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BULLETIN NO. 22-11

**TO: ALL EXCHANGES AUTHORIZED TO TRANSACT BUSINESS WITH
A CERTIFICATE OF AUTHORITY ISSUED PURSUANT TO N.J.S.A.
17:50-11**

FROM: MARLENE CARIDE, COMMISSIONER

**SUBJECT: COMPLIANCE WITH RELEVANT LAWS AND REQUIREMENTS
RECIPROCAL EXCHANGES**

The Department of Banking and Insurance (“Department”) has received inquiries regarding the laws and requirements relevant to exchanges authorized to transact insurance business with a Certificate of Authority issued pursuant to N.J.S.A. 17:50-11 (“reciprocal exchanges”).

Laws and requirements that apply to reciprocal exchanges include, but are not limited to, N.J.S.A. 17:50-1 to -19; N.J.S.A. 17:27A-1 to -14; N.J.A.C. 11:1-35.1 to -35.14; N.J.A.C. 11:2-39.1 to -39.14; all relevant Statements of Statutory Accounting Principles (“SSAP”), including but not limited to SSAP No. 25; submission of all required filings, including but not limited to, the annual and quarterly financial statements and Risk-Based Capital (“RBC”) reports; and proceedings pursuant to N.J.S.A. 17:30C-1 to -31 if the financial condition warrants the institution of delinquency proceedings.

The Reciprocal Exchange Act, N.J.S.A. 17:50-1 to -19 was originally enacted in 1945. A reciprocal exchange may be authorized to transact insurance business under the provisions of chapter (17) seventeen of Title 17 of the Revised Statutes, except life insurance. In order to establish a reciprocal exchange in New Jersey, the applicant (i.e., the exchange which includes the attorney-in-fact) must comply with extensive formation requirements.

The New Jersey Insurance Holding Company Systems Act (“Holding Company Act”), N.J.S.A. 17:27A-1 to -14, as enacted in 1970 and subsequently amended, and implementing rules, N.J.A.C. 11:1-35.1 to -35.14 (including Form A change of control requirements), apply to reciprocal exchanges. The Holding Company Act sets forth the standards and requirements for the acquisition/change of control of a domestic insurer and the operations of insurance holding company systems, which include a New Jersey domestic insurer. N.J.S.A. 17:27A-1(e) broadly defines the term “insurer” as any person or persons, corporation, partnership or company authorized by the laws of this State to transact the business of insurance or to operate a health

maintenance organization in this State. N.J.S.A. 17:27A-1(f) further defines a "person" as an individual, a corporation, a limited liability company, partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert. A reciprocal exchange falls squarely within the definition of insurer in the Holding Company Act as defined in N.J.S.A. 17:27A-1(e). Moreover, N.J.S.A. 17:27A-13 further states that "[a]ll laws and parts of laws of this State inconsistent with this chapter are hereby superseded with respect to matters covered by this chapter."

N.J.S.A. 17:23-1 requires each insurer transacting business in the state to file, with the Department, an annual statement in the format adopted by the National Association of Insurance Commissioners ("NAIC") in use at the time the statement is due, prepared in accordance with the NAIC Annual Statement Instructions, and that follows the NAIC Accounting Practices and Procedures Manual. The NAIC Accounting Practices and Procedures Manual codifies SSAPs.

SSAP No. 25 refers to related party transactions, including loans, transactions involving the exchange of assets or liabilities, and transactions involving services between related parties. SSAP No. 25, paragraph 4, defines related parties, which definition includes the attorney-in-fact of a reciprocal reporting entity or any affiliate of the attorney-in-fact. Further, paragraph 19 requires transactions involving services between related parties to be on an arm's length basis and meet fair and reasonable standards. In doing so, considerations may include, but are not limited to, management representations along with the opinion of the reciprocal exchange's independent auditor.

N.J.A.C. 11:2-39.1 to -39.14 provides a framework for the establishment of uniform risk-based capital and surplus requirements for all insurers authorized, admitted, or eligible to transact business. Pursuant to N.J.A.C. 11:2-39.3, every domestic insurer shall, on or before each March 1, prepare and submit to the Commissioner an RBC Report as of the preceding December 31.

Further, reciprocal exchanges are subject to N.J.S.A. 17:30C-1 to -31, which provide a consistent framework for delinquency proceedings if the financial condition of an insurer warrants such proceedings.

If you have any questions, please contact David Wolf, Acting Assistant Commissioner of the Department's Office of Solvency Regulation at david.wolf@dobi.nj.gov.



12/20/2022

Date

Marlene Caride
Commissioner

AR Reciprocal Exchange Relevant Laws Bulletin/Bulletins