

Dear Senators COOK, Lenney, Ward-Engelking, and
Representatives CLOW, Ehlers, Berch:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Insurance:

IDAPA 18.07.06 - Rules Governing Life and Health Reinsurance Agreements (ZBR Chapter
Rewrite) - Proposed Rule (Docket No. 18-0706-2301);

IDAPA 18.07.10 - Corporate Governance Annual Disclosure (ZBR Chapter Rewrite) - Proposed
Rule (Docket No. 18-0710-2301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/19/2023. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/16/2023.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Senior Legislative Drafting Attorney - Jill Randolph

DATE: October 2, 2023

SUBJECT: Department of Insurance

IDAPA 18.07.06 - Rules Governing Life and Health Reinsurance Agreements (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 18-0706-2301)

IDAPA 18.07.10 - Corporate Governance Annual Disclosure (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 18-0710-2301)

Summary and Stated Reasons for the Rule

Docket No. 18-0706-2301: The Department of Insurance notes this is a Zero-Based Regulation ("ZBR") chapter rewrite pursuant to Executive Order 2020-01. Accordingly, the Department states this rulemaking is intended to streamline and simplify existing rules previously submitted and reviewed by the Legislature regarding the standards for life and health reinsurance agreements.

Docket No. 18-0710-2301: The Department notes this is a Zero-Based Regulation ("ZBR") chapter rewrite pursuant to Executive Order 2020-01. Accordingly, the Department states this rulemaking is intended to streamline and simplify existing rules previously submitted and reviewed by the Legislature regarding procedures for filing of the Corporate Governance Annual Disclosure.

Negotiated Rulemaking / Fiscal Impact

The agency states that negotiated rulemaking was conducted for both dockets. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 edition of the Idaho Administrative Bulletin. Both dockets anticipate no negative fiscal impact to the General Fund.

Statutory Authority

This rulemaking appears to be authorized pursuant to Section 41-211, Idaho Code.

cc: Department of Insurance
Weston Trexler

*** PLEASE NOTE ***

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
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Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 18 – DEPARTMENT OF INSURANCE

18.07.06 – RULES GOVERNING LIFE AND HEALTH REINSURANCE AGREEMENTS

DOCKET NO. 18-0706-2301 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-335, 41-510, 41-511, 41-512 and 41-514, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Wednesday, September 27, 2023 3:00 p.m. to 4:30 p.m. (MT)
<i>In-person participation is available at:</i> Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
<i>Web meeting link:</i> https://www.microsoft.com/microsoft-teams/join-a-meeting <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule sets standards for reinsurance agreements involving life insurance, annuities, or accident and sickness (disability) insurance in order that financial statements properly reflect business of the insurer. This rule is subject to Accreditation review. This rulemaking is consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this 3rd day of August, 2023.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398.

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0706-2301
(ZBR Chapter Rewrite)

18.07.06 – ~~RULES GOVERNING~~ LIFE AND HEALTH REINSURANCE AGREEMENTS

000. LEGAL AUTHORITY.

~~Title 41, Chapters 2, 3, and 5,~~ Sections 41-211, 41-335, 41-510, 41-511, 41-512 and 41-514, Idaho Code. (3-31-22)()

001. ~~TITLE, PURPOSE AND SCOPE.~~

01. ~~Title.~~ IDAPA 18.07.06, “~~Rules Governing Life and Health Reinsurance Agreements.~~” (3-31-22)

02. ~~Purpose.~~ ~~To set forth standards for Reinsurance Agreements involving life insurance, annuities, or accident and sickness insurance (disability) in order that the financial statements of the life and health and property and casualty insurers writing health business and utilizing such agreements properly reflect the financial condition of the ceding and assuming insurer.~~ (3-31-22)

a. ~~The Department recognizes that licensed insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.~~ (3-31-22)

b. ~~However, it is improper for a licensed insurer, in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival. The terms of such agreements referred to herein and described in Section 011 violate Idaho Code Sections 41-1306, 41-515, 41-308(3), 41-327 and 41-3309.~~ (3-31-22)

03. ~~Applicability.~~ This rule applies to all domestic life and accident and health insurers and to all other licensed life and accident and health insurers ~~that are~~ not subject to ~~a~~ substantially similar rules in their domiciliary state. ~~This rule also s~~Similarly, it applies to licensed property and casualty insurers with respect to their accident and health business. This rule does not apply to assumption reinsurance or yearly renewable term reinsurance. (3-31-22)()

002. PURPOSE.

Insurers routinely enter into reinsurance agreements that yield legitimate surplus relief to the ceding insurer. However, it is improper for a ceding insurer to enter into reinsurance agreements for the principal purpose of producing significant surplus aid, typically on a temporary basis, while not transferring all the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival. The terms of such agreements referred to herein and described in Section 011 of this rule violate Sections 41-1306, 41-515, 41-308(3), 41-327, and 41-3309, Idaho Code. ()

002~~3~~. -- 010. (RESERVED)

011. ACCOUNTING REQUIREMENTS.

01. ~~Standards for Credits on Financial Statements.~~ No insurer ~~subject to this rule~~ will, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist: (3-31-22)()

a. Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period, are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes and direct expenses including, but not limited to, billing, valuation, claims and maintenance expected by the company at the time the business is reinsured; ()

b. The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, will not be considered to be such a deprivation of surplus or assets; ()

c. The ceding insurer needs to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary termination of in force reinsurance by the ceding insurer will be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty; ()

d. The ceding insurer needs to, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded; ()

e. The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the insured policies. For example, it is improper for a ceding company to pay reinsurance premiums, or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company; ()

f. The treaty does not transfer all of the significant risk inherent in the business being reinsured. The following table identified for a representative sampling of products or type of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant will be consistent with this table. (3-31-22)

± Risk categories: (3-31-22)()

- (+)i. Morbidity. ()
- (-)ii. Mortality. ()
- iii. Lapse. ~~This is t~~The risk that a policy ~~will~~ voluntarily terminates prior to the recoupment of a statutory surplus strain experienced at issue of the policy. (3-31-22)()
- iiiv. Credit Quality (C1). ~~This is t~~The risk that invested assets supporting the reinsured business ~~will~~ decrease in value. The main hazards are that assets ~~will~~ default or ~~that~~ there will be a decrease in earning power. It excludes market value declines due to changes in interest rate. (3-31-22)()
- iv. Reinvestment (C3). ~~This is t~~The risk that interest rates ~~will~~ fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase. (3-31-22)()
- vi. Disintermediation (C3). ~~This is t~~The risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates ~~of renewal~~. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

Risk Category

Key: + - Significant
 0 - Insignificant

	i.	ii.	iii.	iv.	v.	vi.
Health Insurance - other than LTC/LTD*	+	0	+	0	0	0
Health Insurance - LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-Par Permanent	0	+	+	+	+	+
Traditional Non-Par Term	0	+	+	0	0	0
Traditional Par Permanent	0	+	+	+	+	+
Traditional Par Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+
Indeterminate Premium Permanent	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+
Universal Life Fixed Premium dump-in premiums allowed	0	+	+	+	+	+

*LTC = Long Term Care Insurance
 *LTD = Long Term Disability Insurance

(3-31-22)()

g. Significant Risk. ()

i. The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not (other than ~~for the classes of business those~~ excepted in ~~IDAPA 18.07.06, Subsection~~ 011.01.g.ii.) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the Director which legally segregates, by contract or contract provision, the underlying assets. (3-31-22)()

ii. Notwithstanding the requirements of ~~IDAPA 18.07.06, Subsection~~ 011.01.g.i., the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of such assets:

- Health Insurance - LTC/LTD
- Traditional Non-Par Permanent
- Traditional Par Permanent
- Adjustable Premium Permanent
- Indeterminate Premium Permanent
- Universal Life Fixed Premium (no dump-in premiums allowed)

The associated formula for determining the reserve interest rate adjustment needs to use a formula that reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

$$\text{Rate} = \frac{2(I + CG)}{X + Y - I - CG}$$

Where: "I" is the net investment income as reported in Annual Statement

"CG" is capital gains less capital losses as reported in Annual Statement

"X" is the current year cash and invested assets plus investment income due and accrued less borrowed money as reported in Annual Statement

"Y" is the same as X but for the prior year ()

h. Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within ninety (90) days of the settlement date. ()

i. The ceding insurer needs to make representations or warranties not reasonably related to the business being reinsured. ()

j. The ceding insurer needs to make representations or warranties about future performance of the business being reinsured. ()

k. ~~The r~~Reinsurance agreements ~~is~~ entered ~~into~~ for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all ~~of~~ the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged. (3-31-22)()

02. Director's Approval. An insurer ~~subject to this Rule~~ may, with the prior Director approval ~~of the Director~~, take such reserve credit or establish such asset as the Director ~~may~~ deems consistent with ~~the Insurance Code and Rules~~ law, including actuarial interpretations or standards adopted by the Department. (3-31-22)()

03. Filing ~~of Reinsurance~~ Agreements. (3-31-22)()

a. Agreements entered into after the effective date of this Rule which involve the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments thereto, will be filed by the ceding company with the Director within thirty (30) days from its date of execution. Each filing will include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves will consider this Rule and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with this Department. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this Rule. (3-31-22)()

b. Any increase in surplus net of federal income tax resulting from arrangements described in Subsection 011.03.a. will be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account line of the Annual Statement) and recognition of the surplus increase as income will be reflected on a net of tax basis in the "Reinsurance ceded" line of the annual statement as earnings emerge from the business reinsured. ()

i. ~~For example: On the last day of calendar year N, company XYZ pays a twenty (\$20) million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a thirty-four percent (34%) tax rate, the net increase in surplus at inception is thirteen point two (\$13.2) million (twenty (\$20) million—six point eight (\$6.8) million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. Six point eight (\$6.8) million (thirty-four (34%) of twenty (\$20) million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations.~~ (3-31-22)

ii. ~~At the end of year N+1 the business has earned four (\$4) million. ABC has paid point five (\$.5) million in profit and risk charges in arrears for the year and has received a one million (\$1) million experience refund. Company ABC's annual statement would report one point six five (\$1.65) million (sixty-six percent (66%) of four (\$4) million—one (\$1) million—point five (\$.5) million) up to a maximum of thirteen point two (\$13.2) million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and one point sixty five (\$1.65) million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.~~ (3-31-22)

012. WRITTEN AGREEMENTS.

01. Execution Date. No reinsurance agreement or amendment there to ~~any agreement~~ may be used to reduce any liability or to establish any asset in any financial statement filed with the Department, unless the agreement, amendment or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement. (3-31-22)()

02. Letter of Intent. In the case of a letter of intent, a reinsurance agreement or an amendment there to ~~a reinsurance agreement~~ needs to be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, ~~in order~~ for credit to be granted for the reinsurance ceded. (3-31-22)()

03. Requisite Provisions. The reinsurance agreement will contain provisions that provide ~~that~~: (3-31-22)()

a. The agreement ~~will~~ constitutes the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and (3-31-22)()

b. Any change or modification to the agreement will be null and void unless made by amendment to the agreement and signed by both parties. ()

013. EXISTING AGREEMENTS.

Insurers ~~subject to this rule~~ will not ~~be allowed to~~ recognize any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this rule which, under the provisions of this rule would not be entitled to recognition of the reserve credits or assets; provided, however, that the reinsurance agreements will have been in compliance with laws or rules in existence immediately preceding the effective date of this rule. (~~3-31-22~~)()

014. -- 999. (RESERVED)

IDAPA 18 – DEPARTMENT OF INSURANCE
18.07.10 – CORPORATE GOVERNANCE ANNUAL DISCLOSURE
DOCKET NO. 18-0710-2301 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapters 2 and 64, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Wednesday, September 27, 2023 3:00 p.m. to 4:30 p.m. (MT)
<i>In-person participation is available at:</i> Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
<i>Web meeting link:</i> https://www.microsoft.com/microsoft-teams/join-a-meeting <i>Meeting ID: 297 636 144 490</i> <i>Meeting Password: 345BQf</i> <i>or by phone: +1 208-985-2810,,826046050#</i>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule sets procedures for filing and required content of the Corporate Governance Annual Disclosure (CGAD), necessary to carry out the provisions of Title 41, Chapter 64, Idaho Code. This rule is subject to Accreditation review. This rulemaking is consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#). The proposed changes are to simplify, clarify, and reduce.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023 Idaho Administrative Bulletin, [Vol. 23-06, pages 56-57](#), under Docket No. 18-ZBRR-2301.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2023.

DATED this August 3, 2023.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0710-2301
(ZBR Chapter Rewrite)

18.07.10 – CORPORATE GOVERNANCE ANNUAL DISCLOSURE

000. LEGAL AUTHORITY.

~~Title 41, Chapters 2 and 64, Sections 41-211 and 41-6404(2),~~ Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

01. ~~Title.~~ This rule is titled ~~IDAPA 18.07.10, “Corporate Governance Annual Disclosure.”~~ (3-31-22)

02. ~~Scope.~~ This rule ~~sets forth~~ establishes procedures for filing ~~and the necessary~~ contents of the Corporate Governance Annual Disclosure (CGAD) ~~to carry out the provisions of~~ per Title 41, Chapter 64, Idaho Code. (3-31-22)()

~~002. INCORPORATION BY REFERENCE.~~

~~The most recent National Association of Insurance Commissioners (NAIC) Financial Analysis Handbook (2016 Annual / 2017 Quarterly edition) is incorporated by reference into IDAPA 18.07.10.~~ (3-31-22)

~~003. – 009. (RESERVED)~~

010. DEFINITIONS.

01. Senior Management. Any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators ~~and will~~ include, ~~for example and~~ without limitation, ~~the chief executive officer (CEO), chief financial officer (CFO), chief operations officer (COO), chief procurement officer (CPO), chief legal officer (CLO), chief information officer (CIO), chief technology officer (CTO), chief revenue officer (CRO), chief visionary officer (CVO), or any other~~ all chief or “C” level executives. (3-31-22)()

011. FILING PROCEDURES.

01. Filing Deadline. An insurer, or the insurance group of which the insurer is a member, needs to file a CGAD by Title 41, Chapter 64, Idaho Code, no later than June 1 of each calendar year, submit to the director a CGAD that contains the information described in Section 012 of this rule. (3-31-22)

~~02. **Signature.** The CGAD needs to include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the CGAD has been provided to the insurer's or insurance group's board of directors (board) or the appropriate committee thereof. (3-31-22)~~

~~031. **Format.** The insurer or insurance group will have has discretion regarding the to appropriately format for providing the information prescribed by this rule CGAD and is permitted to may customize the CGAD to provide the most relevant information necessary to permit for the director to gain an understanding of the corporate governance structure, policies and practices they utilized by the insurer or insurance group. (3-31-22)()~~

~~04. **Providing Information.** For purposes of completing the CGAD, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it will indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting. (3-31-22)~~

~~052. **Completion on Insurance Group Level.** Notwithstanding Subsection 011.01, and as outlined in Per Section 41-6403(1), Idaho Code, if Idaho is not the lead state and the CGAD is completed at the insurance group level, then it needs to be filed with the lead state of for the group as determined by the procedures outlined in the most recent financial analysis handbook adopted by the NAIC. In these instances, a copy of the CGAD needs to will also be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer, upon request. (3-31-22)()~~

~~063. **Referencing.** An insurer or insurance group may comply with this section by referencing other existing documents (e.g., Own Risk Solvency Assessment (ORSA) summary report, holding company form B or F filings, Securities and Exchange Commission (SEC) proxy statements, foreign regulatory reporting requirements, etc.) if the documents provide information that is comparable to the information contents described in Section 012. The insurer or insurance group will clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the regulator director. (3-31-22)()~~

~~07. **Filing of Amended Versions.** Each year following the initial filing of the CGAD, the insurer or insurance group will file an amended version of the previously filed CGAD indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing should so state. (3-31-22)~~

012. CONTENTS OF CORPORATE GOVERNANCE ANNUAL DISCLOSURE.

The CGAD content will: ()

~~01. **Detail.** The insurer or insurance group will bBe as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process, since these that may provide a means to demonstrate the strengths of their governance framework and practices. (3-31-22)()~~

~~02. **CGAD Considerations.** The CGAD will dDescribe the insurer's or insurance group's corporate governance framework and structure including consideration of the following: (3-31-22)()~~

~~a. The board and various committees thereof ultimately responsible for overseeing the insurer or insurance group and the level(s) at which that oversight occurs (e.g., ultimate control level, intermediate holding company, legal entity, etc.). The insurer or insurance group will describe and discuss the rationale for the current board size and structure; and (3-31-22)~~

b. The duties of the board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates, etc.), as well as how the board's leadership is structured, including a discussion of the roles of ~~chief executive officer~~ (CEO) and chairman of the board within the organization. (3-31-22)()

03. Factors. ~~The insurer or insurance group will d~~Describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors: (3-31-22)()

a. How the qualifications, expertise and experience of each board member meet the needs of the insurer or insurance group. ()

b. How an appropriate amount of independence is maintained on the board and its significant committees. ()

c. The number of meetings held by the board and its significant committees over the past year ~~as well as including~~ information on ~~director~~ board member attendance. (3-31-22)()

d. How the insurer or insurance group identifies, nominates and elects members to the board and its committees. The discussion should include, ~~for example~~:

i. Whether a nomination committee ~~is in place to~~ identify ies and select individuals for consideration. (3-31-22)()

ii. Whether term limits are placed on ~~directors~~ board members. (3-31-22)()

iii. How the election and re-election processes function. ()

iv. Whether a board diversity policy is in place and if so, how it functions. ()

e. The processes in place for the board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any board or committee training programs that have been put in place). ()

04. Additional Factors. ~~The insurer or insurance group will d~~Describe the policies and practices for directing senior management, including ~~a description of~~ the following factors: (3-31-22)()

a. Any processes or practices (i.e., suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including: ()

i. Identification of the specific positions for which suitability standards have been developed and a description of the standards employed. ()

ii. Any changes in an officer's or key person's suitability as outlined by the insurer 's or insurance group's standards and procedures to monitor and evaluate such changes. ()

b. The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, ~~for example~~: (3-31-22)()

i. Compliance with laws, rules, and regulations; and ()

ii. Proactive reporting of any illegal or unethical behavior. ()

c. The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description will include sufficient detail to allow the director to understand how the organization ensures that compensation programs do not encourage and/or reward excessive risk taking. ~~Elements to be discussed~~ This may

include, ~~for example~~: (3-31-22)()

- i. The board's role in overseeing management compensation programs and practices. ()
 - ii. The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid; ()
 - iii. How compensation programs are related to both company and individual performance over time; ()
 - iv. Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels; ()
 - v. Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted; ()
 - vi. Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees. ()
- d.** The insurer's or insurance group's plans for CEO and senior management succession. ()

05. Oversight. ~~The insurer or insurance group will d~~Describe the processes by which the board, its committees and senior management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including a discussion of: (3-31-22)()

- a.** How oversight and management responsibilities are delegated between the board, its committees and senior management; ()
- b.** How the board is kept informed of the insurer's strategic plans, the associated risks, and steps that senior management is taking to monitor and manage those risks; ()
- c.** How reporting responsibilities are organized for each critical risk area. The description should allow the director to understand the frequency at which information on each critical risk area is reported to and reviewed by senior management and the board. This description may include, ~~for example~~, the following critical risk areas of the insurer: (3-31-22)()

- i. Risk management processes (An ORSA summary report ~~filer may refer to its ORSA summary report pursuant to~~, if filed under Title 41, Chapter 63, Idaho Code, may be referenced per Subsection 011.01 of these rules); (3-31-22)()
- ii. Actuarial function; ()
- iii. Investment decision-making processes; ()
- iv. Reinsurance decision-making processes; ()
- v. Business strategy/finance decision-making processes; ()
- vi. Compliance function; ()
- vii. Financial reporting/internal auditing; and ()
- viii. Market conduct decision-making processes. ()

013. – 999. (RESERVED)