

304.37-020 Registration of insurers.

- (1) As used in this section:
 - (a) "Group capital calculation instructions" means the group capital calculation instructions adopted or amended by the NAIC in accordance with procedures adopted by the NAIC; and
 - (b) 1. "NAIC Liquidity Stress Test Framework" means a separate NAIC publication that includes:
 - a. A history of the NAIC's development of regulatory liquidity stress testing; and
 - b. The following, as adopted or amended by the NAIC in accordance with procedures adopted by the NAIC:
 - i. The scope criteria applicable for a specific data year; and
 - ii. The liquidity stress test instructions and reporting templates for a specific data year.
 2. As used in this paragraph, "scope criteria" means the designated exposure bases, along with minimum magnitudes thereof for the specified data year, used to establish a preliminary list of insurers considered scoped into the NAIC Liquidity Stress Test Framework for that data year.
- (2)
 - (a) Every insurer that is authorized to do business in this state and is a member of an insurance holding company system shall register with the commissioner, except a foreign or alien insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in this section.
 - (b) For an alien insurer, the domiciliary state shall be deemed to be its state of entry.
 - (c) Any insurer that is subject to registration under this section shall register fifteen (15) days after it becomes subject to registration and annually thereafter by April 1 of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration and then, within the extended time.
 - (d) The commissioner may require any authorized insurer that is a member of a holding company system but is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurer with the insurance regulatory authority of its domiciliary jurisdiction.
- (3) Every insurer subject to registration shall file a registration statement on a form provided by the commissioner, which shall contain current information about:
 - (a) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;
 - (b) The identity of every member of the insurance holding company system;
 - (c) The following agreements in force, relationships subsisting, and transactions currently outstanding between the insurer and its affiliates:

1. Loans to, other investments in, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;
 2. Purchases, sales, or exchanges of assets;
 3. Transactions not in the ordinary course of business;
 4. Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered in the ordinary course of the insurer's business;
 5. All management and service contracts and all cost-sharing arrangements;
 6. All reinsurance agreements;
 7. Dividend and other distributions to shareholders; and
 8. Consolidated tax allocation agreements;
- (d) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate for a loan made to any member of the insurance holding company system;
- (e) 1. If requested by the commissioner, financial statements of, or within, an insurance holding company system, including all affiliates.
2. Financial statements may include but are not limited to annual audited financial statements filed with the United States Securities and Exchange Commission, pursuant to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1932, as amended.
3. An insurer required to file financial statements pursuant to this paragraph may satisfy the request by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the United States Securities and Exchange Commission;
- (f) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner;
- (g) Statements that the insurer's:
1. Board of directors oversees corporate governance and internal controls; and
 2. Officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and
- (h) Any other information required by the commissioner through administrative regulations.
- (4) (a) It shall not be necessary to disclose information on the registration statement filed pursuant to subsection (3) of this section if the information is not material for the purposes of this section.
- (b) Unless the commissioner by administrative regulation or order provides

otherwise, sales, purchases, exchanges, loans, or extensions of credit, or investments, involving one-half of one percent (0.5%) or less of an insurer's admitted assets as of the thirty-first day of December next preceding shall not be deemed material for purposes of this section.

- (c) The materiality guidelines provided in this subsection shall not apply for purposes of the information required under subsections (15) and (16) of this section.
- (5) Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the commissioner within thirty (30) days after the end of the month in which the insurer learns of each change or addition.
- (6) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.
- (7) Subject to KRS 304.37-030(5), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the dividend or distribution declaration.
- (8) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, if the information is reasonably necessary to enable the insurer to comply with the provisions of this subtitle.
- (9) The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.
- (10) The commissioner may require or allow two (2) or more affiliated insurers subject to registration to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.
- (11) The commissioner may allow an insurer that is authorized to do business in this state and which is part of an insurance holding company system to:
 - (a) Register on behalf of any affiliated insurer that is required to register under subsection (2) of this section; and
 - (b) File all information and material required to be filed under this section.
- (12) The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the commissioner by administrative regulation or order exempts it from the provisions of this section.
- (13)
 - (a) Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or a disclaimer may be filed by the insurer or any member of an insurance holding company system.
 - (b) The disclaimer shall fully disclose all material relationships and bases for affiliation between the persons and the insurer as well as the basis for disclaiming the affiliation.
 - (c) A disclaimer of affiliation shall be deemed to have been granted unless the

commissioner, within thirty (30) days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed.

- (d) In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted.
 - (e) The disclaiming party shall be relieved of its duty to register under this section if:
 - 1. Approval of the disclaimer has been granted by the commissioner; or
 - 2. The disclaimer is deemed to have been approved.
- (14) (a) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report.
- (b) The report shall:
- 1. To the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer; and
 - 2. Be filed with the lead state commissioner of the insurance holding company system, as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.
- (15) (a) Except as provided in this subsection, the ultimate controlling person of every insurer subject to registration shall concurrently file with the registration an annual group capital calculation as directed by the lead state commissioner.
- (b) The report shall be:
- 1. Completed in accordance with the group capital calculation instructions, which may permit the lead state commissioner to allow a controlling person that is not the ultimate controlling person to file the group capital calculation; and
 - 2. Filed with the lead state commissioner of the insurance holding company system as determined by the commissioner in accordance with the procedures within the Financial Analysis Handbook adopted by the NAIC.
- (c) An insurance holding company system shall be exempt from filing the group capital calculation if:
- 1. The system:
 - a. Has only one (1) insurer within its holding company structure;
 - b. Only writes business in its domestic state; and
 - c. Assumes no business from any other insurer;
 - 2.
 - a. The system is required to perform a group capital calculation specified by the United States Federal Reserve Board.
 - b. The lead state commissioner shall request the calculation from the Federal Reserve Board under the terms of information sharing agreements in effect. If the Federal Reserve Board cannot share the calculation with the lead state commissioner, the insurance holding

company system is not exempt from the group capital calculation filing;

3. The system's non-United States groupwide supervisor is located within a reciprocal jurisdiction, as defined in KRS 304.5-140, that recognizes the United States state regulatory approach to group supervision and group capital; or
 4. The system:
 - a. Provides information to the lead state that meets the requirements for accreditation under the NAIC Financial Regulation Standards and Accreditation Program, either directly or indirectly, through the groupwide supervisor, who has determined the information is satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook; and
 - b. Has a non-United States groupwide supervisor, which is not in a reciprocal jurisdiction as defined in KRS 304.5-140, that recognizes and accepts, as specified by the commissioner in administrative regulation, the group capital calculation as the worldwide group capital assessment for United States insurance groups who operate in that jurisdiction.
- (d) Notwithstanding the provisions of paragraph (c)3. and 4. of this subsection, a lead state commissioner shall require the group capital calculation for the United States operations of any insurance holding company system not based in the United States where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for:
1. Prudential oversight and solvency monitoring purposes; or
 2. Ensuring the competitiveness of the insurance marketplace.
- (e) In addition to the exemptions established in paragraph (c) of this subsection, the lead state commissioner may exempt the ultimate controlling person from filing the annual group capital calculation or accept a limited group capital filing or report in accordance with criteria specified by the commissioner in administrative regulation.
- (f) If the lead state commissioner determines that an insurance holding company system no longer meets one (1) or more of the requirements for an exemption from filing the group capital calculation under this subsection, the system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown.
- (16) (a) The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC Liquidity Stress Test Framework shall file the results of a specific year's liquidity stress test.
- (b) The filing shall be made to the lead state commissioner of the insurance

holding company system, as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.

- (c)
 - 1. The NAIC Liquidity Stress Test Framework shall include scope criteria:
 - a. Applicable to a specific data year; and
 - b. Reviewed at least annually by the NAIC's Financial Stability Task Force or its successor.
 - 2. Any change to the NAIC Liquidity Stress Test Framework or to the data year for which the scope criteria are to be measured shall be effective on January 1 of the year following the calendar year when the changes are adopted.
 - 3.
 - a. Insurers meeting at least one (1) threshold of the scope criteria shall be considered scoped into the NAIC Liquidity Stress Test Framework for the specified data year unless the lead state commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should not be scoped into the framework for that data year.
 - b. Insurers that do not trigger at least one (1) threshold of the scope criteria shall be considered scoped out of the NAIC Liquidity Stress Test Framework for the specified data year, unless the lead state commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should be scoped into the framework for that data year.
 - 4. The lead state commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, shall assess concerns related to insurers being scoped in and out of the NAIC Liquidity Stress Test Framework on a frequent basis as part of the scope criteria determination for an insurer.
- (d) The performance of, and the filing of the results from, a specified year's liquidity stress test shall comply with:
 - 1. The NAIC Liquidity Stress Test Framework's instructions and reporting templates for that year; and
 - 2. Any lead state commissioner determinations, made in consultation with the NAIC Financial Stability Task Force or its successor, provided within the NAIC Liquidity Stress Test Framework.
- (17) The failure to file a registration statement or any amendment thereto, a summary of the registration statement, an enterprise risk filing, or any other filing or report required by this section within the time specified for the filing or report shall be a violation of this subtitle.

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1994; and ch. 93, sec. 17, effective July 15, 1994. – Amended 1992 Ky. Acts ch. 267, sec. 4, effective July 14, 1992. -- Created 1972 Ky. Acts ch. 52, sec. 2, effective June 16, 1972.