

State of Utah
Administrative Rule Analysis
 Revised May 2020

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R590-284	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	3110	
Building:	State Office Building	
Street address:	450 N. State St.	
City, state:	Salt Lake City, UT 84114	
Mailing address:	PO Box 146901	
City, state, zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-538-3803	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Corporate Governance Annual Disclosure Rule
3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The rule is being changed to bring its formatting and style in line with the Rulewriting Manual for Utah and to update the severability section.
4. Summary of the new rule or change:
All changes to the rule text are being made to meet the standards in the Rulewriting Manual for Utah. The changes are comprised of number fixes, grammatical fixes, revisions to clarify language, and other clerical improvements. It also updates the severability section to the version the Insurance Department is currently using.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes are clerical in nature and do not add or remove any requirements to the rule.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes are clerical in nature and do not add or remove any requirements to the rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are clerical in nature and do not add or remove any requirements to the rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are clerical in nature and do not add or remove any requirements to the rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are clerical in nature and do not add or remove any requirements to the rule.

F) Compliance costs for affected persons:

There are no compliance costs for any affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The head of the Insurance Department, Tanji J. Northrup, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Tanji J. Northrup, Interim Insurance Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 31A-2-201	Section 31A-16b-104	

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
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Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 02/01/2021

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

10. This rule change MAY become effective on (mm/dd/yyyy): 02/08/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date (mm/dd/yyyy):	12/11/2020
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R590. Insurance, Administration.

R590-284. Corporate Governance Annual Disclosure Rule.

R590-284-1. Authority.

This rule is promulgated pursuant to Subsection 31A-2-201(3)(a), which authorizes rules to implement ~~[the]~~ Title 31A, Insurance Code, and Section 31A-16b-104, which authorizes rules to implement ~~[the]~~ Title 31A, Chapter 16b, Corporate Governance Annual Disclosure Act ~~[at Title 31A, Chapter 16b]~~.

R590-284-2. Purpose and Scope.

(1) This rule sets forth the filing procedures and the content requirements for the Corporate Governance Annual Disclosure (CGAD) required by Title 31A, Chapter 16b, Corporate Governance Annual Disclosure Act.

(2) This rule applies to an insurer or insurance group domiciled in Utah.

R590-284-3. Definitions.

(1) The definitions in Section 31A-1-301 apply to this rule.

(2) "Senior Management" means any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and includes the Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Procurement Officer, Chief Legal Officer, Chief Information Officer, Chief Technology Officer, Chief Revenue Officer, Chief Visionary Officer, or any other "C" level executive.

R590-284-4. Filing Procedures.

(1) ~~[The]~~ An insurer or insurance group has discretion regarding the appropriate format for providing the information required by these regulations ~~[The insurer or insurance group has discretion to]~~ and may customize the CGAD to provide the most relevant information necessary to permit the commissioner to gain an understanding of the corporate governance structure, policies, and practices utilized by the insurer or insurance group.

(2)(a) An insurer or insurance group may comply with this rule by referencing any other existing document[s], for example, an ORSA Summary Report, a Holding Company Form B or F Filing[s], a Securities and Exchange Commission Proxy Statement[s], or foreign regulatory reporting requirements, if the document[s] provides information that is comparable to the information described in Section R590-284-5.

(b) ~~[The]~~ An insurer or insurance group shall 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.

(3)(a) Each year following the initial filing of the CGAD, ~~[the]~~ an insurer or insurance group shall file an amended version of the previously filed CGAD indicating where any change[s] ~~[have]~~ has been made.

(b) If no changes were made in the information or activities reported by the insurer or insurance group, the filing should so state.

R590-284-5. Contents of the CGAD.

(1) ~~[The]~~ An insurer or insurance group shall be as descriptive as possible in completing the CGAD ~~[with inclusion of]~~ and should include any attachment[s] or example document[s] that ~~[are]~~ is used in the governance process[s] because these may provide a means to demonstrate the strengths of ~~[their]~~ the insurer's or insurance group's governance framework and practices.

(2) The CGAD shall describe ~~[the]~~ an insurer's or insurance group's corporate governance framework and structure including consideration of the following[-]:

(a) ~~[F]~~ the insurer's board of directors (Board) and its various committees that are ultimately responsible for overseeing the insurer or insurance group and the level[s] or levels at which that oversight occurs, for example, ultimate control level, intermediate holding company, or legal entity ~~[The insurer or insurance group shall describe and discuss]~~ and a description and discussion of the rationale for the current Board size and structure; and

(b) ~~[F]~~ the duties of the Board and each of its significant committees and how they are governed, for example bylaws, charters, or informal mandates, 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) ~~[The]~~ An 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:

(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 information on director attendance;

(d) how the insurer or insurance group identifies, nominates, and elects members to the Board and its committees including, for example:

(i) whether a nomination committee is in place to identify and select individuals for consideration;

(ii) whether term limits are placed on directors;

(iii) how the election and re-election processes function; and

(iv) whether a Board diversity policy is in place and if so, how it functions; and

(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]~~.

(4) ~~[The]~~ An insurer or insurance group shall describe the policies and practices for directing Senior Management, including a description of the following factors:

(a) any process[es] or practice[s], for example, 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:

(i) identification of ~~[the]~~ each specific position[s] for which suitability standards have been developed and a description of the standards employed[-]; and

(ii) any change[s] 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:

(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:

- (i) the general objectives of any significant compensation program[s];
- (ii) what ~~[the] each program[s-are]~~ is designed to reward; and
- (iii) how the organization ensures that a compensation program[s] does not encourage and/or reward excessive risk taking, including a discussion of:

- (A) the Board's role in overseeing management compensation programs and practices;
 - (B) the various elements of compensation awarded in ~~[the insurer's or insurance group's]~~ each compensation program[s] and how the insurer or insurance group determines and calculates the amount of each element of compensation paid;
 - (C) how each compensation program[s-are] is related to both company and individual performance over time;
 - (D) whether each compensation program[s] includes risk adjustments and how those adjustments are incorporated into the programs for employees at different levels;
 - (E) any clawback provision[s] built into ~~[the] a compensation program[s]~~ to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted; and
 - (F) any other factor[s] 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
- (d) the insurer's or insurance group's plans for CEO and Senior Management succession.

(5)(a) ~~[The] An~~ insurer or insurance group shall describe ~~[the] any process[es]~~ by which the Board, its committees, and Senior Management ensure an appropriate amount of oversight to ~~[the] each~~ critical risk area[s] impacting the insurer's business activities, including a discussion of:

- ~~(a) i~~ ~~[H]~~ how oversight and management responsibilities are delegated between the Board, its committees, and Senior Management;
 - ~~(b) ii~~ ~~[H]~~ how the Board is kept informed of the insurer's or insurance group's strategic plans, the associated risks, and steps that Senior Management ~~[is taking]~~ may take to monitor and manage those risks; and
 - ~~(c) iii~~ ~~[H]~~ how reporting responsibilities are organized for each critical risk area.
- ~~(d) b~~ The description should allow the commissioner to understand the frequency at which information on each critical risk area is reported to and reviewed by Senior Management and the Board.

~~(e) c~~ The ~~[is]~~ description may include, for example, the following critical risk areas of the insurer:

- (A) risk management processes, such as an ORSA Summary Report pursuant to Title 31A, Chapter 16a, Risk Management and Own Risk and Solvency Assessment Act;
- (B) actuarial function;
- (C) investment decision-making processes;
- (D) reinsurance decision-making processes;
- (E) business strategy/finance decision-making processes;
- (F) compliance function;
- (G) financial reporting/internal auditing; and
- (H) market conduct decision-making processes.

R590-284-6. Severability.

~~[If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]~~ If any provision of this rule, R590-284, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: corporate governance disclosure

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-16b-104