

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 03 INSURANCE PRODUCERS AND OTHER INSURANCE PROFESSIONALS

31.03.18 Public Adjusters

Authority: Insurance Article, §2-109, Annotated Code of Maryland

Notice of Proposed Action

[24-134-P]

The Acting Insurance Commissioner proposes to amend Regulation .02 and adopt new Regulation .17 under **COMAR 31.03.18 Public Adjusters**.

Statement of Purpose

The purpose of this action is to amend and add to **COMAR 31.03.18 Public Adjusters** to clarify requirements established in 2024 Maryland Laws Ch. 826. The regulation defines "business day" as it is used in the law, describes how the "the date of a loss giving rise to an insurance claim" shall be determined, and describes how a public adjuster shall notify the Insurance Commissioner that they entered into a contract for public adjuster services during or within 72 hours after a loss giving rise to an insurance claim, as required by the law.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jessica Blackmon, Administrative Law Clerk, Maryland Insurance Administration, 200 Saint Paul Place Suite 2700, Baltimore, MD 21202, or call 410-468-2019, or email to insuranceregreview.mia@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.

(1) "Administration" means the Maryland Insurance Administration.

[(1)] (2) – [(17)] (18) (text unchanged)

.17 Protections after Loss or Damage to Property.

A. The term "business day", as it is used in Insurance Article, §§10-411(h) and 10-414(f), Annotated Code of Maryland means any day other than a Saturday, Sunday, or State holiday.

B. In enforcing Insurance Article, §10-414(f), Annotated Code of Maryland, the Commissioner shall determine the date of a loss giving rise to an insurance claim as follows:

(1) If the insurance claim resulted from a hurricane, then the date of loss giving rise to the insurance claim is the date that the hurricane made landfall in the State of Maryland;

(2) If the insurance claim resulted from a tornado, windstorm, severe rain, or other weather-related event that is not a hurricane, then the date of loss giving rise to the insurance claim is the date that the tornado, windstorm, severe rain, or other weather-related event is verified to have occurred in Maryland by the National Oceanic and Atmospheric Administration; or

(3) If the insurance claim is not within the scope of §B(1) or (2) of this regulation, then the date of loss giving rise to the insurance claim is the date that the loss was discovered.

C. To comply with §10-414(f), a public adjuster who enters into a contract for public adjuster services during or within 72 hours after a loss giving rise to an insurance claim shall electronically submit the Public Adjuster Contract Submission Form that is published to the Administration's website, together with any attachments required therein, within one business day after entering into the contract.

JOY Y. HATCHETTE
Acting Insurance Commissioner

Subtitle 04 INSURERS

31.04.18 Form Filings Under the Maryland Insurance Acquisitions Disclosure and Control Act

Authority: Insurance Article, §§1-101(jj), 2-109, 2-205, 2-209, and 5-901—5-917, Annotated Code of Maryland

Notice of Proposed Action

[24-135-P]

The Acting Insurance Commissioner proposes to amend Regulation .02 and adopt new Regulation .15 under **COMAR 31.04.18 Form Filings Under Maryland Insurance Acquisitions Disclosure and Control Act**.

Statement of Purpose

The purpose of this action is to clarify reporting requirements established by 2024 Maryland Laws Ch. 121 (H.B. 252). The regulation clarifies when the ultimate controlling person of an insurance holding company system is required to submit an annual group capital calculation, may be exempt from submitting an annual group capital calculation, or may be permitted to submit a limited group capital filing in lieu of a group capital calculation.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jessica Blackmon, Administrative Law Clerk, Maryland Insurance Administration, 200 Saint Paul Place, Suite 2700 Baltimore, MD 21202, or call 410-468-2019, or email to insuranceregreview.mia@maryland.gov. Comments will be accepted through November 18, 2024. A public hearing has not been scheduled.

.02 Definitions.

- A. (text unchanged)
 - B. Terms Defined.
- (1)—(13) (text unchanged)

(14) “Lead state commissioner” means the lead state insurance commissioner of the insurance holding company system as determined by the procedures in the NAIC Financial Analysis Handbook.

[(14)] (15)—[(16)] (17) (text unchanged)

(18) “Troubled insurer” means an insurer that is in or moving towards a financial position that subjects its policyholders, claimants and other creditors to greater-than-normal financial risk, including the possibility that the company may not maintain compliance with statutory capital and/or surplus requirements.

[(17)] (19) (text unchanged)

.15 Group Capital Calculation.

A. Where an insurance holding company system has previously filed the annual group capital calculation required under Insurance Article, §7-603(i), Annotated Code of Maryland, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company system:

(1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of less than \$1,000,000,000;

(2) Does not include an insurer that is domiciled outside of the United States or one of its territories;

(3) Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework;

(4) Attests that no material changes in the transactions between insurers and non-insurers in the group have occurred since the last filing of the annual group capital; and

(5) Does not include a non-insurer that poses a material financial risk to the insurer’s ability to honor policyholder obligations.

B. Where an insurance holding company system has previously filed the annual group capital calculation required under Insurance Article, §7-603(i), Annotated Code of Maryland, the lead state commissioner may accept a limited group capital filing in lieu of the group capital calculation if the insurance holding company system:

(1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program) of less than \$1,000,000,000;

(2) Does not include an insurer that is domiciled outside of the United States or one of its territories;

(3) Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework;

(4) Attests that no material changes in the transactions between insurers and non-insurers in the group have occurred since the last filing of the annual group capital; and

(5) Does not include a non-insurer that poses a material financial risk to the insurer’s ability to honor policyholder obligations.

C. For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to §A or B of this regulation, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the group capital calculation instructions adopted by the NAIC, if:

(1) Any insurer within the insurance holding company system is in a risk-based capital action or control level event as set forth in Insurance Article, §§4-305 through 4-308, Annotated Code of Maryland, or a similar standard for a non-U.S. insurer;

(2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in Insurance Article, §9-102, Annotated Code of Maryland; or

(3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer, as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

D. A non-U.S. jurisdiction is considered to “recognize and accept” the group capital calculation, as described in Insurance Article, §7-603(i)(2)(v), Annotated Code of Maryland, if:

(1) It satisfies either of the following criteria:

(a) The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(b) Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard; and

(2) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC, provided that the Commissioner shall determine in consultation with the NAIC committee process that the requirements of such memorandum are in force.

E. A list will be published through the NAIC committee process that:

(1) Identifies non-U.S. jurisdictions that are considered to “recognize and accept” the group capital calculation, as described in Insurance Article, §7-603(i)(2)(v), Annotated Code of Maryland to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation;

(2) Clarifies those situations in which a jurisdiction is exempted from filing under Insurance Article, §7-603(i)(2)(iv)-(v), Annotated Code of Maryland; and

(3) To assist with a determination under Insurance Article, §7-603(i)(3), Annotated Code of Maryland, identify whether a jurisdiction that is exempted under Insurance Article, §7-603(i)(2)(iii)-(v), Annotated Code of Maryland requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.

F. For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of §D(1)(b) of this regulation will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC committee process.

G. If the lead state commissioner makes a determination pursuant to Insurance Article, §7-603(i)(2)(v), Annotated Code of Maryland that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

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H. Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to “recognize and accept” the group capital calculation, as described in Insurance Article, §7-603(i)(2)(v), Annotated Code of Maryland, the lead state commissioner may provide a recommendation to the NAIC

that the non-U.S. jurisdiction be removed from the list of jurisdictions that “recognize and accepts” the group capital calculation.

JOY Y. HATCHETTE
Acting Insurance Commissioner