

State of Utah
Administrative Rule Analysis
Revised May 2026

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment	Filing ID: OFFICE USE ONLY
Rule or section number:	R590-70
Date of previous publication (only for CPRs):	

1. Agency Information

Title catchline:	Insurance, Administration
Building:	Taylorsville State Office Building
Street address:	4315 S. 2700 W.
City, state:	Taylorsville, UT
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901

2. Contact Persons

Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the persons listed above.

3. General Information

A. Rule or section catchline:
R590-70. Insurance Holding Companies
B. Purpose of the new rule or reason for the change:
The change adds a new section that is required for the Department to maintain its national accreditation standards.
C. Summary of the new rule or change:
The change adds Section R590-70-20, Group Capital Calculation, (GCC) because allowing GCC filings are required by NAIC Part A accreditation standards. Utah has domestic companies that are required to file the GCC, and this section will help provide direction for those filings.

4. Legislative Action Information

A. Are any changes in this filing because of state legislative action?	Changes are not because of legislative action.
B. If yes, any bill number and session:	

5. Fiscal Information

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. Any filings under the GCC section will be integrated into the existing workload of current Department employees.
B. Local governments:
There is no anticipated cost or savings to local governments. The rule governs the relationship between the Department and its licensees and does not involve local governments in any way.
C. Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The rule governs the relationship between the Department and its insurance company licensees, all of which are non-small businesses.
D. Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost and no estimable savings for non-small businesses. The new section of this rule is intended to help the Department's insurance company licensees comply with Insurance Code requirements. Insurance companies may save a small amount due to the defined filing process contained in the new section; however, the Department cannot estimate what that savings may be. The amendment is intended to be cost-neutral as its goal is intended to clarify the Insurance Code and make it easier to file the GCC.

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 rule governs the relationship between the Department and its licensees and does not involve other persons in any way.

F. Compliance costs for affected persons:

There are no compliance costs for any affected persons. The amendment is intended to be cost-neutral as its goal is intended to clarify the Insurance Code and make it easier to file the GCC.

6. Regulatory Impact Summary Table

Enter the cost or savings in the relevant cell. If there is no cost or savings, enter, "\$0." If a cost or savings is inestimable, enter, "inestimable."

Fiscal Cost	FY2027	FY2028	FY2029	FY2030	FY2031
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0	\$0	\$0
Fiscal Benefits	FY2027	FY2028	FY2029	FY2030	FY2031
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	inestimable	inestimable	inestimable	inestimable	inestimable
Other Persons	\$0	\$0	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0	\$0	\$0

7. Regulatory Impact Analysis Approval

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

8. Family Impact Information

A. The agency has considered this rule's impact on family health, stability, and formation: ☒

B. Summary of reasonable alternatives or modifications:

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9. Citation Information

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-16-116	

10. Incorporation by Reference Information

Incorporation by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B. This rule adds or updates the following title of material incorporated by reference (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

11. Public Notice Information

The public may submit written or oral comments to the agency identified in box 1.

A. Comments will be accepted until:	11/16/2026
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B. A public hearing (optional) will be held (The public may request a hearing by submitting a written request to the agency, as outlined in Section 63G-3-302 and Rule R15-1.):

Date:	Time (hh:mm AM/PM):	Place (physical address or URL):

To the agency: If more than one hearing is planned to take place, continue to add rows.

12. Effective Date Information

This rule change MAY become effective on: (NOTE: This is the date the agency anticipates making the filing effective. It is NOT the effective date)	11/23/2026
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13. Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. The office may return incomplete forms to the agency, 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:	09/24/2026
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R590. Insurance, Administration.

R590-70. Insurance Holding Companies.

R590-70-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-16-116.

R590-70-2. Purpose and Scope.

(1)(a) The purpose of this rule is to establish procedures that are necessary to carry out the National Association of Insurance Commissioners' Insurance Holding Company System Regulatory Act and Title 31A, Chapter 16, Insurance Holding Companies.

(b) The commissioner declares that the information called for by the Act and Title 31A, Chapter 16, Insurance Holding Companies, is necessary and appropriate, in the public interest, and for the protection of the policyholders in this state.

(2) This rule applies to a person that is a member of an insurance group within an insurance holding company system.

R590-70-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301 and Title 31A, Chapter 16, Insurance Holding Companies. Additional terms are defined as follows:

(1) The "Act" means the NAIC Insurance Holding Company System Regulatory Act.

(2) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the officers listed above under any other title.

(3) "NAIC" means the National Association of Insurance Commissioners.

(4) "Ultimate controlling person" means a person that is not controlled by any other person.

R590-70-4. Forms – General Requirements.

- (1)(a) Form A, Form B, Form C, Form D, Form E, and Form F are intended to be guides for preparing statements required by Sections 31A-16-103, 31A-16-105, and 31A-16-106.
- (b) The forms listed in Subsection (1)(a) are blank forms that are not intended to be filled in.
- (c) Each statement filed shall contain the numbers and captions of each item, except that the text of the items may be omitted if the answers clearly indicate the scope and coverage of the items.
- (d) Any instructions appearing under the items of the form or elsewhere shall be omitted.
- (e) Unless otherwise required, if any item is inapplicable or the answer to the item is in the negative, a statement shall be made to that effect.
- (2)(a) Each statement, including exhibits and any other documents filed as a part of the statement, shall be filed with the commissioner in a secure electronic form.
- (b) Each statement shall be signed in the manner prescribed on the form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall be filed with the statement.
- (3) If an applicant requests a consolidated hearing under Subsection 31A-16-103(10), the applicant shall file in electronic form:
 - (a) the Form A with the commissioner; and
 - (b) a copy of the Form A with the NAIC.
- (4)(a) Each statement should be prepared electronically.
- (b) Each statement shall be easily readable and suitable for review and reproduction.
- (c) A debit in a credit category and a credit in a debit category shall be clearly distinguishable.
- (d) Each statement shall be in the English language.
- (e) Monetary value shall be stated in United States currency.
- (f) Any exhibit or other document filed with the statement in a foreign language shall be accompanied by an English language translation.
- (g) Any monetary value shown in a foreign currency normally shall be converted into United States currency.
- (5) Form A, Form B, Form C, Form D, Form E, and Form F can be obtained from the department's website at <https://insurance.utah.gov>.

R590-70-5. Forms – Incorporation by Reference, Summaries and Omissions.

- (1)(a) Information required by any item of Form A, Form B, Form D, Form E, or Form F may be incorporated by reference in answer or partial answer to any other item.
- (b) Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, Form E, or Form F, provided the document is filed as an exhibit to the statement.
- (c) An excerpt of a document may be filed as an exhibit if the document is extensive.
- (d) A document currently on file with the department that was filed within three years need not be attached as an exhibit.
- (e) A reference to information contained in an exhibit or in a document already on file with the department shall:
 - (i) clearly identify the material; and
 - (ii) specifically indicate that the material is to be incorporated by reference in answer to the item.
- (f) Matter may not be incorporated by reference if incorporating by reference makes the statement incomplete, unclear, or confusing.
- (2)(a) When an item requires a summary or outline of the provisions of any document, only a brief statement of the document's pertinent provisions shall be summarized or outlined.
- (b) The summary or outline may incorporate by reference parts of any exhibit or document currently on file with the commissioner that:
 - (i) was filed within three years; and
 - (ii) may be qualified in its entirety by the incorporated reference.
- (c) When two or more documents required to be filed as exhibits are substantially identical in all material respects, except for the parties to the document, the dates of execution, or other details, a copy of only one of the documents need be filed.
- (d) The document referenced in Subsection (2)(b) to be filed shall be accompanied by a schedule that:
 - (i) identifies the omitted documents; and
 - (ii) provides material details regarding the differences between the documents.

R590-70-6. Forms – Information Unknown or Unavailable and Extension of Time to Furnish.

- (1) A request for extension of time shall be filed with the commissioner when it is impractical to furnish any required information, document, or report at the required time.
- (2) A request for extension of time shall:
 - (a) identify the information, document, or report in question;
 - (b) state why it is impractical to furnish the information, document, or report at the time required; and
 - (c) request an extension of time to file the information, document, or report by a specified date.
- (3) A request for extension shall be granted unless the commissioner enters an order denying the request within 60 days after receipt of the request.

R590-70-7. Forms – Additional Information and Exhibits.

- (1) In addition to the information required to be included in Form A, Form B, Form C, Form D, Form E, and Form F, the commissioner may request additional information that may be necessary to ensure the information contained in the form is not misleading.
- (2) The person filing the form may also file any other exhibit in addition to the exhibits required by the statement.
- (3) Any additional exhibit shall be clearly marked to indicate the subject matter to which the exhibit refers.
- (4) Any change to Form A, Form B, Form C, Form D, Form E, or Form F shall include:
 - (a) the phrase "Change No. (insert number) to" at the top of the cover page; and
 - (b) the date the form was changed and not the original filing date.

R590-70-8. Subsidiaries of Domestic Insurers.

The authority to invest in a subsidiary under Subsection 31A-16-102.5(2) is in addition to any authority to invest in a subsidiary that may be contained in Title 31A, Insurance Code.

R590-70-9. Acquisition of Control -- Statement Filing (Form A).

- (1) A person required to file a statement under Section 31A-16-103 shall furnish the required information on Form A.
- (2) The person in Subsection (1) required to file a Form A shall also furnish the required information on Form E, as described in Section R590-70-12.

R590-70-10. Amendments to Form A.

- (1)(a) An applicant shall promptly notify the commissioner of any change in the information furnished on the Form A arising after the date the applicant furnished the information to the commissioner.
- (b) The applicant shall notify the commissioner of the change in information prior to the commissioner's final decision regarding the application.

R590-70-11. Acquisition of Subsection 31A-16-103(1)(f)(i) Insurers.

- (1) If a person being acquired is a "domestic insurer" under Subsection 31A-16-103(1)(f)(i), the name of the domestic insurer on the cover page should be indicated as "ABC Insurance Company, a subsidiary of XYZ Holding Company."
- (2) When a Subsection 31A-16-103(1)(f)(i) insurer is being acquired, references to "the insurer" contained in the Form A shall refer to the domestic subsidiary insurer and the person being acquired.

R590-70-12. Pre-acquisition Notification (Form E).

- (1) If a domestic insurer, including any person controlling a domestic insurer, proposes a merger or acquisition under Subsection 31A-16-103(1), that person shall file a Form E pre-acquisition notification form.
- (2)(a) If a non-domiciliary insurer licensed to do business in this state proposes a merger or acquisition under Section 31A-16-104.5, that person shall file a Form E pre-acquisition notification form.
- (b) No pre-acquisition notification form need be filed if the acquisition is beyond the scope of Section 31A-16-104.5 as set forth in Subsection 31A-16-104.5(2)(b).
- (3) In addition to the information required by Form E, the commissioner may require an expert opinion regarding the competitive impact of the proposed acquisition.

R590-70-13. Annual Registration of Insurers -- Statement Filing (Form B).

An insurer required to file an annual registration statement pursuant to Section 31A-16-105 shall furnish the required information on Form B.

R590-70-14. Summary of Registration -- Statement Filing (Form C).

An insurer required to file an annual registration statement pursuant to Section 31A-16-105 shall furnish the required information on Form C.

R590-70-15. Amendments to Form B.

- (1) An amendment to 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) An amendment shall be filed in the Form B format reporting only those items that are being amended.
- (3) An amendment shall include at the top of the cover page "Amendment No. (insert number) to Form B for (insert year)", and shall provide the date of the change and not the original filing date.

R590-70-16. Alternative and Consolidated Registrations.

- (1)(a) Any authorized insurer may file a registration statement on behalf of any affiliated insurer that is required to register under Section 31A-16-105.
- (b) A registration statement may include information not required by the Act and Title 31A, Chapter 16, Insurance Holding Companies, regarding any insurer in the insurance holding company system even if the insurer is not authorized to do business in this state.
- (c) In lieu of filing a registration statement on Form B, an authorized insurer may file a copy of the required registration statement or similar report in the insurer's state of domicile, provided that:
 - (i) the statement or report contains substantially similar information required to be furnished on Form B; and
 - (ii) the filing insurer is the principal insurance company in the insurance holding company system.
- (2) An insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer shall set forth a brief statement of facts that substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.
- (3) With the prior approval of the commissioner, an unauthorized insurer may follow any procedure that an authorized insurer may follow under Subsection (1).
- (4) Any insurer may use the procedures in Subsections 31A-16-105(8) or 31A-16-105(9) without the commissioner's prior approval.
- (5) The commissioner may require individual filings if the commissioner determines that the filings are necessary for clarity, ease of administration, or the public good.

R590-70-17. Disclaimers and Termination of Registration.

- (1) A disclaimer of affiliation or a request for termination of registration claiming that a person does not control any other person, or that a person will not control any other person upon the taking of some proposed action, hereinafter the "other person" referred to as the "subject", shall contain the following information:
 - (a) the number of the subject's authorized, issued, and outstanding voting securities;
 - (b) regarding the person denying control and the person's affiliates:
 - (i) the number and percentage of the subject's shares of voting securities that are held of record or known to be beneficially owned;
 - (ii) the number of the subject's shares held of record or beneficially owned in which there is a right to acquire, directly or indirectly; and
 - (iii) information regarding all transactions in any voting securities of the subject effected by the person denying control or the person's affiliates during the past six months.
 - (c) all material relationships and bases for affiliation between the subject and the person denying control and the person's affiliates; and
 - (d) a statement explaining why the person denying control does not control the subject.

(2) A request for termination of registration shall be granted unless the commissioner notifies the registrant that the request is denied within 30 days after receipt of the request.

R590-70-18. Transactions Subject to Prior Notice -- Notice Filing.

- (1) An insurer required to give notice of a proposed transaction pursuant to Section 31A-16-106 shall furnish the required information on Form D.
- (2) An agreement for cost sharing services and management services shall at a minimum and as applicable:
 - (a) identify the person providing services and the nature of the services;
 - (b) provide the methods used to allocate costs;
 - (c) require timely settlement, not less frequently than on a quarterly basis, and in compliance with the requirements in the Accounting Practices and Procedures Manual;
 - (d) prohibit the insurer from advancing funds to the affiliate except to pay for services defined in the agreement;
 - (e) state that the insurer will maintain oversight for services provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
 - (f) define the insurer's books and records to include all books and records developed or maintained under or related to the agreement;
 - (g) specify that the insurer's books and records are and remain the property of the insurer and are subject to the insurer's control;
 - (h) state that all of the insurer's funds and invested assets are the insurer's exclusive property, held for the insurer's benefit, and are subject to the insurer's control;
 - (i) include standards for terminating the agreement with and without cause;
 - (j) include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;
 - (k) specify that, if the insurer is placed in receivership or seized by the commissioner under Title 31, Chapter 27a, Insurer Receivership Act:
 - (i) all of the insurer's rights under the agreement shall extend to the receiver or the commissioner;
 - (ii) all books and records will immediately be made available to the receiver or the commissioner; and
 - (iii) all books and records shall immediately be turned over to the receiver or the commissioner upon the receiver or the commissioner's request;
 - (l) specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to Title 31, Chapter 27a, Insurer Receivership Act; and
 - (m) specify that the affiliate will continue to maintain any system, program, or other infrastructure notwithstanding a seizure by the commissioner under Title 31, Chapter 27a, Insurer Receivership Act, and will make any system, program, or other infrastructure available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

R590-70-19. Enterprise Risk Report.

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Subsection 31A-16-105(12) shall furnish the required information on Form F.

R590-70-20. Group Capital Calculation.

- (1) When an insurance holding company system has previously filed the annual group capital calculation at least once and meets the criteria in Subsection (2), the commissioner may:
- (a) exempt the ultimate controlling person from filing the annual group capital calculation; or
 - (b) accept, in lieu of the annual group capital calculation, a limited group capital filing.
- (2) The commissioner may determine whether the insurance holding company system meets the following criteria:
- (i) has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood program, of less than \$1,000,000,000;
 - (ii) has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
 - (iii) does not include a banking, depository, or other financial entity that is subject to an identified regulatory capital framework within its holding company structure; and
 - (iv) the holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group that have occurred since the last filing of the annual group capital calculation to the commissioner; and
 - (v) the non-insurers within the insurance holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.
- (3) For an insurance holding company that has previously met an exemption in Subsection (1), the commissioner may require, at any time, that the ultimate controlling person file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:
- (a) any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in Title 31A, Chapter 17, Part 6, Risk-Based Capital, or a similar standard for a non-U.S. insurer;
 - (b) any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in Rule R590-265; or
 - (c) any insurer within the insurance holding company system exhibits qualities of a troubled insurer as determined by the commissioner based on unique circumstances including, but not limited to:
 - (i) the type and volume of business written;
 - (ii) ownership and organizational structure;
 - (iii) federal agency requests; or
 - (iv) international supervisor requests.
- (4) A non-U.S. jurisdiction is considered to recognize and accept the group capital calculation if the following criteria are satisfied:
- (a) with respect to the provisions of Subsection 31A-16-105(13):
 - (i) the non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(ii) where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state, with a copy to the International Association of Insurance Supervisors, that the group capital calculation is an acceptable international capital standard;

(b) the non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC; and

(c) the commissioner determines, in consultation with the NAIC Committee Process, that the requirements of the information sharing agreements in Subsection (4)(b) are in force.

(5) A list of non-U.S. jurisdictions that recognize and accept the group capital calculation pursuant to Subsection 31A-16-105(13) is published through the NAIC Committee Process to assist the commissioner in determining which insurers shall file an annual group capital calculation.

(a) The list:

(i) clarifies those situations in which a jurisdiction is exempted from filing under Subsection 31A-16-105(13); and

(ii) identifies whether a jurisdiction that is exempted requires a group capital filing for any U.S. based insurance group's operations in that non-U.S. jurisdiction.

(b) For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of Subsection (4)(a)(ii) will serve as support for recommendation to be published as a jurisdiction that "recognizes and accepts" the group capital calculation through the NAIC Committee Process.

(c) If the commissioner makes a determination pursuant to Subsection 31A-16-105(13) that differs from the NAIC list, the commissioner shall provide thoroughly documented justification to the NAIC and other states.

(d) Upon determination by the commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to recognize and accept the group capital calculation, the commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that "recognize and accept" the group capital calculation.

R590-70-[20]21. Extraordinary Dividends and Other Distributions.

(1) A request for approval of an extraordinary dividend or any other extraordinary distribution to shareholders shall include the following:

(a) the amount of the proposed dividend;

(b) the date established for payment of the dividend;

(c) a statement as to whether the dividend is to be in cash or other property;

(d) for dividends in property, the statement referenced in Subsection (1)(c) shall include:

(i) a description of the property;

(ii) the cost of the property;

(iii) the fair market value of the property; and

(iv) an explanation of the basis for the valuation of the property;

(e) a work paper that shall include the following information:

(i) the calculations used to determine that the proposed dividend is extraordinary;

(ii) the amounts of the proposed dividend;

(iii) the date of the proposed dividend;

(iv) the form of payment of all dividends or distributions, including regular dividends, except for distributions of the insurer's own securities that are paid within a consecutive 12-month period that:

(A) ends on the date fixed for payment of the proposed dividend for which approval is sought; and

(B) begins on the day after the same day of the same month in the last preceding year;

(v) surplus as regards policyholders, total capital and surplus, as of the 31st day of December next preceding;

(vi) for a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;

(vii) for an insurer that is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-month periods; and

(viii) for an insurer that is not a life insurer, the dividends paid to stockholders in the preceding two calendar years, excluding distributions of the insurer's own securities;

(f) a balance sheet and income statement for the period beginning on the date the last annual statement was filed with the commissioner and concluding at the end of the month preceding the month in which the request for dividend approval is submitted; and

(g) a brief statement regarding the proposed dividend's effect upon:

(i) the insurer's surplus and reasonableness of surplus in relation to the insurer's outstanding liabilities; and

(ii) the adequacy of the insurer's surplus relative to the insurer's financial needs.

(2)(a) Subject to Subsection 31A-16-106(2), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within 15 business days of declaring the dividend or other distribution.

(b) The report to the commissioner in Subsection (2)(a) shall include the information required by Subsection (1)(e).

R590-70-[24]22. Adequacy of Surplus.

(1) In determining the adequacy and reasonableness of an insurer's surplus, the commissioner will consider the net effect of the factors set forth in Subsection 31A-16-106(4) and any other factors that, alone or in combination, bear upon the insurer's financial condition.

(2) In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each factor set forth in Subsection 31A-16-106(4) varies from company to company.

(3) In determining the quality and liquidity of an insurer's investments in subsidiaries, the commissioner will consider the individual subsidiary and may discount or disallow the subsidiary's valuation if warranted by the individual investments.

R590-70-[22]23. Severability.

If any provision of this rule, Rule R590-70, 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: insurance law

Date of Last Change: October 25, 2021

Notice of Continuation: January 5, 2022

Authorizing, and Implemented or Interpreted Law: 31A-2-201