

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups: Additional revenue	(+)	Minimal
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

D. Assuming that more companies will begin to offer flood insurance coverage products, this could lead to an increase in premium revenue.

**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 Lisa Larson, Regulations Manager, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2007, or email to [insurancereview.mia@maryland.gov](mailto:insurancereview.mia@maryland.gov), or fax to 410-468-2020. Comments will be accepted through February 18, 2020. A public hearing has not been scheduled.

**.10 Surplus Lines Exportable List.**

A.—B. (text unchanged)

C. The surplus lines exportable list is as follows:

(1)—(23) (text unchanged)

(24) Flood and water damage—excess of federal flood insurance programs or primary coverage that is at least as broad as the coverage available through the [where a] federal flood insurance program [is not available];

(25)—(50) (text unchanged)

ALFRED W. REDMER, JR.  
Insurance Commissioner

**Subtitle 04 INSURERS**

**31.04.23 Corporate Governance Annual Disclosure**

*Authority: Insurance Article, §§4-503 and 4-508, Annotated Code of Maryland*

**Notice of Proposed Action**

[20-030-P]

The Insurance Commissioner proposes to adopt new Regulations .01—.04 under a new chapter, **COMAR 31.04.23 Corporate Governance Annual Disclosure.**

**Statement of Purpose**

The purpose of this action is to propose new Regulations .01—.04 under COMAR 31.04.23 Corporate Governance Annual Disclosure. During the 2019 legislative session, Ch. 105, Acts of 2019, created Insurance Article, §§4-501 — 4-509, Annotated Code of Maryland, which implemented the Maryland Corporate Governance Disclosure Act. These regulations are being proposed to accompany the Act and

are an accreditation standard required by the National Associate of Insurance Commissioners (NAIC). These regulations follow the NAIC model #306. In addition, these regulations provide additional filing details and instructions to insurance companies required to file under the Maryland Corporate Governance Disclosure Act.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** There will likely be a cost to insurance companies and insurance holding companies as they will be required to annually report on their corporate governance policies and procedures.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude

D. On regulated industries or trade groups:

Cost (-) Varied

E. On other industries or trade groups:

NONE

F. Direct and indirect effects on public:

NONE

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

D(1). Insurers and insurance holding companies will have to report annually to the Commissioner on its structure, policies, and practices. The annual report is intended to reflect the size and complexity of the insurer; therefore the impact will vary.

**Economic Impact on Small Businesses**

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact follows.

As the level of complexity and volume vary among responses, the economic impact is difficult to estimate on a per company basis.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Lisa Larson, Regulations Manager, Maryland Insurance Administration, 200 Saint Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2007, or email to [insurancereview.mia@maryland.gov](mailto:insurancereview.mia@maryland.gov), or fax to 410-468-2020. Comments will be accepted through February 18, 2020. A public hearing has not been scheduled.

**.01 Applicability.**

*This chapter is applicable to a person subject to the filing requirements of the Maryland Insurance Corporate Governance Annual Disclosure Act under Insurance Article, Title 4, Subtitle 5, Annotated Code of Maryland.*

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Board" means the insurer's or insurance group's Board of Directors.

(2) "Commissioner" has the meaning stated in Insurance Article, §1-101(k), Annotated Code of Maryland.

(3) "Corporate Governance Annual Disclosure" or "CGAD" has the meaning stated in Insurance Article, §4-501(b), Annotated Code of Maryland.

(4) "Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in Insurance Article, §4-501(c), Annotated Code of Maryland.

(5) "Insurer" has the meaning stated in Insurance Article, §4-501(d), Annotated Code of Maryland.

(6) "Own Risk and Solvency Assessment" or "ORSA" has the meaning stated in Insurance Article, §32-101, Annotated Code of Maryland.

(7) Senior Management.

(a) "Senior Management" means any corporate officer responsible for reporting information to the Board at regular intervals or providing this information to shareholders and regulators.

(b) "Senior Management" includes, for example and without limitation:

- (i) The Chief Executive Officer;
- (ii) The Chief Financial Officer;
- (iii) The Chief Operations Officer;
- (iv) The Chief Procurement Officer;
- (v) The Chief Legal Officer;
- (vi) The Chief Information Officer;
- (vii) The Chief Technology Officer;
- (viii) The Chief Revenue Officer;
- (ix) The Chief Visionary Officer; and
- (x) Any other "C" level executive.

**.03 Filing Procedures.**

A. An insurer, or the insurance group of which the insurer is a member, required to file a CGAD under Insurance Article, Title 4, Subtitle 5, Annotated Code of Maryland, shall, no later than June 1 of each calendar year, submit to the Commissioner a CGAD that contains the information described in Regulation .04 of this chapter.

B. The CGAD shall 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 Board or its appropriate committee.

C. The insurer or insurance group shall have discretion regarding the appropriate format for providing the information required by these regulations and is permitted to customize the CGAD to provide the most relevant information utilized by the insurer or insurance group necessary to permit the Commissioner to gain an understanding of:

- (1) The corporate governance structure;
- (2) Corporate governance policies; and
- (3) Corporate governance practices.

D. Completing the CGAD.

(1) Depending on how an insurer or the insurance group of which the insurer is a member has structured its corporate governance system, the insurer or insurance group submitting a CGAD to the Commissioner may choose to provide information regarding its corporate governance structure at:

- (a) The ultimate controlling parent level;

(b) An intermediate holding company level; or

(c) The individual legal entity level.

(2) The insurer or insurance group is encouraged to consider the following criteria in determining the level for which information will be provided under §D(1) of this regulation:

(a) The level at which the insurer's or insurance group's risk appetite is determined;

(b) The level at which factors, such as earnings, capital, liquidity, operations, and reputation of the insurer, are overseen collectively, and at which level the supervision of those factors is coordinated and exercised; or

(c) The level at which legal liability for failure of general corporate governance duties would be placed.

(3) If the insurer or insurance group determines the level of reporting based on the criteria in §D(2) of this regulation, it shall indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in the level of reporting.

E. Notwithstanding §A of this regulation, and as outlined in Insurance Article, §4-503, Annotated Code of Maryland, if the CGAD is completed at the insurance group level:

(1) It shall be filed with the lead state of the group as determined by the procedures outlined in the most recent financial analysis handbook adopted by the National Association of Insurance Commissioners; and

(2) Upon request to the lead state of the group, the chief regulatory official of any state in which the insurance group has a domestic insurer may request a copy of the CGAD and the CGAD shall be provided to that state.

F. An insurer or insurance group may comply with this regulation by referencing other existing documents if the documents provide information that is comparable to the information described in Regulation .04 of this chapter, if the insurer or insurance group:

(1) Clearly references the location of the relevant information within the CGAD; and

(2) Attaches the referenced document if it is not already filed or available to the regulator.

G. Examples of other existing documents that may be referenced in the CGAD may include, without limitation:

- (1) An ORSA summary report;
- (2) Holding Company Form B or F Filings;
- (3) Securities and Exchange Commission Proxy Statements;
- (4) Foreign regulatory reporting requirements; or
- (5) Other similar documents.

H. Each year following the initial filing of the CGAD, the insurer or insurance group shall file an amended version of the previously filed CGAD indicating:

(1) Where changes have been made in the information or activities reported by the insurer or insurance group; or

(2) If no changes have been made in the information or activities previously reported, that no changes have been made.

**.04 Contents of Corporate Governance Annual Disclosure.**

A. The insurer or insurance group shall be as descriptive as possible in completing the CGAD. This means that attachments or example documents may be included if they are used in the governance process since these may provide a means to demonstrate the strengths of the insurer's or insurance group's governance framework and practices.

B. The CGAD shall describe the insurer's or insurance group's corporate governance framework and structure, including the following:

(1) The Board and its various committees ultimately responsible for overseeing the insurer or insurance group and the level or levels at which that oversight occurs;

- (2) *The rationale for the current Board size and structure;*
- (3) *The duties of the Board and each of its significant committees;*
- (4) *How the Board and its significant committees are governed, which may include documents such as bylaws, charters, and informal mandates; and*
- (5) *How the Board's leadership is structured, including a discussion of the roles of Chief Executive Officer and Chairman of the Board within the organization.*

C. *The insurer or insurance group shall describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors:*

- (1) *How the qualifications, expertise, and experience of each Board member meet the needs of the insurer or insurance group;*
- (2) *How an appropriate amount of independence is maintained by the Board and its significant committees;*
- (3) *The number of meetings held by the Board and its significant committees over the past year as well as information on director attendance;*
- (4) *How the insurer or insurance group identifies, nominates, and elects members to the Board and its committees, including, for example:*

- (a) *Whether a nomination committee is in place to identify and select individuals for consideration;*
- (b) *Whether term limits are placed on directors;*
- (c) *How the election and re-election processes function; and*
- (d) *Whether a Board diversity policy is in place and, if so, how it functions; and*
- (5) *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.*

D. *The insurer or insurance group shall describe the policies and practices for directing Senior Management, including a description of the following:*

- (1) *Any processes or practices, such as suitability standards, used to determine whether officers and key persons in control functions have the appropriate background, experience, and integrity to fulfill their prospective roles, including:*
  - (a) *Identification of the specific positions for which suitability standards have been developed and a description of the standards employed; and*
  - (b) *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;*
- (2) *The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, for example:*
  - (a) *Compliance with laws, rules, and regulations; and*
  - (b) *Proactive reporting of any illegal or unethical behavior;*
- (3) *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 objective of significant compensation programs and what the programs are designed to reward. The description shall include:*
  - (a) *Sufficient detail to allow the Commissioner to understand how the organization ensures that compensation programs do not encourage or reward excessive risk taking; and*
  - (b) *A discussion of the elements used in determining the organization's compensation programs, which may include, for example:*
    - (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 the 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; and*
- (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; and*

(4) *The insurer's or insurance group's plans for Chief Executive Officer and Senior Management succession.*

E. *The insurer or insurance group shall describe the process 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:*

- (1) *How oversight and management responsibilities are delegated between the Board, its committees, and Senior Management;*
- (2) *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 risk; and*
- (3) *A description of how reporting responsibilities are organized to allow the Commissioner to understand the frequency at which information is reported to and reviewed by Senior Management and the Board in the following critical risk areas of the insurer:*

- (a) *Risk management processes, which may include reference to an insurer's ORSA Summary Report pursuant to Insurance Article, §32-105, Annotated Code of Maryland, if applicable;*
- (b) *Actuarial function;*
- (c) *Investment decision-making processes;*
- (d) *Reinsurance decision-making processes;*
- (e) *Business strategy or finance decision-making processes;*
- (f) *Compliance function;*
- (g) *Financial reporting or internal auditing; and*
- (h) *Market conduct decision-making processes.*

ALFRED W. REDMER, JR.  
Insurance Commissioner