


# Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 788

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-25-82
DATE FOR REVIEW
DATE DUE 3-4-82

Adopted w/a hearing
Adopted w/o hearing
Temporary rule ✓

Approved ____ Disapproved 3/4/82 Returned to Agency ____

Resubmitted 3-24-82 Due 3-31-82
Approved 3-25-82 Disapproved ____ Returned to Agency 3-25-82

Date filed w/Secretary of State 3-25-82 Revisor approved ~~3/24/82~~ 3/25/82
disapproved ____

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✓ Rule as Adopted

✓ Rule as Proposed see SR

✓ Order Adopting 3.4.82 Date ! Clayton requested to send new Order properly dated.

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking 1.11.82
____ date of Hearing

N/A Certificate of Board's Authorizing Resolution

____ Notice of rulemaking
____ Sufficiency

____ Affidavit of Mailing Notice or rulemaking
____ At least 30 days prior to hearing/adoption

✓ Mailing list Certificate

✓ Publication in State Register
1.25.82 At least ~~30~~/20 days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

____ Chief Hearing Examiner's Report(s)
____ Approving H.E.'s Report
____ Approving agency action

____ Agency's Findings of Fact

____ LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

N/A Statement of Need and Reasonableness

✓ Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

# Office Memorandum

TO : MICHAEL D. MARKMAN
Commissioner of Insurance

DATE: 2/25/82

ATTN : ROBERT CLAYTON, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-0315

SUBJECT: In the Matter of the Adoption of Temporary Rules of the Department of Commerce Requiring Annual Audited Financial Reports

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

TAM:drw

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

Department of Commerce

Insurance Division

Adopted Temporary Rules Requiring Annual Audited Financial Reports

4 MCAR S 1.9120 [Temporary] Authority. Rules 4 MCAR SS 1.9120-1.9135 [Temporary] are promulgated by the Commissioner of Insurance under Minn. Stat. SS 60A.031 and 60A.13.

4 MCAR S 1.9121 [Temporary] Purpose and scope. The purpose of 4 MCAR SS 1.9120-1.9135 [Temporary] is to improve the Minnesota insurance division's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial condition and the results of operations of insurers.

Rules 4 MCAR SS 1.9120-1.9135 [Temporary] shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of the practices, procedures, financial condition, market conduct, and other aspects of the operations of insurers.

Rules 4 MCAR SS 1.9120-1.9135 [Temporary] apply to all insurers required under Minn. Stat. S 60A.13, subd. 3a to file a report of their annual audit, except that insurers having direct premiums written in this state of less than $100,000 in any year and having fewer than 500 policyholders in this state at the end of any year are exempt from the provisions of 4 MCAR SS 1.9120-1.9135 [Temporary] for that year.

Insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from the provisions of 4 MCAR SS 1.9120-1.9135 [Temporary] if:

A. A copy of the audited financial report, the evaluation of accounting procedures, and systems of internal control report, which are filed with the other state, are filed with the

commissioner in accordance with the filing dates specified in 4 MCAR S 1.9123 [Temporary] and 4 MCAR S 1.9130 [Temporary]. Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance; and

B. A copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in 4 MCAR S 1.9129 [Temporary].

4 MCAR S 1.9122 [Temporary] Definitions.

A. Terms. Unless the context requires otherwise, the terms defined in B.-G. have the meanings given them.

B. Accountant. "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

C. Audited financial report. "Audited financial report" includes those items specified in 4 MCAR S 1.9124 [Temporary].

D. Commissioner. "Commissioner" means the Commissioner of Insurance of the State of Minnesota.

E. Examiner. "Examiner" means an examiner of the Insurance Division of the Department of Commerce of the State of Minnesota.

F. Executive officer. "Executive officer" means any individual whose duties relate to active participation in control, supervision, and management of a person, whether incorporated or unincorporated. The term includes a chairman of the board, president, vice-president, treasurer, secretary, controller, and any other individual performing in a similar position.

G. Insurer. "Insurer" means a company required to have an annual audit by Minn. Stat. S 60A.13, subd. 3a.

4 MCAR S 1.9123 [Temporary] Filing and extensions for filing of annual audited financial reports. All insurers shall have an annual audit by an independent certified public accountant and

shall file an audited financial report with the commissioner on or before June 30 for the year ending December 31.

Extensions of the June 30 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

4 MCAR S 1.9124 [Temporary] Contents of annual audited financial report. The annual audited financial report shall report, in conformity with statutory accounting practices required or permitted by the commissioner, the financial condition of the insurer as of the end of the most recent calendar year and the results of its operations, changes in financial position, and changes in capital and surplus for the year then ended.

The annual audited financial report shall include all of the following:

A. A report of an independent certified public accountant;

B. A balance sheet reporting admitted assets, liabilities, capital, and surplus;

C. A statement of gain or loss from operations;

D. A statement of changes in financial position;

E. A statement of changes in capital and surplus;

F. Any notes to financial statements. These notes shall be those required by generally accepted accounting principles and shall include:

1. a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under Minn. Stat. S 60A.13, subd. 1 with a written description of the nature of these differences; and

2. a narrative explanation of all significant intercompany transactions and balances; and

G. Supplementary information which includes any additional

information which the commissioner may from time to time require to be disclosed.

The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner.

The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

The amounts may be rounded to the nearest thousand dollars, and all insignificant amounts may be combined.

4 MCAR S 1.9125 [Temporary] Designation of independent certified public accountant. Each insurer required by 4 MCAR S 1.9123 [Temporary] to file an annual audited financial report must notify the commissioner in writing of the name and address of the certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement.

Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained certified public accountant not less than six months before the date when the first certification is to be filed.

The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance division of the state of domicile. The letter shall affirm that opinions on the financial statements will be expressed in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that division, unless exceptions to these practices are appropriate. The letter shall specify all exceptions believed to be appropriate. A copy of this letter shall be filed with the commissioner.

If an accountant who was not the accountant for the immediately preceding filed audited financial report is engaged to audit the insurer's financial statements, the insurer shall notify the division of this event within 30 days of the date the accountant is engaged. The insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in connection with his opinion. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons that he does not agree. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

4 MCAR S 1.9126 [Temporary] Qualifications of independent certified public accountant. The commissioner shall not recognize any person or firm as an independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or for a Canadian or British company, that is not a chartered accountant.

Except as otherwise provided, a certified public accountant shall be recognized as independent as long as he or she conforms to the standards of his or her profession.

The commissioner, after notice and hearing under Minn. Stat. ch. 15, may find that the accountant is not independent for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is independent within the meaning of this rule.

4 MCAR S 1.9127 [Temporary] Consolidated or combined audits. Upon written application and for specified periods, the commissioner may permit an insurer to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements. In such cases, the report shall include an organization chart of the companies together with a columnar consolidating or combining worksheet.

Amounts shown on the audited consolidated or combined ~~audited~~ financial ~~report~~ statement shall be shown on the worksheet.

Amounts for each insurer subject to this rule shall be stated separately.

Noninsurance operations may be shown on the worksheet on a combined or individual basis.

Explanations of consolidating and eliminating entries shall be included on the worksheet.

A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers shall be included on the worksheet.

~~The commissioner may at any time require an insurer to file separate annual audited financial statements even though permission had previously been given to file on a consolidated or combined basis.~~

4 MCAR S 1.9128 [Temporary] Scope of examination and report of independent certified public accountant. Financial statements furnished under 4 MCAR S 1.9124 [Temporary] shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards and consideration should be given to such other procedures illustrated in the "Financial Condition Examiners Handbook," in the 'Examiners Handbook,' issued by the National Association of Insurance Commissioners (Milwaukee, Wisconsin: 1976, as amended) as the independent certified public accountant deems

necessary. ~~The commissioner may from time to time require that additional examination procedures be observed by the accountant in the audit of the financial statements of insurers pursuant to this rule. Any separate reports given to the commissioner on the additional procedures and findings shall be considered to be the commissioner's workpapers.~~

4 MCAR S 1.9129 [Temporary] Notification of adverse financial condition. The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to immediately notify in writing an executive officer and all directors of the insurer of the final determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirement of Minn. Stat. S 60A.07 as of that date.

Any executive officer or director of an insurer required to file an annual audited financial report who received any notification of adverse financial condition from the accountant shall make a written report to the commissioner of the existence of the materially misstated financial condition or the failure to meet the minimum capital and surplus requirements of the commissioner within three business days of the notification.

If the accountant becomes aware of facts which might have affected this report subsequent to the date of the audited financial report filed under this rule, the accountant shall take the action prescribed by section AU561, volume 1 of the 'AICPA Professional Standards,' issued by the American Institute of Certified Public Accountants.

4 MCAR S 1.9130 [Temporary] Evaluation of accounting procedures and system of internal control. In addition to the annual audited financial report, each insurer shall furnish the commissioner with a report of the evaluation performed by the accountant, in connection with the examination, of the

accounting procedures of the insurer and its system of internal control.

A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, shall be filed annually by the insurer with the division within 60 days after the filing of the annual audited financial report.

This report on internal control shall be in the form prescribed by generally accepted auditing standards.

4 MCAR S 1.9131 [Temporary] Definition, availability, and maintenance of certified public accountant workpapers. Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of an insurer. Workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the examination of the financial statements of an insurer and which support his opinion.

Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the workpapers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported upon.

In the conduct of the periodic review by the examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the insurance division. These copies shall be part of the commissioner's workpapers.

4 MCAR S 1.9132 [Temporary] Exemptions. Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of 4 MCAR SS

1.9120-1.9135 [Temporary] if the commissioner finds, upon review of the application, that compliance would constitute a financial hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from a denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing shall be held in accordance with Minn. Stat. ch. 15.

Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. No exemption shall be granted until the insurer presents an alternative method satisfying the purposes of this rule. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing shall be held in accordance with Minn. Stat. ch. 15.

4 MCAR S 1.9133 [Temporary] Reports prepared in accordance with generally accepted accounting principles. With the commissioner's approval, an insurer may comply with this rule by filing the requisite reports which have been prepared in accordance with generally accepted accounting principles if the notes to the financial statements include a reconciliation of differences between net income and capital and surplus on the annual statement filed pursuant to Minn. Stat. S 60A.13, subd. 1 and comparable totals on the audited financial statements, and a written description of the nature of these differences.

4 MCAR S 1.9134 [Temporary] Examinations. The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this rule conducted by examiners under Minn. Stat. S 60A.13. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account

all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioner's Insurance Regulatory Information System, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this rule shall be compliance examinations, targeted examinations, and comprehensive examinations.

Compliance examinations will consist of a review of the accountant's workpapers defined under 4 MCAR S 1.9131 [Temporary] and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the insurance division. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

Comprehensive examinations will be performed when the report of the accountant as provided for in 4 MCAR S 1.9128 [Temporary], the notification required by 4 MCAR S 1.9129 [Temporary], the results of compliance or targeted examinations, or other circumstances indicate in the judgement of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant which the examiners may have utilized to supplement their examination procedures and the procedures which were performed by the registered independent certified public accountant if included as a supplement to the examination.

4 MCAR S 1.9135 [Temporary] Canadian and British companies.

A. Annual audited financial report. In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

B. Conformity letter. For these insurers, the letter required in 4 MCAR S 1.9125 [Temporary] shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under 4 MCAR S 1.9123 [Temporary] and shall affirm that the opinion expressed is in conformity with those requirements.

STATE OF MINNESOTA

APPROVED AS TO LEGALITY

March 25 1982

WARREN SPANNAUS, ATTORNEY GENERAL

BY Ted A. Martinez

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 25 1982
Joan Anderson Growe
Secretary of State
1:35 pm

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA
Office Memorandum

TO : MICHAEL D. MARKMAN
Commissioner of Insurance

DATE: 3/4/82

ATTN: ROBERT CLAYTON, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-0315

SUBJECT: In the Matter of the Adoption of Temporary Rules of the Department of Commerce Requiring Annual Audited Financial Reports

The temporary rules in the above-entitled matter have not been approved by this office for the following reasons:

1. 4 MCAR § 1.9127 (last paragraph) provides that "the Commissioner may at any time require an insurer to file separate annual audited financial statements even though permission had previously been given to file on a consolidated or combined basis" (emphasis added). This section of the rule, however, does not state under what circumstances or on what basis the Commissioner will require an insurer to file a separate statement. This section of the rule appears to be impermissibly vague and should either be supplemented with criteria to guide the Commissioner's decision-making on this aspect or be deleted.

2. Similarly, 4 MCAR § 1.9128 grants the Commissioner unfettered discretion in requiring additional examination procedures to be observed by an accountant in the audit of the financial statements of insurers. Given the present language, those affected by this rule will not be informed when additonal examination procedures will be required or what those procedures will be. Again, this rule should be supplemented with criteria to outline when additional procedures will be required and what those additional procedures will encompass.

3. Although not a basis for disapproval, a couple of form matters should be noted. 4 MCAR § 1.9127 contains references to "audited consolidated or combined financial statements" and "consolidated or combined audited statements." While these reports appear to be one in the same, for greater clarity the phaseology should be consistent. Additionally, in 4 MCAR § 1.9129 (second paragraph) the reference to "any notification from the accountant" should read "any notification of adverse financial condition from the accountant" for greater clarity.

After consideration of the above comments and agency action, if any, these rules may be resubmitted for review. Upon resubmission, please include two copies of a new or supplemental Order Adopting, and the original and two copies of the new Rule as Adopted. Also, please include a memorandum specifying that the rules are being resubmitted so that we may obtain our initial file in this matter.

Please be advised that pursuant to Minn. Stat. 15.0412, subd. 4g effective July 1, 1981, "(n)0 rule shall be filed with the Secretary of State or published in the state register unless the revisor of statutes has endorsed on the rule that it is approved as to form." Therefore, at the time when you resubmit the new rule to this office, you must submit two copies of the same to the revisor of statutes.

If you have any questions concerning the issues raised in this memorandum, please do not hesitate to call me.

TAM:drw

cc: Ms. Ann Bateson
Ms. Kathy Burek
Mr. Duane Harves

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT A.G. Commerce

# Office Memorandum

TO : Judith Wehrwein

DATE: 3-1-82

FROM : Robert Clayton

PHONE: 6-9400

RECEIVED
MAR 1 1982
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SUBJECT: Ins. Div. Temp. Rules

Enclosed are two copies of the revised order adopting rules in this matter, pursuant to our discussion. ~~It appears that the copies you received were~~

If you have any questions, please do not hesitate to contact me.

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

# Office Memorandum

TO : ATTORNEY GENERAL
ADMINISTRATIVE SERVICE DIVISION
204 Administration Building

DATE: Feb. 25, 1982

FROM : ROBERT J. CLAYTON RJC
Special Assistant Attorney General

PHONE:

SUBJECT: Review of Temporary Rules of the Insurance Division Requiring Annual Audited Financial Reports from Insurance Companies

Enclosed for your review is the file relating to the above-referenced temporary rules. It includes:

1. Rules as adopted --original and 3 copies
2. Order Adopting Rules - 2 copies
3. Order for Publication
4. Rules as proposed, appearing in State Register
5. Written comments received - 3 comments
6. Certificate of Compliance w/Rulemaking Procedure

These rules are adopted as temporary rules inasmuch as Minn. Stat. § 60A.13 (1981 Supp.) mandates that all insurers which currently have their financial statements audited must file annual audited financial statements beginning June 30, 1982. The agency intends to initiate a permanent rulemaking proceeding in the immediate future.

aso
Enc.

Department of Commerce

Insurance Division

Adopted Temporary Rules Requiring Annual Audited Financial Reports

4 MCAR S 1.9120 [Temporary] Authority. Rules 4 MCAR SS 1.9120-1.9135 [Temporary] are promulgated by the Commissioner of Insurance under Minn. Stat. SS 60A.031 and 60A.13.

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Rules 4 MCAR SS 1.9120-1.9135 [Temporary] shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of the practices, procedures, financial condition, market conduct, and other aspects of the operations of insurers.

Rules 4 MCAR SS 1.9120-1.9135 [Temporary] apply to all insurers required under Minn. Stat. S 60A.13, subd. 3a to file a report of their annual audit, except that insurers having direct premiums written in this state of less than $100,000 in any year and having fewer than 500 policyholders in this state at the end of any year are exempt from the provisions of 4 MCAR SS 1.9120-1.9135 [Temporary] for that year.

Insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from the provisions of 4 MCAR SS 1.9120-1.9135 [Temporary] if:

A. A copy of the audited financial report, the evaluation of accounting procedures, and systems of internal control report, which are filed with the other state, are filed with the

commissioner in accordance with the filing dates specified in 4 MCAR S 1.9123 [Temporary] and 4 MCAR S 1.9130 [Temporary]. Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance; and

B. A copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in 4 MCAR S 1.9129 [Temporary].

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A. Terms. Unless the context requires otherwise, the terms defined in B.-G. have the meanings given them.

B. Accountant. "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

C. Audited financial report. "Audited financial report" includes those items specified in 4 MCAR S 1.9124 [Temporary].

D. Commissioner. "Commissioner" means the Commissioner of Insurance of the State of Minnesota.

E. Examiner. "Examiner" means an examiner of the Insurance Division of the Department of Commerce of the State of Minnesota.

F. Executive officer. "Executive officer" means any individual whose duties relate to active participation in control, supervision, and management of a person, whether incorporated or unincorporated. The term includes a chairman of the board, president, vice-president, treasurer, secretary, controller, and any other individual performing in a similar position.

G. Insurer. "Insurer" means a company required to have an annual audit by Minn. Stat. S 60A.13, subd. 3a.

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shall file an audited financial report with the commissioner on or before June 30 for the year ending December 31.

Extensions of the June 30 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

4 MCAR S 1.9124 [Temporary] Contents of annual audited financial report. The annual audited financial report shall report, in conformity with statutory accounting practices required or permitted by the commissioner, the financial condition of the insurer as of the end of the most recent calendar year and the results of its operations, changes in financial position, and changes in capital and surplus for the year then ended.

The annual audited financial report shall include all of the following:

A. A report of an independent certified public accountant;

B. A balance sheet reporting admitted assets, liabilities, capital, and surplus;

C. A statement of gain or loss from operations;

D. A statement of changes in financial position;

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F. Any notes to financial statements. These notes shall be those required by generally accepted accounting principles and shall include:

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2. a narrative explanation of all significant intercompany transactions and balances; and

G. Supplementary information which includes any additional

information which the commissioner may from time to time require to be disclosed.

The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner.

The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

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Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained certified public accountant not less than six months before the date when the first certification is to be filed.

The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance division of the state of domicile. The letter shall affirm that opinions on the financial statements will be expressed in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that division, unless exceptions to these practices are appropriate. The letter shall specify all exceptions believed to be appropriate. A copy of this letter shall be filed with the commissioner.

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4 MCAR S 1.9126 [Temporary] Qualifications of independent certified public accountant. The commissioner shall not recognize any person or firm as an independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or for a Canadian or British company, that is not a chartered accountant.

Except as otherwise provided, a certified public accountant shall be recognized as independent as long as he or she conforms to the standards of his or her profession.

The commissioner, after notice and hearing under Minn. Stat. ch. 15, may find that the accountant is not independent for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is independent within the meaning of this rule.

4 MCAR S 1.9127 [Temporary] Consolidated or combined audits. Upon written application and for specified periods, the commissioner may permit an insurer to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements. In such cases, the report shall include an organization chart of the companies together with a columnar consolidating or combining worksheet.

Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet.

Amounts for each insurer subject to this rule shall be stated separately.

Noninsurance operations may be shown on the worksheet on a combined or individual basis.

Explanations of consolidating and eliminating entries shall be included on the worksheet.

A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers shall be included on the worksheet.

The commissioner may at any time require an insurer to file separate annual audited financial statements even though permission had previously been given to file on a consolidated or combined basis.

4 MCAR S 1.9128 [Temporary] Scope of examination and report of independent certified public accountant. Financial statements furnished under 4 MCAR S 1.9124 [Temporary] shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards and consideration should be given to such other procedures illustrated in the "Financial Condition Examiners Handbook," in the 'Examiners Handbook,' issued by the National Association of Insurance Commissioners (Milwaukee, Wisconsin: 1976, as amended) as the independent certified public accountant deems necessary. The commissioner may from time to time require that

additional examination procedures be observed by the accountant in the audit of the financial statements of insurers pursuant to this rule. Any separate reports given to the commissioner on the additional procedures and findings shall be considered to be the commissioner's workpapers.

4 MCAR S 1.9129 [Temporary] Notification of adverse financial condition. The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to immediately notify in writing an executive officer and all directors of the insurer of the final determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirement of Minn. Stat. S 60A.07 as of that date.

Any executive officer or director of an insurer required to file an annual audited financial report who received any notification from the accountant shall make a written report to the commissioner of the existence of the materially misstated financial condition or the failure to meet the minimum capital and surplus requirements of the commissioner within three business days of the notification.

If the accountant becomes aware of facts which might have affected this report subsequent to the date of the audited financial report filed under this rule, the accountant shall take the action prescribed by section AU561, volume 1 of the 'AICPA Professional Standards,' issued by the American Institute of Certified Public Accountants.

4 MCAR S 1.9130 [Temporary] Evaluation of accounting procedures and system of internal control. In addition to the annual audited financial report, each insurer shall furnish the commissioner with a report of the evaluation performed by the accountant, in connection with the examination, of the accounting procedures of the insurer and its system of internal

control.

A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, shall be filed annually by the insurer with the division within 60 days after the filing of the annual audited financial report.

This report on internal control shall be in the form prescribed by generally accepted auditing standards.

4 MCAR S 1.9131 [Temporary] Definition, availability, and maintenance of certified public accountant workpapers. Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of an insurer. Workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the examination of the financial statements of an insurer and which support his opinion.

Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the workpapers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported upon.

In the conduct of the periodic review by the examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the insurance division. These copies shall be part of the commissioner's workpapers.

4 MCAR S 1.9132 [Temporary] Exemptions. Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of 4 MCAR SS 1.9120-1.9135 [Temporary] if the commissioner finds, upon review

of the application, that compliance would constitute a financial hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from a denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing shall be held in accordance with Minn. Stat. ch. 15.

Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. No exemption shall be granted until the insurer presents an alternative method satisfying the purposes of this rule. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing shall be held in accordance with Minn. Stat. ch. 15.

4 MCAR S 1.9133 [Temporary] Reports prepared in accordance with generally accepted accounting principles. With the commissioner's approval, an insurer may comply with this rule by filing the requisite reports which have been prepared in accordance with generally accepted accounting principles if the notes to the financial statements include a reconciliation of differences between net income and capital and surplus on the annual statement filed pursuant to Minn. Stat. S 60A.13, subd. 1 and comparable totals on the audited financial statements, and a written description of the nature of these differences.

4 MCAR S 1.9134 [Temporary] Examinations. The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this rule conducted by examiners under Minn. Stat. S 60A.13. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition,

including results of the National Association of Insurance Commissioner's Insurance Regulatory Information System, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this rule shall be compliance examinations, targeted examinations, and comprehensive examinations.

Compliance examinations will consist of a review of the accountant's workpapers defined under 4 MCAR S 1.9131 [Temporary] and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the insurance division. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

Comprehensive examinations will be performed when the report of the accountant as provided for in 4 MCAR S 1.9128 [Temporary], the notification required by 4 MCAR S 1.9129 [Temporary], the results of compliance or targeted examinations, or other circumstances indicate in the judgement of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant which the examiners may have utilized to supplement their examination procedures and the procedures which were performed by the registered independent certified public accountant if included as a supplement to the examination.

4 MCAR S 1.9135 [Temporary] Canadian and British companies.

A. Annual audited financial report. In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

B. Conformity letter. For these insurers, the letter required in 4 MCAR S 1.9125 [Temporary] shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under 4 MCAR S 1.9123 [Temporary] and shall affirm that the opinion expressed is in conformity with those requirements.

AR0160
2-24-82

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Department of Commerce
Insurance Division

Rule Numbers: 4 MCAR SS 1.9120, 1.9121, 1.9122, 1.9123, 1.9124, 1.9125, 1.9126, 1.9127, 1.9128, 1.9129, 1.9130, 1.9131, 1.9132, 1.9133, 1.9134, 1.9135

Rule Title: Adopted Temporary Rules Requiring Annual Audited Financial Reports

Type of Rules: Permanent_____

Temporary X

Documents Incorporated by Reference:

| | |
|---|---|
| 4 MCAR S 1.9128 (Temporary) | "Financial Condition Examiners Handbook" in the Examiners Handbook, issued by the National Association of Insurance Commissioners (approval conditioned upon deposit of 2 copies with the State Law Library at time of adoption) |
| 4 MCAR S 1.9129 (Temporary) | Section AU561, volume 1 of the AICPA Professional Standards issued by the American Institute of Certified Public Accountants |

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Paul M. Marinac
Paul M. Marinac

Title: Assistant Revisor

Phone: 296-0948

Temporary Rules as adopted.

AG copy

4 MCAR S 1.9120 [Temporary] Authority. Rules 4 MCAR SS 1.9120-1.9135 [Temporary] are promulgated by the Commissioner of Insurance under Minn. Stat. SS 60A.031 and 60A.13.

4 MCAR S 1.9121 [Temporary] Purpose and scope. The purpose of 4 MCAR SS 1.9120-1.9135 [Temporary] is to improve the Minnesota insurance division's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial condition and the results of operations of insurers.

Rules 4 MCAR SS 1.9120-1.9135 [Temporary] shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of the practices, procedures, financial condition, market conduct, and other aspects of the operations of insurers.

Rules 4 MCAR SS 1.9120-1.9135 [Temporary] apply to all insurers required under Minn. Stat. S 60A.13, subd. 3a to file a report of their annual audit, except that insurers having direct premiums written in this state of less than $100,000 in any year and having fewer than 500 policyholders in this state at the end of any year are exempt from the provisions of 4 MCAR SS 1.9120-1.9135 [Temporary] for that year.

Insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from the provisions of 4 MCAR SS 1.9120-1.9135 [Temporary] if:

A. A copy of the audited financial report, the evaluation of accounting procedures, and systems of internal control report, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in 4 MCAR S 1.9123 [Temporary] and 4 MCAR S 1.9130 [Temporary]. Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance; and

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B. A copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in 4 MCAR S 1.9129 [Temporary].

4 MCAR S 1.9122 [Temporary] Definitions.

A. Terms. Unless the context requires otherwise, the terms defined in B.-G. have the meanings given them.

B. Accountant. "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

C. Audited financial report. "Audited financial report" includes those items specified in 4 MCAR S 1.9124 [Temporary].

D. Commissioner. "Commissioner" means the Commissioner of Insurance of the State of Minnesota.

E. Examiner. "Examiner" means an examiner of the Insurance Division of the Department of Commerce of the State of Minnesota.

F. Executive officer. "Executive officer" means any individual whose duties relate to active participation in control, supervision, and management of a person, whether incorporated or unincorporated. The term includes a chairman of the board, president, vice-president, treasurer, secretary, controller, and any other individual performing in a similar position.

G. Insurer. "Insurer" means a company required to have an annual audit by Minn. Stat. S 60A.13, subd. 3a.

4 MCAR S 1.9123 [Temporary] Filing and extensions for filing of annual audited financial reports. All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 30 for the year ending December 31.

Extensions of the June 30 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer

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and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

4 MCAR S 1.9124 [Temporary] Contents of annual audited financial report. The annual audited financial report shall report, in conformity with statutory accounting practices required or permitted by the commissioner, the financial condition of the insurer as of the end of the most recent calendar year and the results of its operations, changes in financial position, and changes in capital and surplus for the year then ended.

The annual audited financial report shall include all of the following:

A. A report of an independent certified public accountant;

B. A balance sheet reporting admitted assets, liabilities, capital, and surplus;

C. A statement of gain or loss from operations;

D. A statement of changes in financial position;

E. A statement of changes in capital and surplus;

F. Any notes to financial statements. These notes shall be those required by generally accepted accounting principles and shall include:

1. a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under Minn. Stat. S 60A.13, subd. 1 with a written description of the nature of these differences; and

2. a narrative explanation of all significant intercompany transactions and balances; and

G. Supplementary information which includes any additional information which the commissioner may from time to time require to be disclosed.

The financial statements included in the audited financial report shall be prepared in a form and using language and

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groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner.

The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

The amounts may be rounded to the nearest thousand dollars, and all insignificant amounts may be combined.

4 MCAR S 1.9125 [Temporary] Designation of independent certified public accountant. Each insurer required by 4 MCAR S 1.9123 [Temporary] to file an annual audited financial report must notify the commissioner in writing of the name and address of the certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement.

Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained certified public accountant not less than six months before the date when the first certification is to be filed.

The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance division of the state of domicile. The letter shall affirm that opinions on the financial statements will be expressed in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that division, unless exceptions to these practices are appropriate. The letter shall specify all exceptions believed to be appropriate. A copy of this letter shall be filed with the commissioner.

If an accountant who was not the accountant for the immediately preceding filed audited financial report is engaged to audit the insurer's financial statements, the insurer shall notify the division of this event within 30 days of the date the

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accountant is engaged. The insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in connection with his opinion. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons that he does not agree. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

4 MCAR S 1.9126 [Temporary] Qualifications of independent certified public accountant. The commissioner shall not recognize any person or firm as an independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or for a Canadian or British company, that is not a chartered accountant.

Except as otherwise provided, a certified public accountant shall be recognized as independent as long as he or she conforms to the standards of his or her profession.

The commissioner, after notice and hearing under Minn. Stat. ch. 15, may find that the accountant is not independent for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is independent within the meaning of this rule.

4 MCAR S 1.9127 [Temporary] Consolidated or combined audits. Upon written application and for specified periods, the commissioner may permit an insurer to file audited consolidated

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or combined financial statements in lieu of separate annual audited financial statements. In such cases, the report shall include an organization chart of the companies together with a columnar consolidating or combining worksheet.

Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet.

Amounts for each insurer subject to this rule shall be stated separately.

Noninsurance operations may be shown on the worksheet on a combined or individual basis.

Explanations of consolidating and eliminating entries shall be included on the worksheet.

A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers shall be included on the worksheet.

The commissioner may at any time require an insurer to file separate annual audited financial statements even though permission had previously been given to file on a consolidated or combined basis.

4 MCAR S 1.9128 [Temporary] Scope of examination and report of independent certified public accountant. Financial statements furnished under 4 MCAR S 1.9124 [Temporary] shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards and consideration should be given to such other procedures illustrated in the "Financial Condition Examiners Handbook," in the 'Examiners Handbook,' issued by the National Association of Insurance Commissioners (Milwaukee, Wisconsin: 1976, as amended) as the independent certified public accountant deems necessary. The commissioner may from time to time require that additional examination procedures be observed by the accountant in the audit of the financial statements of insurers pursuant to this rule. Any separate reports given to the commissioner on the additional procedures and findings shall be considered to be

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the commissioner's workpapers.

4 MCAR S 1.9129 [Temporary] Notification of adverse financial condition. The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to immediately notify in writing an executive officer and all directors of the insurer of the final determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirement of Minn. Stat. S 60A.07 as of that date.

Any executive officer or director of an insurer required to file an annual audited financial report who received any notification of adverse financial condition from the accountant shall make a written report to the commissioner of the existence of the materially misstated financial condition or the failure to meet the minimum capital and surplus requirements of the commissioner within three business days of the notification.

If the accountant becomes aware of facts which might have affected this report subsequent to the date of the audited financial report filed under this rule, the accountant shall take the action prescribed by section AU561, volume 1 of the 'AICPA Professional Standards,' issued by the American Institute of Certified Public Accountants.

4 MCAR S 1.9130 [Temporary] Evaluation of accounting procedures and system of internal control. In addition to the annual audited financial report, each insurer shall furnish the commissioner with a report of the evaluation performed by the accountant, in connection with the examination, of the accounting procedures of the insurer and its system of internal control.

A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, shall

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be filed annually by the insurer with the division within 60 days after the filing of the annual audited financial report.

This report on internal control shall be in the form prescribed by generally accepted auditing standards.

4 MCAR S 1.9131 [Temporary] Definition, availability, and maintenance of certified public accountant workpapers. Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of an insurer. Workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the examination of the financial statements of an insurer and which support his opinion.

Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the workpapers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported upon.

In the conduct of the periodic review by the examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the insurance division. These copies shall be part of the commissioner's workpapers.

what insurance division

4 MCAR S 1.9132 [Temporary] Exemptions. Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of 4 MCAR SS 1.9120-1.9135 [Temporary] if the commissioner finds, upon review of the application, that compliance would constitute a financial hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from a denial of an insurer's written request for an

what would constitute financial hardship

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exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing shall be held in accordance with Minn. Stat. ch. 15.

Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. No exemption shall be granted until the insurer presents an alternative method satisfying the purposes of this rule. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing shall be held in accordance with Minn. Stat. ch. 15.

4 MCAR S 1.9133 [Temporary] Reports prepared in accordance with generally accepted accounting principles. With the commissioner's approval, an insurer may comply with this rule by filing the requisite reports which have been prepared in accordance with generally accepted accounting principles if the notes to the financial statements include a reconciliation of differences between net income and capital and surplus on the annual statement filed pursuant to Minn. Stat. S 60A.13, subd. 1 and comparable totals on the audited financial statements, and a written description of the nature of these differences.

4 MCAR S 1.9134 [Temporary] Examinations. The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this rule conducted by examiners under Minn. Stat. S 60A.13. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioner's Insurance Regulatory Information System, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed

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by examiners under this rule shall be compliance examinations, targeted examinations, and comprehensive examinations.

Compliance examinations will consist of a review of the accountant's workpapers defined under 4 MCAR S 1.9131 [Temporary] and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the insurance division. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

Comprehensive examinations will be performed when the report of the accountant as provided for in 4 MCAR S 1.9128 [Temporary], the notification required by 4 MCAR S 1.9129 [Temporary], the results of compliance or targeted examinations, or other circumstances indicate in the judgement of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant which the examiners may have utilized to supplement their examination procedures and the procedures which were performed by the registered independent certified public accountant if included as a supplement to the examination.

4 MCAR S 1.9135 [Temporary] Canadian and British companies.

A. Annual audited financial report. In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and

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duly audited by an independent chartered accountant.

B. Conformity letter. For these insurers, the letter required in 4 MCAR S 1.9125 [Temporary] shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under 4 MCAR S 1.9123 [Temporary] and shall affirm that the opinion expressed is in conformity with those requirements.

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OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION

In the matter of the proposed adoption of rules of the State of Minnesota requiring annual audited financial reports

ORDER ADOPTING
TEMPORARY RULES

The above-entitled matter was published in the State Register on January 25, 1982, as a proposed temporary rule pursuant to Minnesota Statutes section 15.0412, subdivision 5. After affording interested and affected persons an opportunity to submit written data views within 20 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that these rules identified as 4 MCAR S1.9120 are adopted this 25th day of February, 1982, pursuant to authority vested in me by Minnesota Statutes § 60A.031 and 60A.13.

MICHAEL D. MARKMAN
Commissioner of Insurance

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION

In the Matter of the Proposed
Adoption of Rules of the State
of Minnesota Requiring Annual
Audited Financial Reports

ORDER ADOPTING
TEMPORARY RULES

The above-entitled matter was published in the State Register on January 25, 1982, as a proposed temporary rule pursuant to Minn. Stat. § 15.0412, subd. 5. After affording interested and affected persons an opportunity to submit written data and views within twenty (20) days of the publication date, reviewing and considering the data and views, determining that the above-captioned rules are needed and reasonable, and considering the comments and views expressed by the Office of the Attorney General.

NOW, THEREFORE, IT IS ORDERED that these rules identified as 4 MCAR §§ 1.9120-1.9135 are adopted as amended this 19th day of March, 1982, pursuant to authority vested in me by Minn. Stat. §§ 60A.031 and 60A.13.

MICHAEL D. MARKMAN
Commissioner of Insurance

To: Ted
Date: 3/1/82
Re: Commerce Insurance Division — Annual Audited Financial Reports

Order Adopting

Original Order submitted is dated 3.4.82. At my request, a new Order dated 2.25.82 has been submitted.

Rules as Adopted

.9122 F.

p. 2 line 22 Neither the statute nor these rules define "person". Without a definition including "corporation" as a meaning of "person", the use of "person" here does not seem appropriate

.9126

p. 5 line 30 There are no criteria to guide commissioner's discretion in requiring replacement of accountant.

.9127

p. 5, 6 lines 35, 1 Since I cannot quite understand the character of the various statements and reports required by these rules, I cannot tell if the word order in this sentence is correct. Perhaps we should check if "consolidated or combined" should precede "audited ....."

.9127

p. 6 line 17 No criteria to guide commissioner's discretion

.9128

p. 6 line 28, 29 — Not clear if the two references to "Handbook" are repetitive or not. Perhaps we should check. Also, as printed in the State Register, the sentence read "... illustrated on ...," which is correct?

.9128

p. 6 line 32 — No criteria to guide commissioner's discretion

.9129

p. 7 line 14 — For greater clarity, this should read "any notification of adverse financial condition ..."

line 21 — Not clear which report is meant by "this" report.

.9134

p. 10 line 12, 13 — This sentence appears vague — it would seem that at least the first "may" should be changed to "shall".

(6)-1; 2013.6 (6)-2; 2013.6 (6)-3; 2013.6 (6)-4; 2013.6 (7); 2013.6 (8)-1; 2013.6 (9)-1; 2013.6 (9)-2; 2013.6 (9)-3; 2013.7 (1)-1; 2013.7 (1)-2; 2013.7 (2); 2013.7 (3)-1; 2013.7 (3)-2; 2014 (7); 2016 (6); 2016 (7)-1; 2016 (7)-2; 2016 (7)-3; 2016 (7)-4; 2016 (12); 2016 (13)-1; 2017 (5); 2018 (2); 2021 (1); 2022; 2023 (2)-1; 2023 (2)-2; 2023 (2)-3; 2023 (5)-1; 2023 (5)-2; 2023 (5)-3; 2023 (5)-4; 2023 (5)-5; 2023 (5)-6; 2023 (5)-7; 2023 (5)-8; 2023 (6)-1; 2023 (6)-2; 2023 (6)-3; 2023 (6)-4; 2023 (6)-5; 2023 (7)-1; 2023 (7)-2; 2023 (7)-3; 2023 (7)-4; 2023 (7)-5; 2023 (7)-6; 2023 (7)-7; 2023 (7)-8; 2023 (8)-1; 2023 (8)-2; 2023 (8)-3; 2023 (8)-4; 2023 (9)-1; 2023 (9)-2; 2023 (9)-3; 2023 (9)-4; 2023 (9)-5; 2023 (9)-6; 2023 (9)-7; 2023 (9)-8; 2023 (9)-9; 2023 (10)-1; 2023 (10)-2; 2023 (10)-3; 2023 (10)-4; 2023 (10)-5; 2023 (10)-6; 2023 (10)-7; 2023 (10)-8; 2023 (11)-1; 2023 (11)-2; 2023 (11)-3; 2023 (11)-4; 2023 (11)-5; 2023 (11)-6; 2023 (11)-7; 2023 (11)-8; 2023 (12)-1; 2023 (12)-2; 2023 (12)-3; 2023 (13); 2023 (14)-1; 2023 (14)-2; 2023 (14)-3; 2023 (14)-4; 2023 (14)-5; 2024; 2025 (1)-1; 2025 (1)-2; 2025 (1)-3; 2025 (1)-4; 2025 (2)-1; 2025 (2)-2; 2025 (2)-3; 2025 (3)-1; 2025 (3)-2; 2025 (3)-3; 2025 (3)-4; 2025 (4)-1; 2025 (4)-2; 2025 (4)-3; 2025 (4)-4; 2025 (4)-5; 2025 (5); 2027-1; 2027-2; 2028 (1)-1; 2028 (1)-2; 2028 (2)-1; 2028 (2)-2; 2028 (2)-3; 2028 (2)-4; 2031 (28); 2036.1 (1); 2037 (1); 2037 (2); 2038 (2); 2040 (4); 2042 (5); 2044; 2045 (3); 2050 (2); 2050 (4); 2053 (3); 2053 (4); 2061; 2065 (1); 2065 (6); 2065 (7); 2092 (1)-1; 2092 (1)-5; 2092 (7)-3; 2092 (11); 2093.1-1; 2093.1-2; 2093.1-4; 2093.2-1; 2093.2-2; 2093.2-3; 2093.2-5; 2093.3-3; 2093.4-4; 2093.4-5; 2093.4-6; 2097.1 (1); 2097.1 (2); 2097.1 (3); 2097.2 (1); 2097.2 (2); 2097.2 (3); 2097.2 (5); and 2097.2 (6) (repealed) ..... 1314

# PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Department of Commerce Insurance Division

### Proposed Temporary Rules Requiring Annual Audited Financial Reports

Notice is hereby given that the Insurance Division of the Department of Commerce has proposed the following above entitled temporary rules. These temporary rules are promulgated pursuant to Minn. Stat. § 60A.031 and 60A.13.

All interested persons may submit comments on the proposed temporary rules for 20 days immediately following publication of this material in the *State Register* by writing to Leo Flaten, Insurance Division, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101. The temporary rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rules. Pursuant to Minn.Stat. § 15.0412, subd. 5 (1980) these temporary rules shall be in effect for a period of ninety days following adoption and approval by the Attorney General.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## Temporary Rules as Proposed (all new material)

**4 MCAR § 1.9120 [Temporary] Authority.** Rules 4 MCAR §§ 1.9120-1.9135 [Temporary] are promulgated by the Commissioner of Insurance under Minn. Stat. §§ 60A.031 and 60A.13.

**4 MCAR § 1.9121 [Temporary] Purpose and scope.** The purpose of 4 MCAR §§ 1.9120-1.9135 [Temporary] is to improve the Minnesota insurance division's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial condition and the results of operations of insurers.

Rules 4 MCAR §§ 1.9120-1.9135 [Temporary] shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of the practices, procedures, financial condition, market conduct, and other aspects of the operations of insurers.

Rules 4 MCAR §§ 1.9120-1.9135 [Temporary] apply to all insurers required under Minn. Stat. § 60A.13, subd. 3a to file a report of their annual audit, except that insurers having direct premiums written in this state of less than $100,000 in any year and having fewer than 500 policyholders in this state at the end of any year are exempt from the provisions of 4 MCAR §§ 1.9120-1.9135 [Temporary] for that year.

Insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from the provisions of 4 MCAR §§ 1.9120-1.9135 [Temporary] if:

A. A copy of the audited financial report, the evaluation of accounting procedures, and systems of internal control report, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in 4 MCAR § 1.9123 [Temporary] and 4 MCAR § 1.9130 [Temporary]. Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance; and

B. A copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in 4 MCAR § 1.9129 [Temporary].

**4 MCAR § 1.9122 [Temporary] Definitions.**

A. Terms. Unless the context requires otherwise, the terms defined in B.-G. have the meanings given them.

B. Accountant. "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

C. Audited financial report. "Audited financial report" includes those items specified in 4 MCAR § 1.9124 [Temporary].

D. Commissioner. "Commissioner" means the Commissioner of Insurance of the State of Minnesota.

E. Examiner. "Examiner" means an examiner of the Insurance Division of the Department of Commerce of the State of Minnesota.

F. Executive officer. "Executive officer" means any individual whose duties relate to active participation in control, supervision, and management of a person, whether incorporated or unincorporated. The term includes a chairman of the board, president, vice-president, treasurer, secretary, controller, and any other individual performing in a similar position.

G. Insurer. "Insurer" means a company required to have an annual audit by Minn. Stat. § 60A.13, subd. 3a.

**4 MCAR § 1.9123 [Temporary] Filing and extensions for filing of annual audited financial reports.** All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 30 for the year ending December 31.

Extensions of the June 30 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

**4 MCAR § 1.9124 [Temporary] Contents of annual audited financial report.** The annual audited financial report shall report, in conformity with statutory accounting practices required or permitted by the commissioner, the financial condition of the insurer as of the end of the most recent calendar year and the results of its operations, changes in financial position, and changes in capital and surplus for the year then ended.

The annual audited financial report shall include all of the following:

A. A report of an independent certified public accountant;

B. A balance sheet reporting admitted assets, liabilities, capital, and surplus;

C. A statement of gain or loss from operations;

D. A statement of changes in financial position;

E. A statement of changes in capital and surplus;

F. Any notes to financial statements. These notes shall be those required by generally accepted accounting principles and shall include:

1. a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under Minn. Stat. § 60A.13, subd. 1 with a written description of the nature of these differences; and

2. a narrative explanation of all significant intercompany transactions and balances; and

G. Supplementary information which includes any additional information which the commissioner may from time to time require to be disclosed.

The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner.

The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

The amounts may be rounded to the nearest thousand dollars, and all insignificant amounts may be combined.

**4 MCAR § 1.9125 [Temporary] Designation of independent certified public accountant.** Each insurer required by 4 MCAR § 1.9123 [Temporary] to file an annual audited financial report must notify the commissioner in writing of the name and address of the certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement.

Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained certified public accountant not less than six months before the date when the first certification is to be filed.

The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance division of the state of domicile. The letter shall affirm that opinions on the financial statements will be expressed in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that division, unless exceptions to these practices are appropriate. The letter shall specify all exceptions believed to be appropriate. A copy of this letter shall be filed with the commissioner.

If an accountant who was not the accountant for the immediately preceding filed audited financial report is engaged to audit the insurer's financial statements, the insurer shall notify the division of this event within 30 days of the date the accountant is engaged. The insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in connection with his opinion. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons that he does not agree. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

**4 MCAR § 1.9126 [Temporary] Qualifications of independent certified public accountant.** The commissioner shall not recognize any person or firm as an independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or for a Canadian or British company, that is not a chartered accountant.

Except as otherwise provided, a certified public accountant shall be recognized as independent as long as he or she conforms to the standards of his or her profession.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The commissioner, after notice and hearing under Minn. Stat. ch. 15, may find that the accountant is not independent for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is independent within the meaning of this rule.

**4 MCAR § 1.9127 [Temporary] Consolidated or combined audits.** Upon written application and for specified periods, the commissioner may permit an insurer to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements. In such cases, the report shall include an organization chart of the companies together with a columnar consolidating or combining worksheet.

Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet.

Amounts for each insurer subject to this rule shall be stated separately.

Noninsurance operations may be shown on the worksheet on a combined or individual basis.

Explanations of consolidating and eliminating entries shall be included on the worksheet.

A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers shall be included on the worksheet.

The commissioner may at any time require an insurer to file separate annual audited financial statements even though permission had previously been given to file on a consolidated or combined basis.

**4 MCAR § 1.9128 [Temporary] Scope of examination and report of independent certified public accountant.** Financial statements furnished under 4 MCAR § 1.9124 [Temporary] shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards and consideration should be given to such other procedures illustrated on the "Financial Condition Examiners Handbook," in the 'Examiners Handbook,' issued by the National Association of Insurance Commissioners (Milwaukee, Wisconsin: 1976, as amended) as the independent certified public accountant deems necessary. The commissioner may from time to time require that additional examination procedures be observed by the accountant in the audit of the financial statements of insurers pursuant to this rule. Any separate reports given to the commissioner on the additional procedures and findings shall be considered to be the commissioner's workpapers.

**4 MCAR § 1.9129 [Temporary] Notification of adverse financial condition.** The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to immediately notify in writing an executive officer and all directors of the insurer of the final determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirement of Minn. Stat. § 60A.07 as of that date.

Any executive officer or director of an insurer required to file an annual audited financial report who received any notification from the accountant shall make a written report to the commissioner of the existence of the materially misstated financial condition or the failure to meet the minimum capital and surplus requirements of the commissioner within three business days of the notification.

If the accountant becomes aware of facts which might have affected this report subsequent to the date of the audited financial report filed under this rule, the accountant shall take the action prescribed by section AU561, volume 1 of the 'AICPA Professional Standards,' issued by the American Institute of Certified Public Accountants.

**4 MCAR § 1.9130 [Temporary] Evaluation of accounting procedures and system of internal control.** In addition to the annual audited financial report, each insurer shall furnish the commissioner with a report of the evaluation performed by the accountant, in connection with the examination, of the accounting procedures of the insurer and its system of internal control.

A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, shall be filed annually by the insurer with the division within 60 days after the filing of the annual audited financial report.

This report on internal control shall be in the form prescribed by generally accepted auditing standards.

**4 MCAR § 1.9131 [Temporary] Definition, availability, and maintenance of certified public accountant workpapers.** Workpapers are the records kept by the independent certified public accountants of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of an insurer. Workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the examination of the financial statements of an insurer and which support his opinion.

Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the workpapers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported upon.

In the conduct of the periodic review by the examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the insurance division. These copies shall be part of the commissioner's workpapers.

**4 MCAR § 1.9132 [Temporary] Exemptions.** Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of 4 MCAR §§ 1.9120-1.9135 [Temporary] if the commissioner finds, upon review of the application, that compliance would constitute a financial hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from a denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing shall be held in accordance with Minn. Stat. ch. 15.

Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. No exemption shall be granted until the insurer presents an alternative method satisfying the purposes of this rule. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing shall be held in accordance with Minn. Stat. ch. 15.

**4 MCAR § 1.9133 [Temporary] Reports prepared in accordance with generally accepted accounting principles.** With the commissioner's approval, an insurer may comply with this rule by filing the requisite reports which have been prepared in accordance with generally accepted accounting principles if the notes to the financial statements include a reconciliation of differences between net income and capital and surplus on the annual statement filed pursuant to Minn. Stat. § 60A.13, subd. 1 and comparable totals on the audited financial statements, and a written description of the nature of these differences.

**4 MCAR § 1.9134 [Temporary] Examinations.** The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this rule conducted by examiners under Minn. Stat. § 60A.13.These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioner's Insurance Regulatory Information System, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this rule shall be compliance examinations, targeted examinations, and comprehensive examinations.

Compliance examinations will consist of a review of the accountant's workpapers defined under 4 MCAR § 1.9131 [Temporary] and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the insurance division. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

Comprehensive examinations will be performed when the report of the accountant as provided for in 4 MCAR § 1.9128 [Temporary], the notification required by 4 MCAR § 1.9129 [Temporary], the results of compliance or targeted examinations, or other circumstances indicate in the judgement of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant which the examiners may have utilized to supplement their examination procedures and the procedures which were performed by the registered independent certified public accountant if included as a supplement to the examination.

**4 MCAR § 1.9135 [Temporary] Canadian and British companies.**

A. Annual audited financial report. In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

B. Conformity letter. For these insurers, the letter required in 4 MCAR § 1.9125 [Temporary] shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under 4 MCAR § 1.9123 [Temporary] and shall affirm that the opinion expressed is in conformity with those requirements.

# State Board of Education
# Department of Education
# School Management Services Division

## Proposed Rule Governing the Capital Loan Program (5 MCAR § 1.0430)

### Notice of Intent to Adopt Rule without a Public Hearing

Notice is hereby given that the State Board of Education proposes to adopt the above-entitled rule without a public hearing. The board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

The proposed rule is authorized by Minn. Stat. § 121.41, subd. 2. This rule, 5 MCAR § 1.0430, establishes the application procedure for school districts that require state funds to assist in financing a school construction project. The rule establishes the criteria the State Board of Education and commissoiner will use in determining whether the capital loan should be recommended for approval, denial, or reduced in the requested amount.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30 day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subd. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Janet Kielb
School District Organization
911 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
Telephone: (612) 296-1382

Authority for the adoption of these rules is contained in Minn. Stat. § 121.41, subd. 2. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules has been prepared and is available from Janet Kielb upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, and the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Janet Kielb.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Janet Kielb.

December 8, 1981

John J. Feda
Secretary

### Rule as Proposed (all new material)

Chapter Twenty-Two A: Capital Loan Program

**5 MCAR § 1.0430 Capital loan program.**

A. Preapplication requirement. A school board which intends to submit an application for a capital loan, regardless of the capital expenditure amount, shall submit the construction proposal to the Commissioner of Education for a review and comment statement pursuant to Minn. Stat. § 122.90, subds. 2-4.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION

In the Matter of the Proposed
Adoption of Temporary Rules of
the Insurance Division of the
Department of COmmerce Requiring
Annual Audited Financial Reports

Issued and entered this
11th day of January, 1982, by
Michael D. Markman
Commissioner of Insurance

ORDER FOR PUBLICATION
OF TEMPORARY RULES

IT IS HEREBY ORDERED that the proposed temporary rules in the above-entitled matter be published in the State Register.

MICHAEL D. MARKMAN
Commissioner of Insurance

TITLE INSURANCE COMPANY OF MINNESOTA

February 12, 1982

FEB 15 1982

Mr. Leo Flaten
Insurance Division, Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

Dear Mr. Flaten:

We are writing in response to the Insurance Division's proposed temporary rules requiring annual audited financial reports. We understand that the rules are promulgated pursuant to Minnesota Statute Para. 60A.031 and 60A.13 and are substantially in conformity with the NAIC model rules.

Our company is currently subject to Wisconsin and Pennsylvania financial reporting requirements, which are substantially the same as the Minnesota proposed rules. We refer to these states because prior to the issuance of their rules, they both issued exposure drafts, held hearings and received input from the Insurance Industry, which resulted in certain changes from the NAIC model rules. Two of the more significant differences between Minnesota's rules and Wisconsin and Pennsylvania requirements deal with the sections entitled "Consolidated or Combined Audits" (4MCAR Para. 1.9127) and "Reports Prepared in Accordance with Generally Accepted Accounting Principles" (4MCAR Para. 1.9133). The Minnesota rules require audited Statutory financial statements of the insurer and allow the filing of GAAP financial statements and combined financial statements only upon written application to and approval by the Insurance Commissioner, whereas the previously noted state rules allow the filing of GAAP and combined financial statements. There is no requirement to file audited Statutory financial statements in Pennsylvania and Wisconsin. We understand that the changes occurred as a result of the hearings and the belief that audited Statutory statements normally result in additional cost for most Insurance companies while providing limited benefit, if any, for the Insurance Division.

We believe that consideration should be given to changing the Minnesota rules to allow filing of GAAP financial statements and combined financial statements without written approval from the Insurance Commissioner for the following reasons:

- To require an insurer to file only audited Statutory financial statements without the option of filing audited GAAP financial statements would result in an unreasonable burden and cost to the insurer.

- The rules give the Commissioner sufficient authority to expand the scope of any examination if he believes that the insurer's financial condition is materially misstated or is not sufficient to meet the minimum capital and surplus requirements of the Commissioner. The proposed rules provide that the Insurance Commissioner can

    - Require the independent certified public accountant to perform additional examination procedures (4MCAR Para. 1.9128).

    - Require Department examinations covering all aspects of the insurer's assets, condition, affairs and operations, which may be supplemented by audit procedures performed by independent certified public accountants (4MCAR Para. 1.9134).

We believe that the rules should be clarified on the following matters:

- If the GAAP financial statements rule discussed previously is not changed, we believe that the frequency of requesting exemption from filing Statutory financial statements should be clearly indicated in the proposed rules. We believe that it should not be necessary for an insurer to request to file GAAP financial statements annually once approval has been received until that authority is revoked by the Insurance Commissioner. Likewise, once permission is granted to file combined financial statements, we believe that an insurer should be allowed to file combined financial statements until that authority is revoked. The rules should be clarified on these items.

- The proposed rule does not have an effective date. In view of the late date, we believe that the rule should be effective for 1982 financial statements to be filed in 1983.

Thank you for the opportunity to comment on the proposed rules.

Sincerely,

TITLE INSURANCE COMPANY OF MINNESOTA

Douglas D. Donovan

Douglas D. Donovan
Senior Vice President - Finance
and Administration

DDD:lrl

cc: C. G. Gregory

Lawyers Title Insurance Corporation

POST OFFICE BOX 27567
RICHMOND, VIRGINIA 23261
AREA CODE 804/281-6700

February 10, 1982

State of Minnesota
FEB 16 1982
Department of Commerce

Mr. Leo Flaten
Insurance Division
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

Re: Proposed Temporary Rules Requiring Annual Audited Financial Reports

Dear Mr. Flaten:

We have reviewed this proposed rule. We believe the intent of this requirement can be met at much less cost to the insurers if you will permit them to submit annual audited financial statements in conformity with Generally Accepted Accounting Principles. Most insurers currently have these statements audited so that the additional cost of filing with your state would be minimal. To our knowledge, no state currently requires the filing of audited statutory financial statements. To require the CPA firms to audit financial statements prepared in conformity with statutory accounting practices will require additional audit fees which could be substantial. Since most, if not all, insurers include in the footnotes to financial statements a reconciliation back to statutory accounting, it would appear that no significant loss would be incurred by omitting this additional expense. For your information, Lawyers Title Insurance Corporation currently submits such audited financial statements to:

| | |
|---|---|
| Arizona | Michigan |
| California | Pennsylvania |
| Illinois | Virginia |
| Massachusetts | Wisconsin |

We appreciate this opportunity to voice our opinion on this matter.

Very truly yours,

J. L. Butler
Vice President and Controller

JLB:fg

National Association NAII of Independent Insurers

2600 RIVER ROAD, DES PLAINES, ILLINOIS 60018-3286

312/297-7800

Robert H. Brooks
ASSISTANT VICE PRESIDENT

February 19, 1982

State of Minnesota

FEB 22 1982

Department of Commerce

Mr. Leo Flaten
Audit Director
Insurance Division
Minnesota Dept. of Commerce
Fifth Floor, Metro Square Bldg.
St. Paul, MN 55101

Dear Mr. Flaten:

We requested an extension of time to respond to the published Minnesota CPA Audit Rule. We are setting forth below our comments on the published draft in the Minnesota Register.

Paragraph 23 of the Rule should have the words "immediately preceding" added after December 31 in the first paragraph. We believe this would make it very clear that the year to be audited is the most recent year and that the audit is due on or before June 30 of the following year.

Section 24 of the proposed rule refers to statutory accounting practices required or permitted by the Commissioner. This text appears in the second line of the first paragraph of this Section.

We believe the words "of the state of domicile" should be added to this text. This would be in keeping with the general practices of the NAIC whereby statutory accounting practices or procedures permitted by the Commissioner of the state of domicile governed the preparation of the annual statement. It is this document that is being audited by the CPAs irrespective of the state of domicile. We believe that only confusion can result from Minnesota attempting to superimpose its requirements on the statement prepared under the procedures and permission of the Commissioner of another state. We certainly do not want to have retaliatory provisions taken against Minnesota companies operating in other states because of this text. This change would also be in keeping with the text in Rule 25 whereby the CPA certifies that he is familiar with the insurance rules and practices of the state of domicile of the company that he is auditing. This change would make the internal language of the Minnesota rule consistent and make certain that no future problems will arise.

February 19, 1982

Mr. Leo Flaten
Audit Director
Insurance Division
Minnesota Dept. of Commerce



Our last comment refers to the text in the final paragraph of Section 31. We believe the words "and kept confidential" should be added after the word "work-papers" in the final sentence of this paragraph. The workpapers of a CPA do have a client-firm relationship and we believe it to be in the best interests of all concerned that they definitely be made confidential. This rule in being promulgated applies not only to present department personnel but to all others who may follow. We believe it in the best interests of all concerned that no ambiguity be left in the rule which would give future personnel an opportunity to release this information because it was deemed to be public.

We appreciate this opportunity to bring our comments on your proposed rule for Minnesota CPA audits and would appreciate your contacting us with any problems or assistance that you may need.

Very truly yours,

R. H. Brooks

Robert H. Brooks
Assistant Vice President

RHB:wb

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
INSURANCE DIVISION

In the Matter of the Proposed
Adoption of Temporary Rules of
the State of Minnesota Requiring
Annual Audited Financial Statement

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE-MAKING PROCEDURES.

I, Special Assistant Attorney General Robert J. Clayton, do hereby declare that I have examined rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Robert J Clayton

ROBERT J. CLAYTON
Special Assistant
Attorney General

Dated: February 25, 1982