

<u>Code</u>	<u>Narrative</u>
...	
96111	Extended developmental testing with a written report per hour. QUALIFIER: The rate per hour includes time for interpretation and reporting the results of the psychological testing, including the cost of administration of the test and the scoring.
96115	Neurobehavioral status exam with a written report per hour. QUALIFIER: The rate per hour includes time for interpretation and reporting the results of the psychological testing, including the cost of administration of the test and the scoring
96117	Neuropsychological testing battery with a written report per hour. QUALIFIER: The rate per hour includes time for interpretation and reporting the results of the psychological testing, including the cost of administration of the test and the scoring.]
...	

INSURANCE

(a)

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF SOLVENCY REGULATION

Insurance Holding Company Systems

Proposed Amendment: N.J.A.C. 11:1-35.13

Proposed New Rule: N.J.A.C. 11:1-35.14

Authorized By: Marlene Caride, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:27A-3.k.

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

Proposal Number: PRN 2023-041.

Submit comments by August 4, 2023, to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) proposes an amendment and a new rule at N.J.A.C. 11:1-35.14, to the insurance holding company systems rules, to reflect amendments to the National Association of Insurance Commissioners (NAIC) model regulation. The proposed amendment and new rule align New Jersey law with the national standard to ensure effective regulatory oversight of insurance holding company systems and the maintenance of New Jersey's NAIC accreditation status.

On December 9, 2020, the NAIC adopted revisions to the Insurance Holding Company System Regulatory Model Act #440 (Model Act) and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions #450 (Model Regulation). These revisions implemented the Group Capital Calculation (GCC) for the purpose of group solvency supervision and the Liquidity Stress Test (LST) to enhance macroprudential surveillance. The inclusion of the GCC is additionally intended to comply with the covered agreements entered

into by the United States and the European Union (E.U.) and the United Kingdom (U.K.). The NAIC has proposed adding the 2020 amendments to the Model Act and Model Regulation to the requirements for states to maintain accredited status in the NAIC Accreditation Program (Accreditation), effective January 1, 2026.

A covered agreement is a bilateral or multilateral agreement entered into between the United States and one or more foreign governments on prudential measures with respect to the business of insurance or reinsurance that achieves a level of protection for consumers that is "substantially equivalent" to the level of protection pursuant to state law. On September 22, 2017, and December 19, 2018, the United States entered into covered agreements with the E.U. (E.U. Covered Agreement) and the U.K., respectively (collectively, Covered Agreements). The Covered Agreements require that states have a "worldwide group capital calculation" in place to avoid the imposition of a group capital assessment or requirement at the level of the worldwide parent undertaking by the E.U. or U.K. Pursuant to the terms of the E.U. Covered Agreement, this calculation must be in place by November 7, 2022, to avoid the potential for imposition of E.U. capital requirements on U.S. insurers within an insurance group that operates in the E.U.

P.L. 2021, c. 366, which was approved on January 10, 2022, amends N.J.S.A. 17:27A-1 et seq., to reflect the 2020 amendments to the Model Act. Specifically, the legislative amendments add the GCC and LST to enterprise risk filings, and set forth filing requirements, at N.J.S.A. 17:27A-3.k(2) and (3). The legislative amendments also establish exemptions from filing the GCC for insurance holding company systems that meet certain criteria.

The amendment and new rule proposed in this rulemaking implement P.L. 2021, c. 366, and track the 2020 amendments to the Model Regulation to ensure consistency with the national standard and compliance with the requirements of the Covered Agreements.

A summary of the proposed amendment and new rule follows:

The Department proposes to amend N.J.A.C. 11:1-35.13 to revise the cross-reference from "N.J.S.A. 17:27A-3.k" to "N.J.S.A. 17:27A-3.k(1)," to reflect the new citation, as recodified at P.L. 2021, c. 366.

The Department proposes new N.J.A.C. 11:1-35.14 that tracks the NAIC's 2020 amendments to the Model Regulation. Proposed new N.J.A.C. 11:1-35.14 outlines the criteria for GCC filing exemptions and eligibility for the submission of a limited filing. The proposed new rule further sets forth special filing requirements for insurance holding companies that previously met an exemption or limited filing under certain circumstances. Additionally, the proposed new rule sets forth the criteria for non-U.S. jurisdictions to be considered to "recognize and accept" the GCC; and outlines the process for the publication, through the NAIC Committee Process, of a list of such jurisdictions.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendment and new rule implement P.L. 2021, c. 366, and reflect the national standard as adopted by the NAIC regarding insurance group solvency supervision. The proposed changes are strongly recommended by the NAIC and will eventually become necessary to maintain New Jersey's Accreditation status. Further, this rulemaking ensures conformity with the Covered Agreements, to avoid the imposition of foreign supervisory measures on U.S. insurers in a group with operations in the E.U. or U.K. The NAIC has recommended the 2020 amendments to the Model Act and Model Regulation be included as an Accreditation requirement effective January 1, 2026, however, it strongly recommends all states with an insurance group impacted by the Covered Agreements adopt the amendments effective November 7, 2022. The failure of any state to do so for any U.S. group operating in the E.U. potentially subjects all U.S. insurers in that group to the imposition of foreign group capital requirements.

This rulemaking incorporates the GCC into the regulatory framework, which will enhance transparency, allowing the Department to more easily identify and quantify risks emanating from a holding company system. The GCC was designed to address the lack of a consistent analytical framework to evaluate information regarding the capital positions of non-

insurance affiliates by state regulators. The implementation of the GCC will, therefore, further serve to protect policyholders in all states from risks that can emanate from outside the domestic insurer.

Economic Impact

Affected insurance companies will be required to bear costs associated with GCC filings required pursuant to N.J.S.A. 17:27A-3.k. The GCC is designed to provide additional transparency and enhance the ability of state insurance regulators to identify and quantify risks emanating from an insurance holding company system, thereby better protecting policyholders. The proposed new rule allows the Commissioner of the Department, as lead state commissioner of an insurance group as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC, to exempt insurers who have filed the GCC at least once and meet certain criteria from the annual GCC filing requirement. The proposed new rule, therefore, balances the cost to complete the GCC with the benefits of the metric to the lead state commissioner.

As noted previously, the proposed amendment and new rule reflect the national standard adopted by the NAIC and is expected to be required for New Jersey to maintain its accreditation status in the future. The purpose of the accreditation program is to ensure effective insurer financial solvency regulation across the United States. Further, the proposed amendment and new rule conform New Jersey law to the Covered Agreements, to avoid the imposition of foreign supervisory measures by the E.U. or U.K. on affected insurers, as discussed above. Accordingly, the benefits to be achieved by the proposed amendments and new rule as set forth above outweigh any costs that may be imposed.

Federal Standards Statement

The proposed amendment and new rule conform New Jersey rules to the requirement for a "worldwide group capital calculation" required pursuant to the Covered Agreements, which were executed by the U.S. government pursuant to 31 U.S.C. § 314. The proposed amendment and new rule do not exceed any minimum standards of the Federal government.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost due to the proposed amendment and new rule.

Agricultural Industry Impact

The proposed amendment and new rule will not have any impact on the agricultural industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendment and new rule do not apply to "small businesses," as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. No New Jersey insurers impacted by this rulemaking qualify as "small businesses" pursuant to N.J.S.A. 52:14B-17, because they are not residents of New Jersey, are not independently owned and operated and do not employ 100 or less full-time employees. Therefore, the Department believes that the proposed amendment and new rule should be applied uniformly, and accordingly proposes no difference in the compliance requirements based on business size.

Housing Affordability Impact Analysis

The proposed amendment and new rule will not have an impact on housing affordability and are unlikely to evoke a change in the average costs associated with housing in this State in that the proposed amendments and new rule relate to insurance company holding systems.

Smart Growth Development Impact Analysis

The proposed amendment and new rule will not have an impact on smart growth in this State and there is an extreme unlikelihood that the proposed amendments and new rule would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey in that the proposed amendment and new rule relate to insurance company holding systems.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed amendment and new rule will have no impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles

and adults in the State because the proposed amendment concern insurance company holding systems. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletion indicated in brackets [thus]):

SUBCHAPTER 35. INSURANCE COMPANY HOLDING SYSTEM

11:1-35.13 Enterprise risk report

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to N.J.S.A. 17:27A-3.k(1) shall furnish the required information on Exhibit F in the Appendix, incorporated herein by reference and made a part hereof, annually on April 1st of each year.

11:1-35.14 Group capital calculation

(a) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation, if the lead state commissioner makes a determination, based upon that filing, that the insurance holding company system meets all of the following criteria:

1. Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000;

2. Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

3. Has no banking, depository, or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;

4. The holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group that have occurred since the last filing of the annual group capital; and

5. The non-insurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

(b) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to accept in lieu of the group capital calculation, a limited group capital filing, if:

1. The insurance holding company system has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000; and all of the following additional criteria are met:

i. Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

ii. Does not include a banking, depository, or other financial entity that is subject to an identified regulatory capital framework; and

iii. The holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of the report to the lead state commissioner and the non-insurers within the holding company system do not pose a material financial risk to the insurers' ability to honor policyholder obligations.

(c) For an insurance holding company that has previously met an exemption with respect to the group capital calculation, pursuant to (a) or (b) above, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

1. Any insurer within the insurance holding company system is in a Risk-Based Capital action level event, as set forth at N.J.A.C. 11:2-39 or 39A, or a similar standard for a non-U.S. insurer;

2. Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition, as defined at N.J.A.C. 11:2-27.3; or

3. Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer, as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership, and organizational structure, Federal agency requests, and international supervisor requests.

(d) A non-U.S. jurisdiction is considered to “recognize and accept” the group capital calculation if it satisfies the following criteria:

1. With respect to the criteria set forth at N.J.S.A. 17:27A-3.k(2)(d):

i. The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC pursuant to the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision, including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

ii. Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally, in writing, to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required at (d)1i above; and

2. The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including, but not limited to, the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.

(e) A list of non-U.S. jurisdictions that “recognize and accept” the group capital calculation will be published through the NAIC Committee Process.

1. A list of jurisdictions that “recognize and accept” the group capital calculation, pursuant to N.J.S.A. 17:27A-3.k(2)(d), is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing pursuant to N.J.S.A. 17:27A-3.k(2)(d). To assist with a determination at N.J.S.A. 17:27A-3.k(2)(e), the list will also identify whether a jurisdiction that is exempted pursuant to either N.J.S.A. 17:27A-3.k(2)(c) or (d) requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.

2. For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement at (d)1ii, above, will serve as support for, a recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC Committee Process.

3. If the lead state commissioner makes a determination, pursuant to N.J.S.A. 17:27A-3.k(2)(d), that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

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

11:1-[35.14]35.15 (No change in text.)

LABOR AND WORKFORCE DEVELOPMENT

(a)

OFFICE OF THE COMMISSIONER

Precondition to Award of Direct Business

Assistance from the Department and for the Department to Report to Another State Agency or Entity that a Business is in Substantial Good Standing with the Department; Required Contract Provision for Direct Business Assistance from the Department

Proposed New Rules: N.J.A.C. 12:9

Authorized By: Robert Asaro-Angelo, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20.

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

Proposal Number: PRN 2023-044.

Submit written comments by August 4, 2023, to:

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The agency proposal follows:

Summary

The Department of Labor and Workforce Development (Department) is proposing new rules at N.J.A.C. 12:9, in order to implement N.J.S.A. 34:15D-33 through 34 (the Act), which became effective July 8, 2021, and which establishes, as a precondition to the award of direct business assistance from the Department, and as a precondition for the Department to report to another State agency or entity that a business is in substantial good standing, a determination by the Department that the “person” at issue (the term, “person,” defined within the Act to mean “a natural person or an organization, including but not limited to, a corporation, partnership, proprietorship, limited liability company, association, cooperative, joint venture, estate, trust or government unit”) has no outstanding liability to the Department pursuant to any of the statutes or rules that the Department enforces, including, but not limited to, for unpaid contributions to the unemployment compensation fund or the State disability benefits fund; to any individual on whose behalf the Department has issued a final order for the payment of wages or benefits; or for any penalties, fees, or interest due the Department pursuant to a final order issued under any of the statutes or rules that the Department enforces.

The Act also establishes, within the Department, an Office of Strategic Enforcement and Compliance, which has among its statutory responsibilities, oversight, and coordination of the process by which the Department makes the above-described good standing determination.

Thus, the Department is proposing a new Chapter 9, which would include the following new subchapters:

Subchapter 1 would set forth the purpose and scope of Chapter 9, including definitions of words and terms used throughout Chapter 9, and establish the procedure by which the Department’s Office of Strategic Enforcement and Compliance would make, and communicate, each individual good standing determination on behalf of the Commissioner and the Department.

Subchapter 2 would apply only to direct business assistance from the Department and would require that each contract for such direct business