

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF SOLVENCY REGULATION

Annual and Quarterly Financial Statement Submission Requirements

Proposed New Rules: N.J.A.C. 11:19-1

Authorized By: Steven M. Goldman, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:23-1 et seq., 17:46B-1 et seq., and 17B:21-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2008-393

Submit comments by January 30, 2009 to:

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The agency proposal follows:

Summary

Recently repealed N.J.A.C. 11:19-1.3 required that all insurers file Financial Analysis Subsystem (FAS) data with the National Association of Insurance Commissioners (NAIC) in lieu of filing such information with the Department of Banking and Insurance (Department). The rule, originally adopted in 1995, prescribes the procedures by which insurers file their annual and quarterly financial information data electronically with the NAIC. The Department can access such information electronically from the NAIC. In addition, this requirement is necessary for a state insurance department to obtain or maintain accreditation by the NAIC.

As part of the recent readoption of N.J.A.C. 11:19, which relates to the Financial Examination Monitoring System (FEMS), the Department had determined not to readopt certain rules as a part of FEMS that it determined are no longer necessary, including the requirements related to FAS. However, the requirement that insurers continue to file their annual and quarterly financial statement information with the NAIC was inadvertently repealed as a result of the elimination of the rules governing FAS.

Accordingly, the Department is proposing new rules at N.J.A.C. 11:19-1 to replace the recently repealed rules and retain the previously existing requirement that insurers file their annual and quarterly financial information with the NAIC. The proposed new rules at N.J.A.C. 11:19-1.3 specifically provide that insurers shall file their annual and quarterly financial data with the NAIC in accordance with the NAIC Annual Statement Diskette Filing Specifications and the NAIC Diskette Submission Directive instead of filing this information with the Department. This rule will continue the requirement as it previously existed in N.J.A.C. 11:19-1.3.

Proposed N.J.A.C. 11:19-1.1 sets forth the purpose and scope of the proposed new rules.

Proposed N.J.A.C. 11:19-1.2 sets forth definitions of terms used in the subchapter.

Proposed N.J.A.C. 11:19-1.3 provides for the filing of annual and quarterly financial statement data with the NAIC as set forth above.

Proposed N.J.A.C. 11:19-1.4 sets forth penalties for violations of the subchapter.

A 60-day comment period is provided for this notice of proposal and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed new rules essentially repropose the recently repealed requirement that insurers file their annual and quarterly financial information statements with the NAIC. This will enable the Department to continue to access such information electronically from the NAIC database, consistent with the national standard required for all state insurance departments to maintain accreditation by the NAIC.

Economic Impact

Insurers will be required to bear any costs associated with filing their annual and quarterly financial information with the NAIC. Additional costs should be minimal in that insurers are currently required to file their financial data with the NAIC in all states. Further, as noted in the Summary above, the proposed new rules replace previously existing filing requirements related to filing NAIC annual statement and quarterly statement financial information directly with the NAIC that were inadvertently repealed through the readoption of N.J.A.C. 11:19. Professional services required for compliance include information technology services. Insurers should already possess or have contracted for such services.

Federal Standards Statement

A Federal standards analysis is not required because the proposed new rules are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the proposed new rules.

The Department invites commenters to submit any data or studies on the potential jobs impact of the proposed new rules together with their comments on other aspects of the proposal.

Agriculture Industry Impact

The proposed new rules will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The proposed new rules will apply to “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. To the extent the proposed new rules apply to small businesses, they will apply to New Jersey-domiciled insurers. Such insurers will be required to bear any costs associated with filing such information electronically with the NAIC. As noted above, any costs to insurers should be minimal in that insurers are required to file their financial data with the NAIC in all states, and because the proposed new rules merely replace what was an existing requirement related to filing annual and quarterly financial information directly with the NAIC, consistent with the national standard as recognized in NAIC financial regulation and accreditation standards. Professional services required for compliance include information technology services. Insurers should already possess or have contracted for such services. The purpose of the proposed new rules is to maintain the existing database related to financial information of all insurers transacting business in the different states throughout the

country. This goal does not vary based on business size. Accordingly, the proposed new rules provide no differentiation in compliance requirements based on insurer size.

Smart Growth Impact

The proposed new rules will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed new rules will not have an impact on housing affordability in this State in that the proposed new rules relate to filing of financial information by insurers with the NAIC.

Smart Growth Development Impact

The proposed new rules will not have an impact on smart growth in the State and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey in that the proposed new rules relate to filing of financial information by insurers with the NAIC.

Full text of the proposed new rules follows:

SUBCHAPTER 1. ANNUAL AND QUARTERLY FINANCIAL STATEMENT
SUBMISSION REQUIREMENTS

11:19-1.1 Purpose and scope

(a) The purpose of this subchapter is to set forth requirements for the filing of annual and quarterly financial statement data with the NAIC.

(b) This subchapter applies to licensed insurers in this State.

11:19-1.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Department” means the New Jersey Department of Banking and Insurance.

“Licensed insurer” means an insurer authorized, admitted or eligible to transact insurance in this State.

“NAIC” means the National Association of Insurance Commissioners.

11:19-1.3 Annual and Quarterly Financial Statement Submission Requirements

All New Jersey licensed insurers shall file their annual and quarterly financial information with the NAIC in accordance with the NAIC Annual Statement Diskette Filing Specifications and the NAIC Diskette Submission Directive in lieu of filing this information with the Department.

11:19-1.4 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as authorized by law, including, but not limited to, penalties authorized by N.J.S.A. 17:23-2 and 17B:21-2.

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