

**State of Utah**  
**Administrative Rule Analysis**  
Revised June 2022

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** New \_\_\_; Amendment \_x\_; Repeal \_\_\_; Repeal and Reenact \_\_\_

**Title No. - Rule No. - Section No.**

**Rule or Section Number:**

**R590-284**

**Filing ID: Office Use Only**

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov

**Please address questions regarding information on this notice to the agency.**

**General Information**

**2. Rule or section catchline:**

R590-284. Corporate Governance Annual Disclosure Rule

**3. Purpose of the new rule or reason for the change** (Why is the agency submitting this filing?):

The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended.

**4. Summary of the new rule or change** (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards and to make the language of the rule more clear. The changes do not add, remove, or change any regulations or requirements.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions.

**B) Local governments:**

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.

**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 largely clerical in nature, and will not affect small businesses.

**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 largely clerical in nature, and will not affect non-small businesses.

**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 largely clerical in nature.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

**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	FY2023	FY2024	FY2025
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2023	FY2024	FY2025
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

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

**Incorporations by Reference Information**

**7. Incorporations by Reference** (if this rule incorporates more than two items by reference, please include additional tables):

**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*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Issue Date</b>	
<b>Issue or Version</b>	

**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*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Issue Date</b>	

<b>Issue or Version</b>	
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**Public Notice Information**

**8. 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. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** **05/01/2023**

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

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

**9. This rule change MAY become effective on:** **05/08/2023**

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**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.

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	<b>03/06/2023</b>
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**§R590. Insurance, Administration.**

**R590-284. Corporate Governance Annual Disclosure Rule.**

**R590-284-1. Authority.**

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

**R590-284-2. Purpose and Scope.**

- (1) ~~[This rule sets]~~The purpose of this rule is to set forth the filing procedure[s] and the content requirements for the ~~[Corporate Governance Annual Disclosure (CGAD)]~~CGAD required by Title 31A, Chapter 16b, Corporate Governance Annual Disclosure Act.
- (2) This rule applies to an insurer or an 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.]~~

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

- ~~\_\_\_\_\_ (1) "CGAD" means corporate governance annual disclosure.~~
- ~~\_\_\_\_\_ (2) "Insurance group" means the insurers and affiliates included within an insurance holding company system.~~
- ~~\_\_\_\_\_ (3)(a) "Senior management" means any corporate officer responsible for:~~
  - ~~\_\_\_\_\_ (i) reporting information to the board of directors at regular intervals; or~~
  - ~~\_\_\_\_\_ (ii) providing the information in Subsection (3)(a)(i) to shareholders or regulators.~~
- ~~\_\_\_\_\_ (b) "Senior management" includes:~~
  - ~~\_\_\_\_\_ (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; or~~
  - ~~\_\_\_\_\_ (x) any other "C" level executive.~~

**R590-284-4. Filing Procedures.**

(1) An insurer or insurance group has discretion regarding the appropriate format for providing the information required by ~~[these regulations]~~ [this rule] and may customize the CGAD to provide the most relevant information necessary to ~~[permit the commissioner to gain]~~ give the commissioner 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, for example, an ORSA Summary Report, a Holding Company Form B or F Filing, a Securities and Exchange Commission Proxy Statement, or foreign regulatory reporting requirements, if the document provides information that is comparable to the information described in Section R590-284-5.

(b) 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]~~ commissioner.

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

(b) If no changes were made in the information or activities reported by the insurer or insurance group, the filing ~~[should so state]~~ shall state that there was no change.

#### **R590-284-5. Contents of the CGAD.**

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

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

(a) the insurer's board of directors ~~[Board]~~ and its ~~[various]~~ committees that are ~~[ultimately]~~ responsible for overseeing the insurer or insurance group ~~[and]~~;

~~(b) the level or levels at which [that] oversight occurs, [for example,] including ultimate control level, intermediate holding company, or legal entity, and a description and discussion of;~~

~~(c) the rationale for the current [Board] size and structure of the board of directors, including the role of the chief executive officer and the chairman of the board; [and]~~

~~(b)(d) the duties of the [Board] board of directors and each [of its significant committees] committee; and [how they are]~~

~~(e) how the board of directors and each committee is governed, for example through bylaws, [charters] a charter, or an informal mandate[s], 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) An insurer or insurance group shall describe the policies and practices of the most senior governing entity and ~~[significant committees thereof]~~ its committees, including ~~[a discussion of the following]:~~

(a) how the qualifications, expertise, and experience of each ~~[Board]~~ 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]~~ board of directors and its committees;

(c) the number of meetings held by the ~~[Board and its significant]~~ board of directors and its 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]~~ board of directors 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]~~ board of directors diversity policy is in place and, if so, how it functions; and

(e) the processes in place for the ~~[Board]~~ board of directors to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance, including ~~[any Board]~~ board of directors or committee training programs.

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

(a) any process or ~~[practice, for example,]~~ suitability standards <sup>[s]</sup> used to determine whether ~~[officers and key persons in control functions have]~~ an officer or key person in a control function has the appropriate background, experience, and integrity to fulfill their ~~[prospective roles]~~ role, including:

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

(ii) any change 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]~~ including:

(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;

(ii) what each program is designed to reward; and

(iii) how the organization ensures that a compensation program does not encourage ~~[and]~~ or reward excessive risk taking, including ~~[a discussion of]:~~

(A) the ~~[Board's]~~ role of the board of directors in overseeing management compensation programs and practices;

(B) the ~~[various]~~ elements of compensation awarded in each compensation program and how the insurer or insurance group determines and calculates the amount of each element of compensation paid;

(C) how each compensation program is related to both company and individual performance over time;

(D) whether each compensation program includes risk adjustments and how those adjustments are incorporated into the programs for employees at different levels;

(E) any clawback provision built into a compensation program to recover awards or payments if the performance measures ~~[upon which]~~ they are based on are restated or ~~[otherwise]~~ adjusted; and

(F) any other factor 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]~~ chief executive officer and senior management succession.

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

(i) how oversight and management responsibilities are delegated between the ~~[Board]~~ board of directors, its committees, and ~~[Senior Management]~~ senior management;

(ii) how the ~~[Board]~~ board of directors is kept informed of the insurer's or insurance group's strategic plans, the associated risks, and steps that ~~[Senior Management may take]~~ senior management takes to monitor and manage those risks; and

(iii) how reporting responsibilities are organized for each critical risk area.

(b) The description ~~[should allow the commissioner to understand]~~ shall inform the commissioner of the frequency at which information on each critical risk area is reported to and reviewed by ~~[Senior Management and the Board]~~ senior management and the board of directors.

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

(A) a risk management process~~[es]~~, such as an ORSA Summary Report pursuant to Title 31A, Chapter 16a, Risk Management and Own Risk and Solvency Assessment Act;

(B) an actuarial function;

(C) an investment decision-making process~~[es]~~;

(D) a reinsurance decision-making process~~[es]~~;

(E) a business strategy~~[f]~~ or finance decision-making process~~[es]~~;

(F) a compliance function;

(G) a financial report~~[ing]~~ or internal audit~~[ing]~~; and

(H) a market conduct decision-making process~~[es]~~.

#### **R590-284-6. Severability.**

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**

**Date of Enactment or Last Substantive Amendment: February 9, 2021**

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