

MARYLAND REGISTER

## Proposed Action on Regulations

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| <b>Transmittal Sheet</b><br><br><b>PROPOSED<br/>OR REPROPOSED</b><br><br><b>Actions on Regulations</b> | <b>Date Filed with AELR<br/>Committee</b> | <b>TO BE COMPLETED BY<br/>DSD</b>              |
|  | 04/18/2016                                | Date Filed with Division of<br>State Documents |
|  |   |  |
|  |   | Document Number                                |
|  |   | Date of Publication in MD<br>Register          |
|  |   |  |

**1. Desired date of publication in Maryland Register: 5/13/2016**

**2. COMAR Codification**

**Title Subtitle Chapter Regulation**

31 04 18 02-.14

**3. Name of Promulgating Authority**

Maryland Insurance Administration

**4. Name of Regulations Coordinator**

Catherine E Grason

**Telephone Number**

410-468-2201

**Mailing Address**

200 St. Paul Place, Suite 2700

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Baltimore MD 21202

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Catherine.Grason@maryland.gov

**5. Name of Person to Call About this Document**

Catherine Grason

**Telephone No.**

410-468-2201

**Email Address**

catherine.grason@maryland.gov

**6. Check applicable items:**

- New Regulations
- Amendments to Existing Regulations
  - Date when existing text was downloaded from COMAR online: .
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval

**X- Reproposal of Substantively Different Text:**

43: 2 Md. R 228-232 1/22/16  
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: 16-054-P.

**7. Is there emergency text which is identical to this proposal:**

- Yes **X- No**

**8. Incorporation by Reference**

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**9. Public Body - Open Meeting**

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

**10. Children's Environmental Health and Protection**

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Phoebe Pappas, Assistant Attorney General, (telephone #410-468-2032) on 4/13/16. A written copy of the approval is on file at this agency.

**Name of Authorized Officer**

Alfred W. Redmer, Jr.

**Title**

Insurance Commissioner

**Telephone No.**

410-468-2090

**Date**

4/18/16

**Title 31**  
**MARYLAND INSURANCE ADMINISTRATION**  
**Subtitle 04 INSURERS**

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

Authority: See attached.

**Notice of Proposed Action**

[]

The Insurance Commissioner proposes to repeal existing Regulation .02 and adopt new Regulations .02-.14 under COMAR 31.04.18 Form Filings Under the Maryland Insurance Acquisitions Disclosure and Control Act. Because substantive changes have been made to the original proposal as published in 43:2 Md. R. 228-232 (January 22, 2016), this action is being repropose at this time.

**Statement of Purpose**

The purpose of this action is to implement the statutory changes to Insurance Article, §§7-101 et. seq. and 2-209.1, Annotated Code of Maryland, designed to conform to the National Association of Insurance Commissioners' (NAIC) Insurance Company Holding Company System Regulatory Act (Model 440). The purpose of this reproposal is to:

- Amend proposed Regulation .02B(8), which defines "Form C," to carve out the reference to Regulation .11 of this chapter, as the contents of Regulation .11 are not covered in a Form C;
- Amend proposed Regulation .02B(10), which defines "Form E," to include a reference to Insurance Article, §7-403(a), Annotated Code of Maryland, as a Form E may be filed pursuant to this statute;
- Amend proposed Regulation .04A to correct a typographical error (change "forms" to "format");
- Amend proposed Regulation .07B to correct a technical format error in the reference to the Insurance Article;
- Amend proposed Regulation .08A to add the phrase "and provide a copy to the domestic insurer," consistent with Insurance Article, §7-304, Annotated Code of Maryland;
- Amend proposed Regulation .09B to add the phrase "Unless extended by the Commissioner for good cause," consistent with Insurance Article, §7-602, Annotated Code of Maryland;
- Omit proposed Regulation .09C, as the drafting note to Section 16 of the NAIC Model Regulation provides that if Section 5A(2) of the Model Act has been adopted, this provision may be omitted. Section 5A(2) of the Model Act is codified at Insurance Article, §7-703, Annotated Code of Maryland;
- Amend proposed Regulation .09D to fix an inaccurate cross reference;
- Amend proposed Regulation .13A to add the phrase "Unless extended by the

Commissioner for good cause,” consistent with Insurance Article, §7-603, Annotated Code of Maryland; and

- Amend proposed Regulation .14B(4)(c)(i) and (ii) to move the phrase “for the 12 month period ending December 31 of the preceding year” such that this phrase modifies only “realized capital gains,” consistent with Insurance Article, §7-606, Annotated Code of Maryland.

### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

### **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 Catherine Grason, Director, Regulatory Affairs, Maryland Insurance Administration, 200 Saint Paul Place, Ste. 2700, Baltimore, MD 21202, or call 410-468-2201, or email to [insuranceregreview.mia@maryland.gov](mailto:insuranceregreview.mia@maryland.gov), or fax to 410-468-2020. Comments will be accepted through June 13, 2016. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 17

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No funds are needed to implement these regulations.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

These regulations implement and clarify existing statutory requirements. No additional funds are needed for compliance.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations impact insurance companies, which in Maryland, are not considered small businesses.

G. Small Business Worksheet:

Attached Document:

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## Title 31

### MARYLAND INSURANCE ADMINISTRATION

#### Subtitle 04 INSURERS

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

Authority: Insurance Article, §§2-109 and 2-209.1 and Title 7, Annotated Code of Maryland

**.02 Definitions.**

A. (originally proposed text unchanged)

B. *Terms Defined.*

(1)-(7) (originally proposed text unchanged)

(8) “Form C” means the “Summary of Changes to Registration Statement” form filed pursuant to Insurance Article, §7-601, Annotated Code of Maryland, and ~~[[[Regulations]]]~~ **Regulation .10** ~~[[[and .11]]]~~ of this chapter.

(9) (originally proposed text unchanged)

(10) “Form E” means the “Pre-Acquisition Notification Form Regarding the Potential Competitive Impact of a Proposed Merger or Acquisition by a Non-Domiciliary Insurer Doing Business in this State or by a Domestic Insurer” form filed pursuant to Insurance Article, §7-303(a) **or §7-403(a)**, Annotated Code of Maryland, and Regulation .07 of this chapter.

(11)-(17) (originally proposed text unchanged)

**.03** (originally proposed text unchanged)

**.04 Forms — General Requirements.**

A. A person required to file a statement, form, or notification pursuant to Insurance Article, Title 7, Annotated Code of Maryland, shall file the statement, form, or notification as specified in the instructions provided in this chapter, and in accordance with the ~~[[[forms]]]~~ **format**, guidelines, and instructions approved by the Commissioner. The forms are not intended to be blank forms which are to be filled in; rather, the forms are intended to be guides in the preparation of the statements. A filed statement shall contain the number and captions of all items outlined in the form, with text addressing each applicable item or a response in the negative where not applicable.

B.-F. (originally proposed text unchanged)

**.05-.06** (originally proposed text unchanged)

**.07 Pre-Acquisition Notification.**

A. (originally proposed text unchanged)

B. The acquiring person in an acquisition subject to Insurance Article, §7-403, **Annotated Code of Maryland**, shall file with the Commissioner, at least 30 days before the acquisition is proposed to become effective, a Form E, in accordance with the format, guidelines, and instructions approved by the Commissioner.

C. (originally proposed text unchanged)

**.08 Statement of Filing for Acquisition of Control of a Domestic Insurer.**

A. A person seeking to acquire control of a domestic insurer pursuant to Insurance Article, §7-304, Annotated Code of Maryland, shall file with the Commissioner **and provide a copy to the domestic insurer** a Form A at least 60 days before a transaction is proposed to become effective, in accordance with the format, guidelines, and instructions approved by the Commissioner.

B. (originally proposed text unchanged)

**.09 Annual Registration Statement.**

A. (originally proposed text unchanged)

B. **Unless extended by the Commissioner for good cause, [[The]] the Form B shall be filed within 15 days after the insurer becomes subject to registration and, for each subsequent year, annually on or before May 1.**

[[C. If a material change occurs in the facts set forth in the Form B filed with the Commissioner pursuant to this regulation:

(1) An amendment to the Form B shall be filed within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement;

(2) Only those items which are being amended shall be reported; and

(3) Each amendment shall include at the top of the cover page:

(i) Amendment No. [insert number] to Form B for [insert year]; and

(ii) The date of the change.]]

[[D.]] C. No information need be disclosed pursuant to [[§C(1)]] **§A** of this regulation if the information is not material. Sales, purchases, exchanges, loans, or extensions of credit, investments, or guarantees involving 1/2 of 1 percent (.5 percent) or less of an insurer's admitted assets as of the 31st day of the December next preceding may not be deemed material for the purposes of this section.

**.10-.12** (originally proposed text unchanged)

**.13 Enterprise Risk Report.**

The ultimate controlling person of an insurer required to file an enterprise risk report under Insurance Article, §7-603(h)(1), Annotated Code of Maryland, shall:

A. **Unless extended by the Commissioner for good cause, [[By]] by July 1 of each year, file with the Commissioner a properly executed Form F in accordance with the format, guidelines, and instructions approved by the Commissioner; and**

B. (originally proposed text unchanged)

**.14 Extraordinary Dividends and Other Distributions.**

A. (originally proposed text unchanged)

B. The insurer shall file a written request for approval of extraordinary dividends or any other extraordinary distribution to shareholders and shall include the following in the request:

(1)-(3) (originally proposed text unchanged)

(4) The copy of the calculations determining that the proposed dividend is extraordinary pursuant to the definition in Insurance Article, §7-706(b), Annotated Code of Maryland, which shall include the following information:

(a)-(b) (originally proposed text unchanged)

(c) One of the following:

(i) If the insurer is a life insurer, the net gain from operations of the insurer not including realized capital gains **for the 12 month period ending December 31 of the preceding year** or pro rata distributions of any class of the insurer's own securities[[for the 12 month period ending December 31 of the preceding year]]; or

(ii) If the insurer is not a life insurer, the net investment income not including realized capital gains **for the 12 month period ending December 31 of the preceding year** or pro rata distributions of any class of the insurer's own securities[[for the 12-month period ending December 31 of the preceding year]]; and

(d) (originally proposed text unchanged)

(5)-(6) (originally proposed text unchanged)