendar year between the
11 insurer and its affiliates:

12 (i) Loans, other investments or purchases, sales or exchanges of
13 securities of the affiliates by the insurer or of the insurer by
14 its affiliates;

15 (ii) Purchases, sales or exchange of assets;

16 (iii) Transactions not in the ordinary course of business;

17 (iv) Guarantees or undertakings for the benefit of an affiliate
18 that result in an actual contingent exposure of the insurer's as-
19 sets to liability, other than insurance contracts entered into in
20 the ordinary course of the insurer's business;

21 (v) All management agreements, service contracts and all cost-
22 sharing arrangements;

23 (vi) Reinsurance agreements;

24 (vii) Dividends and other distributions to shareholders; and

25 (viii) Consolidated tax allocation agreements.

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

29 (e) If requested by the director, the insurer shall provide to the di-
30 rector financial statements of or within an insurance holding company
31 system, including all affiliates. Financial statements may include,
32 but are not limited to, annual audited financial statements filed
33 with the U.S. United States securities and exchange commission (SEC)
34 pursuant to the securities act of 1933, as amended, or the securities
35 exchange act of 1934, as amended. An insurer required to file finan-
36 cial statements pursuant to this section may satisfy the request by
37 providing the director with the most recently filed parent corporation
38 financial statements that have been filed with the SEC;

39 (f) Other matters concerning transactions between registered insurers
40 and any affiliates as may be included from time to time in any registra-
41 tion forms adopted or approved by the director;

42 (g) Certification that the insurer's board of directors is responsible
43 for and oversees corporate governance and internal controls and that
44 the insurer's officers or senior management have approved, implemented
45 and continue to maintain and monitor corporate governance and internal
46 control procedures; and

47 (h) Any other information required by the director by statute or rule.

48 (3) All registration statements shall contain a summary outlining all
49 items constituting changes from the prior registration statement.

1 (4) No information need be disclosed on the registration statement
2 filed pursuant to subsection (2) of this section if the information is not
3 material for the purposes of this section. Unless the director by rule or or-
4 der provides otherwise, sales, purchases, exchanges, loans or extensions of
5 credit, investments or guarantees involving one-half of one percent (.5%) or
6 less of an insurer's admitted assets as of the December 31 of the year immedi-
7 ately preceding shall not be deemed material for purposes of this chapter.

8 (5) Subject to section 41-3810, Idaho Code, each registered insurer
9 shall report to the director all dividends and other distributions to
10 shareholders within fifteen (15) business days following the declaration
11 thereof.

12 (6) Any person within an insurance holding company system subject to
13 registration shall be required to provide complete and accurate information
14 to an insurer, where the information is reasonably necessary to enable the
15 insurer to comply with the provisions of this chapter.

16 (7) The director shall terminate the registration of any insurer that
17 demonstrates that it no longer is a member of an insurance holding company
18 system.

19 (8) The director may require or allow two (2) or more affiliated insur-
20 ers subject to registration to file a consolidated registration statement.

21 (9) The director may allow any insurer that is authorized to do business
22 in this state and that is part of an insurance holding company system, to reg-
23 ister on behalf of any affiliated insurer that is required to register under
24 subsection (1) of this section and to comply with all filing requirements un-
25 der this chapter.

26 (10) The provisions of this section shall not apply to any insurer, in-
27 formation or transaction if and to the extent that the director by rule or or-
28 der shall exempt the same from the provisions of this section. In consider-
29 ing whether to issue an exemption, the director may consider the following:

30 (a) The size of the insurer and all affiliates;

31 (b) The structure of ownership within the insurance holding company
32 system;

33 (c) The nature and amounts of transactions within the insurance holding
34 company system;

35 (d) The nature and complexity of the business of the insurer and affili-
36 ates; and

37 (e) Any other factors the director deems appropriate.

38 Prior to issuing an exemption, the director shall notify all other insurance
39 regulators where the insurer or its affiliates hold a certificate of author-
40 ity.

41 (11) Any person may file with the director a disclaimer of affiliation
42 with any authorized insurer, or such a disclaimer may be filed by the insurer
43 or any member of an insurance holding company system. The disclaimer shall
44 fully disclose all material relationships and bases for affiliation between
45 the person and the insurer as well as the basis for disclaiming the affil-
46 iation. A disclaimer of affiliation shall be deemed to have been granted
47 unless the director, within thirty (30) days following receipt of a complete
48 disclaimer, notifies the filing party that the disclaimer is disallowed.
49 In the event of disallowance, the disclaiming party may request an admin-
50 istrative hearing pursuant to chapter 2, title 41, Idaho Code, which shall

1 be granted. The disclaiming party shall be relieved of its duty to register
 2 under this section if approval of the disclaimer has been granted by the di-
 3 rector, or if the disclaimer is deemed to have been approved.

4 (12) The ultimate controlling person of every insurer subject to regis-
 5 tration shall also file an annual enterprise risk report. The report shall,
 6 to the best of the ultimate controlling person's knowledge and belief, iden-
 7 tify the material risks within the insurance holding company system that
 8 could pose enterprise risk to the insurer. The report shall be filed with the
 9 lead state director of the insurance holding company system as determined
 10 by the procedures within the financial analysis handbook adopted by the na-
 11 tional association of insurance commissioners (NAIC).

12 (13) (a) Except as provided in this subsection, the ultimate control-
 13 ling person of every insurer subject to registration shall concurrently
 14 file with the registration an annual group capital calculation in ac-
 15 cordance with the NAIC group capital calculation instructions. The
 16 lead state director may allow a controlling person that is not the ul-
 17 timite controlling person to file the group capital calculation. The
 18 following insurance holding company systems shall be exempt from filing
 19 the group capital calculation:

20 (i) An insurance holding company system that has only one (1) in-
 21 surer within its holding company structure, that only writes busi-
 22 ness in its domestic state, and that assumes no business from any
 23 other insurer;

24 (ii) An insurance holding company system that is required to per-
 25 form a group capital calculation specified by the United States
 26 federal reserve board. If the calculation from the federal re-
 27 serve board under the terms of information sharing agreements can-
 28 not be shared with the lead state director, the insurance holding
 29 company system is not exempt from the group capital calculation
 30 filing;

31 (iii) An insurance holding company system whose non-United States
 32 group-wide supervisor is located within a reciprocal jurisdiction
 33 as described in section 41-515(2) (f) (i)1., Idaho Code, that rec-
 34 ognizes the United States state regulatory approach to group su-
 35 pervision and group capital; and

36 (iv) An insurance holding company system:

37 1. That provides information to the lead state that meets
 38 the requirements for accreditation under the NAIC financial
 39 standards and accreditation program, either directly or
 40 indirectly through the group-wide supervisor, who has de-
 41 termined such information is satisfactory to allow the lead
 42 state to comply with the provisions of section 41-3815A,
 43 Idaho Code; and

44 2. Whose non-United States group-wide supervisor that is
 45 not in a reciprocal jurisdiction recognizes and accepts, as
 46 specified by the director in regulation, the group capital
 47 calculation as the worldwide group capital assessment for
 48 United States insurance groups who operate in that jurisdic-
 49 tion.

1 (b) The exemptions described in paragraphs (a) (iii) and (iv) of this
 2 subsection shall not prevent the lead state director from requiring
 3 the group capital calculation for United States operations of any
 4 non-United States-based insurance holding company system when it is
 5 deemed appropriate for prudential oversight and solvency monitoring
 6 purposes or for ensuring the competitiveness of the insurance market-
 7 place.

8 (c) The lead state director may exempt the ultimate controlling per-
 9 son from filing the annual group capital calculation or accept a limited
 10 group capital filing as specified by the lead state director.

11 (d) If an insurance holding company system no longer meets the require-
 12 ments for an exemption, the insurance holding company system shall file
 13 the group capital calculation at the next annual filing date unless the
 14 lead state director grants an extension.

15 (14) The ultimate controlling person of every insurer subject to reg-
 16 istration who is also scoped into the NAIC liquidity stress test framework
 17 shall file the results of a specific year's liquidity stress test. The fil-
 18 ing shall be made to the lead state director of the insurance holding company
 19 system.

20 (a) The NAIC liquidity stress test framework shall include scope cri-
 21 teria applicable to a specific data year. Insurers meeting at least one
 22 (1) threshold of the scope criteria shall be considered scoped into the
 23 NAIC liquidity stress test framework for the specified data year unless
 24 the lead state director determines the insurer should not be scoped into
 25 the framework for that data year.

26 (b) The performance of, and filing of the results from, a specific
 27 year's liquidity stress test shall comply with the instructions and
 28 templates of the NAIC liquidity stress test framework.

29 ~~(13)~~ (15) The failure to file a registration statement or any summary of
 30 the registration statement or enterprise risk filing required in this sec-
 31 tion within the time specified for filing shall be a violation of the provi-
 32 sions of this section.

33 SECTION 3. That Chapter 38, Title 41, Idaho Code, be, and the same is
 34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 35 ignated as Section 41-3809A, Idaho Code, and to read as follows:

36 41-3809A. GROUP CAPITAL CALCULATION REPORTING. (1) If an insurance
 37 holding company system under section 41-3809(13), Idaho Code, has previ-
 38 ously filed the annual group capital calculation at least once, the lead
 39 state director may exempt the ultimate controlling person from filing the
 40 annual group capital calculation if:

41 (a) Annual direct written and unaffiliated assumed premiums, includ-
 42 ing international direct and assumed premiums but excluding premiums
 43 reinsured with the federal crop insurance corporation and federal flood
 44 program, are less than one billion dollars (\$1,000,000,000);

45 (b) No insurers within the holding company structure are domiciled out-
 46 side of the United States or one (1) of its territories;

47 (c) No banking, depository, or other financial entity that is subject
 48 to an identified regulatory capital framework is within the holding
 49 company structure;

1 (d) The holding company system attests that there are no material
2 changes in the transactions between insurers and non-insurers in the
3 group that have occurred since the last filing of the annual group capi-
4 tal calculation; and

5 (e) The non-insurers within the holding company system do not pose a
6 material financial risk to the insurer's ability to honor policyholder
7 obligations.

8 (2) If an insurance holding company system has previously filed the
9 annual group capital calculation, the lead state director may accept, in
10 lieu of the group capital calculation, a limited group capital filing if the
11 insurance holding company system has annual direct written and unaffiliated
12 assumed premiums, including international direct and assumed premiums but
13 excluding premiums reinsured with the federal crop insurance corporation
14 and federal flood program, of less than one billion dollars (\$1,000,000,000)
15 and:

16 (a) No insurers within the holding company structure are domiciled out-
17 side of the United States or one (1) of its territories;

18 (b) No banking, depository, or other financial entity that is subject
19 to an identified regulatory capital framework is included; and

20 (c) The holding company system attests that there are no material
21 changes in transactions between insurers and non-insurers in the group
22 that have occurred since the last filing of the report and the non-in-
23 surers within the holding company system do not pose a material finan-
24 cial risk to the insurer's ability to honor policyholder obligations.

25 (3) No exemption under this section may prevent the lead state director
26 from requiring the ultimate controlling person to file an annual group capi-
27 tal calculation, at any time, if:

28 (a) Any insurer within the insurance holding company system is in a
29 risk-based capital action level event as set forth in chapter 54, title
30 41, Idaho Code, or a similar standard for a non-United States insurer;

31 (b) Any insurer within the insurance holding company system meets one
32 (1) or more of the standards of an insurer deemed to be in hazardous fi-
33 nancial condition as set forth in rule; or

34 (c) Any insurer within the insurance holding company system otherwise
35 exhibits qualities deemed hazardous to the insurance buying public
36 based on unique circumstances, including but not limited to the type and
37 volume of business written, ownership and organizational structure,
38 federal agency requests, and international supervisor requests.

39 (4) A non-United States jurisdiction is considered to recognize and ac-
40 cept the group capital calculation when:

41 (a) With respect to section 41-3809(13), Idaho Code:

42 (i) The non-United States jurisdiction recognizes the United
43 States state regulatory approach to group supervision and group
44 capital by providing confirmation that insurers and insurance
45 groups whose lead state is accredited by the NAIC under the NAIC
46 accreditation program shall be subject only to worldwide pru-
47 dential insurance group supervision, including worldwide group
48 governance, solvency and capital, and reporting, as applicable,
49 by the lead state; or

1 (ii) There are no United States insurance groups operating in a
2 non-United States jurisdiction and such non-United States juris-
3 diction indicates formally in writing to the lead state, with a
4 copy forwarded to the international association of insurance su-
5 pervisors, that the group capital calculation is an acceptable in-
6 ternational capital standard; and

7 (b) The non-United States jurisdiction provides confirmation that
8 information regarding insurers and their parents, subsidiaries, or af-
9 filiated entities, if applicable, shall be provided to the lead state
10 in accordance with a memorandum of understanding or similar document
11 between the director and such jurisdiction, including but not limited
12 to the international association of insurance supervisors multilateral
13 memorandum of understanding or other multilateral memoranda of under-
14 standing.

15 (5) (a) The list of jurisdictions that recognize and accept the group
16 capital calculation, an NAIC publication adopted and amended by the
17 NAIC effective August 13, 2022, or any subsequent version adopted for
18 use by the director by rule, administrative order, or bulletin, shall be
19 the list of non-United States jurisdictions that recognize and accept
20 the group capital calculation.

21 (b) The list shall assist the lead state director in determining which
22 insurers shall file an annual group capital calculation. The list
23 shall clarify those situations in which a jurisdiction is exempted from
24 filing pursuant to section 41-3809(13) (a) (iv), Idaho Code. To assist
25 with a determination under section 41-3809(13) (b), Idaho Code, the list
26 shall also identify whether a jurisdiction that is exempted pursuant to
27 section 41-3809(13) (a) (iii) or (iv), Idaho Code, requires a group capi-
28 tal filing for any United States-based insurance group's operations in
29 such non-United States jurisdiction.

30 (c) If a non-United States jurisdiction no longer meets the require-
31 ments to recognize and accept the group capital calculation, the direc-
32 tor may exclude the jurisdiction from the list of jurisdictions that
33 recognize and accept the group capital calculation.

34 SECTION 4. That Section 41-3810, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 41-3810. STANDARDS AND MANAGEMENT OF AN INSURER WITHIN AN INSURANCE
37 HOLDING COMPANY SYSTEM. (1) Transactions within an insurance holding com-
38 pany system to which an insurer subject to registration is a party shall be
39 subject to the following standards:

40 (a) The terms shall be fair and reasonable;

41 (b) Agreements for cost-sharing services and management shall include
42 such provisions as required by this chapter or rule promulgated by the
43 director;

44 (c) Charges or fees for services performed shall be reasonable;

45 (d) Expenses incurred and payment received shall be allocated to the
46 insurer in conformity with customary insurance accounting practices
47 consistently applied;

48 (e) The books, accounts and records of each party to all such transac-
49 tions shall be so maintained as to clearly and accurately disclose the

1 precise nature and details of the transactions, including such account-
2 ing information as is necessary to support the reasonableness of the
3 charges or fees to the respective parties; and

4 (f) The insurer's surplus regarding policyholders following any divi-
5 dends or distributions to shareholder affiliates shall be reasonable in
6 relation to the insurer's outstanding liabilities and adequate to meet
7 its financial needs;

8 (g) All records and data of the insurer held by an affiliate shall be
9 and shall remain the property of the insurer, shall be subject to con-
10 trol of the insurer, shall be identifiable, and shall be segregated or
11 readily capable of segregation, at no additional cost to the insurer,
12 from all other persons' records and data. This includes all records
13 and data that are otherwise the property of the insurer, in whatever
14 form maintained, including but not limited to claims and claim files,
15 policyholder lists, application files, litigation files, premium
16 records, rate books, underwriting manuals, personnel records, finan-
17 cial records, or similar records within the possession, custody, or
18 control of the affiliate. At the request of the insurer, the affiliate
19 shall provide access to such records and data such that the director
20 can: obtain a complete set of all records of any type that pertain to the
21 insurer's business; obtain access to the operating systems on which the
22 data is maintained; obtain the software that runs those systems either
23 through assumption of licensing agreements or otherwise; and restrict
24 the use of the data by the affiliate if it is not operating the insurer's
25 business. The affiliate shall provide a waiver of any landlord lien or
26 other encumbrance to give the insurer access to all records and data in
27 the event of the affiliate's default under a lease or other agreement;
28 and

29 (h) Premiums or other funds belonging to the insurer that are collected
30 by or held by an affiliate shall be the exclusive property of the insurer
31 and shall be subject to the control of the insurer. Any right of offset
32 in the event an insurer is placed into receivership shall be subject to
33 the provisions of chapter 33, title 41, Idaho Code.

34 (2) The following transactions involving a domestic insurer and any
35 person in its insurance holding company system, including amendments or
36 modifications of affiliate agreements previously filed pursuant to this
37 section, that are subject to any materiality standards contained in para-
38 graphs (a) through (g) of this subsection, may not be entered into unless
39 the insurer has notified the director in writing of its intention to enter
40 into the transaction at least thirty (30) days prior thereto, or such shorter
41 period as the director may permit, and the director has not disapproved it
42 within that period. The notice for amendments or modifications shall in-
43 clude the reasons for the change and the financial impact on the domestic
44 insurer. Informal notice shall be reported to the director within thirty
45 (30) days after the termination of a previously filed agreement, for deter-
46 mination of the type of filing required, if any.

47 (a) Sales, purchases, exchanges, loans, extensions of credit, guaran-
48 tees or investments, provided the transactions are equal to or exceed:

49 (i) With respect to non-life insurers, the lesser of three per-
50 cent (3%) of the insurer's admitted assets or twenty-five percent

- 1 (25%) of surplus regarding policyholders as of December 31 of the
2 year immediately preceding;
- 3 (ii) With respect to life insurers, three percent (3%) of the in-
4 surer's admitted assets as of December 31 of the year immediately
5 preceding;
- 6 (b) Loans or extensions of credit to any person who is not an affiliate,
7 where the insurer makes loans or extensions of credit with the agree-
8 ment or understanding that the proceeds of the transactions, in whole
9 or in substantial part, are to be used to make loans or extensions of
10 credit to, to purchase assets of, or to make investments in, any affil-
11 iate of the insurer making the loans or extensions of credit, provided
12 the transactions are equal to or exceed:
- 13 (i) With respect to non-life insurers, the lesser of three per-
14 cent (3%) of the insurer's admitted assets or twenty-five percent
15 (25%) of surplus regarding policyholders as of December 31 of the
16 year immediately preceding;
- 17 (ii) With respect to life insurers, three percent (3%) of the in-
18 surer's admitted assets as of December 31 of the year immediately
19 preceding;
- 20 (c) Reinsurance agreements or modifications thereto, including:
- 21 (i) All reinsurance pooling agreements;
- 22 (ii) Agreements in which the reinsurance premium or a change in
23 the insurer's liabilities, or the projected reinsurance premium
24 or a change in the insurer's liabilities, in any of the next three
25 (3) years, equals or exceeds five percent (5%) of the insurer's
26 surplus regarding policyholders, as of December 31 of the year
27 immediately preceding, including those agreements ~~which~~ that may
28 require as consideration the transfer of assets from an insurer to
29 a nonaffiliate, if an agreement or understanding exists between
30 the insurer and the nonaffiliate that any portion of the assets
31 will be transferred to one (1) or more affiliates of the insurer;
- 32 (d) All management agreements, service contracts, tax allocation
33 agreements, guarantees and ~~all~~ cost-sharing arrangements;
- 34 (e) Guarantees when made by a domestic insurer, provided however, that
35 a guarantee that is quantifiable as to amount is not subject to the
36 notice requirement of this section, unless it exceeds the lesser of
37 one-half of one percent (.5%) of the insurer's admitted assets or ten
38 percent (10%) of surplus regarding policyholders as of December 31 of
39 the year immediately preceding. Further, all guarantees that are not
40 quantifiable as to amount are subject to the notice requirements of this
41 section;
- 42 (f) Direct or indirect acquisitions or investments in a person that
43 controls the insurer or in an affiliate of the insurer in an amount
44 that, together with the insurer's present holdings in such invest-
45 ments, exceeds two and one-half percent (2.5%) of the insurer's surplus
46 to policyholders. Direct or indirect acquisitions or investments in
47 subsidiaries acquired pursuant to section 41-3803, Idaho Code, or au-
48 thorized under any other section of this chapter, or in nonsubsidiary
49 insurance affiliates that are subject to the provisions of this chap-
50 ter, are exempt from this requirement; and

1 (g) Any material transactions, specified by statute or rule, that the
2 director determines may adversely affect the interests of the insurer's
3 policyholders.

4 (3) Nothing in this section shall be deemed to authorize or permit any
5 transactions that, in the case of an insurer not a member of the same insur-
6 ance holding company system, would be otherwise contrary to law.

7 ~~(3)~~ (4) A domestic insurer may not enter into transactions that are part
8 of a plan or series of like transactions with persons within the insurance
9 holding company system if the purpose of those separate transactions is to
10 avoid the statutory threshold amount and thus avoid the review that would oc-
11 cur otherwise. If the director determines that separate transactions were
12 entered into over any twelve (12) month period for that purpose, the director
13 may exercise his authority pursuant to section 41-3819, Idaho Code.

14 ~~(4)~~ (5) The director, in reviewing transactions pursuant to subsection
15 (2) of this section, shall consider whether the transactions comply with the
16 standards set forth in subsection (1) of this section and whether they may
17 adversely affect the interests of policyholders.

18 ~~(5)~~ (6) The director shall be notified within thirty (30) days of any
19 investment of the domestic insurer in any one (1) corporation, if the total
20 investment in the corporation by the insurance holding company system ex-
21 ceeds ten percent (10%) of the corporation's voting securities.

22 (7) (a) Any affiliate to an agreement or contract with a domestic in-
23 surer that is subject to the provisions of subsection (2) (d) of this
24 section shall be subject to the jurisdiction of any supervision,
25 seizure, conservatorship, or receivership proceedings against the
26 insurer and to the authority of any supervisor, conservator, rehabili-
27 tator, or liquidator for the insurer appointed pursuant to chapter 33,
28 title 41, Idaho Code, for the purpose of interpreting, enforcing, and
29 overseeing the affiliate's obligations under the agreement or contract
30 to perform services for the insurer that:

31 (i) Are an integral part of the insurer's operations, including
32 but not limited to management, administration, accounting, data
33 processing, marketing, underwriting, claims handling, invest-
34 ment, or any other similar functions; or

35 (ii) Are essential to the insurer's ability to fulfill its obliga-
36 tions under insurance policies.

37 (b) The director may require that an agreement or contract pursuant
38 to subsection (2) (d) of this section for the provision of services de-
39 scribed in paragraph (a) of this subsection specify that the affiliate
40 consents to the jurisdiction as set forth in this section.

41 SECTION 5. That Section 41-3816, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 41-3816. CONFIDENTIAL TREATMENT. (1) Documents, materials or other
44 information in the possession or control of the department that are obtained
45 by or disclosed to the director or any other person in the course of an exam-
46 ination or investigation made pursuant to section 41-3814, Idaho Code, and
47 all information reported or provided to the department pursuant to sections
48 41-3804(2), 41-3809, 41-3810, and 41-3815A, Idaho Code, shall be confiden-
49 tial by law and privileged, shall be exempt from public disclosure, shall not

1 be subject to subpoena and shall not be subject to discovery or admissible in
2 evidence in any private civil action. However, the director is authorized
3 to use such documents, materials or other information in the furtherance of
4 any regulatory or legal action brought as a part of the director's official
5 duties. The director shall not otherwise make the documents, materials or
6 other information public without the prior written consent of the insurer
7 to which it pertains, unless the director, after giving the insurer and its
8 affiliates who would be affected notice and opportunity to be heard, deter-
9 mines that the interest of policyholders, shareholders or the public will be
10 served by the publication, in which event the director may publish all or any
11 part in such manner as may be deemed appropriate.

12 (a) For purposes of the information reported and provided to the de-
13 partment pursuant to section 41-3809(13), Idaho Code, the director
14 shall maintain the confidentiality of the group capital calculation and
15 group capital ratio produced within the calculation and any group capi-
16 tal information received from an insurance holding company supervised
17 by the federal reserve board or any United States group-wide supervi-
18 sor.

19 (b) For purposes of the information reported and provided to the de-
20 partment pursuant to section 41-3809(14), Idaho Code, the director
21 shall maintain the confidentiality of the liquidity stress test results
22 and supporting disclosures and any liquidity stress test information
23 received from an insurance holding company supervised by the federal
24 reserve board or non-United States group-wide supervisors.

25 (2) Neither the director nor any person who receives documents, materi-
26 als or other information while acting under the authority of the director or
27 with whom such documents, materials or other information is shared pursuant
28 to this chapter, shall be permitted or required to testify in any private
29 civil action concerning any confidential documents, materials or informa-
30 tion subject to subsection (1) of this section.

31 (3) In order to assist in the performance of the director's duties under
32 title 41, Idaho Code, the director:

33 (a) May share documents, materials or other information, including
34 the confidential and privileged documents, materials or information
35 subject to subsection (1) of this section, with other state, federal
36 and international regulatory agencies, with the national association
37 of insurance commissioners (NAIC) and its affiliates and subsidiaries,
38 and with state, federal and international law enforcement authori-
39 ties, including members of any supervisory college described in section
40 41-3815, Idaho Code, provided that the recipient agrees in writing to
41 maintain the confidentiality and privileged status of the document,
42 material or other information and has verified in writing the legal au-
43 thority to maintain confidentiality;

44 (b) Notwithstanding the provisions of ~~subsection (3) paragraph (a)~~ of
45 this subsection, ~~the director~~ may only share confidential and privi-
46 leged documents, materials or information reported pursuant to section
47 41-3809(12), Idaho Code, with commissioners of states having statutes
48 or regulations substantially similar to subsection (1) of this section
49 and who have agreed in writing not to disclose such information;

1 (c) May receive documents, materials or information, including other-
2 wise confidential and privileged documents, materials or information,
3 from the ~~national association of insurance commissioners~~ NAIC and its
4 affiliates and subsidiaries and from regulatory and law enforcement of-
5 ficials of other foreign or domestic jurisdictions and shall maintain
6 as confidential or privileged any document, material or information re-
7 ceived with notice or the understanding that it is confidential or priv-
8 ileged under the laws of the jurisdiction that is the source of the docu-
9 ment, material or information; and

10 (d) Shall enter into written agreements with the ~~national association~~
11 ~~of insurance commissioners~~ NAIC governing sharing and use of informa-
12 tion provided pursuant to the provisions of this chapter consistent
13 with this subsection, which agreements shall:

14 (i) Specify procedures and protocols regarding the confiden-
15 tiality and security of information shared with the ~~national~~
16 ~~association of insurance commissioners and its affiliates and~~
17 ~~subsidiaries~~ NAIC or third-party consultants designated by the
18 director pursuant to this chapter, including procedures and pro-
19 tocols for sharing by the ~~national association of insurance com-~~
20 ~~missioners~~ NAIC with other state, federal or international regu-
21 lators. Such agreement shall provide that the recipient agrees in
22 writing to maintain the confidentiality and privileged status of
23 the documents, materials, or other information and has verified in
24 writing the legal authority to maintain such confidentiality;

25 (ii) Specify that ownership of information shared with the
26 ~~national association of insurance commissioners and its affili-~~
27 ~~ates and subsidiaries~~ NAIC or a third-party consultant designated
28 by the director pursuant to this chapter remains with the direc-
29 tor, and the ~~national association of insurance commissioners'~~
30 NAIC's or third-party consultant's use of the information is sub-
31 ject to the direction of the director;

32 (iii) Excluding documents, materials, or information reported
33 pursuant to section 41-3809(14), Idaho Code, prohibit the NAIC or
34 third-party consultant designated by the director from storing
35 the information shared pursuant to this chapter;

36 ~~(iii)~~ (iv) Require prompt notice to be given to an insurer whose
37 confidential information is in the possession of the ~~national as-~~
38 ~~sociation of insurance commissioners~~ NAIC or a third-party con-
39 sultant designated by the director pursuant to this chapter that
40 disclosure of such confidential information has been requested or
41 subpoenaed or otherwise sought; and

42 ~~(iv)~~ (v) Require the ~~national association of insurance commis-~~
43 ~~sioners and its affiliates and subsidiaries~~ NAIC or a third-party
44 consultant designated by the director to consent to intervention
45 by an insurer in any judicial, administrative, or similar action
46 in which the ~~national association of insurance commissioners and~~
47 ~~its affiliates and subsidiaries~~ NAIC or a third-party consultant
48 designated by the director may be required to disclose confiden-
49 tial information about the insurer shared with the ~~national asso-~~
50 ~~ciation of insurance commissioners and the insurer's affiliates~~

1 ~~and subsidiaries~~ NAIC or a third-party consultant designated by
2 ~~the director pursuant to this chapter;~~ and
3 (vi) For documents, materials, or information reported pursuant
4 to section 41-3809(14), Idaho Code, in the case of an agreement in-
5 volving a third-party consultant, provide for notification of the
6 identity of the consultant to the applicable insurers.

7 (4) The sharing of information by the director pursuant to this chapter
8 shall not constitute a delegation of regulatory authority or rulemaking, and
9 the director is solely responsible for the administration, execution and en-
10 forcement of the provisions of this chapter.

11 (5) No waiver of any applicable privilege or claim of confidentiality
12 in the documents, materials or information shall occur as a result of disclo-
13 sure to the director under the provisions of this section or as a result of
14 sharing as authorized in subsection (3) of this section.

15 (6) Documents, materials, or other information in the possession or
16 control of the ~~national association of insurance commissioners~~ NAIC or a
17 ~~third-party consultant designated by the director~~ pursuant to this chapter
18 shall be confidential and privileged, shall not be a public record, shall not
19 be subject to public disclosure, shall not be subject to subpoena and shall
20 not be subject to discovery or admissible in evidence in any private civil
21 action.

22 (7) The group capital calculation and resulting group capital ratio
23 required pursuant to section 41-3809(13), Idaho Code, and the liquidity
24 stress test along with its results and supporting disclosures required pur-
25 suant to section 41-3809(14), Idaho Code, shall be considered regulatory
26 tools and are not intended as a means to rank insurers or insurance holding
27 company systems generally. Except as otherwise may be required under the
28 provisions of this chapter, the making, publishing, disseminating, circu-
29 lating, or placing before the public, directly or indirectly, by any written
30 or electronic means of communication available to the public, or in any other
31 way, with regard to the group capital calculation, group capital ratio, the
32 liquidity stress test results, or supporting disclosures for the liquidity
33 stress test of any insurer or any insurer group, or of any component derived
34 in the calculation by any person engaged in any manner in the insurance busi-
35 ness is hereby prohibited.

36 (8) If any materially false statement or an inappropriate comparison of
37 any amount regarding an insurer's or insurance group's filings made pursuant
38 to section 41-3809(13) or (14), Idaho Code, is published in any written pub-
39 lication and the insurer is able to demonstrate to the director with substan-
40 tial proof the falsity or inappropriateness of such statement, then the in-
41 surer may publish announcements in a written publication solely to rebut the
42 materially false statement or inappropriate comparison.

43 SECTION 6. This act shall be in full force and effect on and after Jan-
44 uary 1, 2026.