

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
OFFICE OF SOLVENCY REGULATION

Annual and Quarterly Financial Statement Submission Requirements

Reproposed 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, 17:22-6.45, 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 2009-197

Submit comments by September 4, 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Recently repealed N.J.A.C. 11:19-1.3 required that all insurers file Financial Analysis Subsystem (FAS) data with the National Association of Insurance Commissioners (NAIC) in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, prescribed the procedures by which insurers file their annual and quarterly financial information data electronically with the NAIC, which the Department would then access electronically from the NAIC. Such a filing 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 (see 40 N.J.R. 6466(a)), which relates to the Financial Examination Monitoring System (FEMS), the Department did not readopt certain rules as a part of FEMS that it determined were no longer necessary, including the requirements related to FAS. The requirement that insurers continue to file their annual and quarterly financial statement information with the NAIC was inadvertently repealed as a part of the elimination of the rules governing FAS.

Accordingly, the Department proposed new rules at N.J.A.C. 11:19-1 which appeared in the December 1, 2008 issue of the New Jersey Register (see 40 N.J.R. 6737(a)) to replace the recently repealed rules and re-establish the previously existing requirement that insurers file their annual and quarterly financial information with the NAIC. The proposed new rule at N.J.A.C. 11:19-1.3 specifically provided 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 proposed new rule continued the requirement as it previously existed in N.J.A.C. 11:19-1.3.

When the rules were originally proposed, the Department timely received one written comment from the New Jersey Manufacturers Insurance Group, as summarized below. The commenter stated that the proposed rules would require insurers to 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. The commenter stated that the proposal Summary indicated that these filing requirements are instead of filing such financial data with the Department. The commenter stated, however, that it has received conflicting information on this issue and requested confirmation that insurers will no longer be required to

file multiple hard copies of annual and quarterly financial statements directly with the Department. The commenter also requested confirmation that the Department will access such filings electronically through the NAIC for internal purposes and will no longer request additional hard copies of the same material from insurers.

Upon review, the Department has determined that the wording of the proposed new rule in question does not reflect the current procedures utilized. Domestic insurers have been and will continue to be required to file copies of their annual and quarterly statements in hard copy with the Department. Also, by Bulletin No. 08-06, issued March 24, 2008, the Department advised that: (1) for foreign and alien admitted insurers, hard copies would not be required to be filed, unless the insurer had more than 90 percent of its direct written premiums in New Jersey; and (2) for eligible surplus lines insurers, that copies of statements may be filed with the NAIC, provided that hard copies of the Jurat page, Schedule T and page 3 (Liabilities and Surplus) are filed with the Department. The Department is reproposing the new rules to reflect these requirements.

Proposed N.J.A.C. 11:19-1.1 sets forth the purpose and scope of the reproposed 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 repropose new rules essentially repropose the recently repealed requirement that insurers file their annual and quarterly financial information statements with the NAIC, and will also codify the existing filing procedures currently in effect related to the filing of hard copies. 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 annual and quarterly financial information directly with the NAIC that were inadvertently repealed upon the readoption of N.J.A.C. 11:19. The repropose rules also reflect the current requirement that domestic insurers and certain foreign and alien insurers file data in hard copy with the Department. Professional services required for compliance include information technology services. Insurers should already possess or have contracted for such services. Thus, the economic impact of the repropose new rules on insurers should be minimal.

Federal Standards Statement

A Federal standards analysis is not required because the repropoed 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 repropoed 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 repropoed new rules will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The repropoed 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 repropoed 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 the required information electronically with the NAIC and in hard copy with the Department. 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 repropoed 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 repropoed new rules is to maintain the existing database related to financial information of all insurers transacting business in the different states throughout the country, and to confirm existing instructions given to insurers regarding the filing of information with the Department in hard copy. This goal does not vary based on business size. Accordingly, the repropoed new rules provide no differentiation in compliance requirements based on insurer size.

Smart Growth Impact

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

Smart Growth Development Impact

The repropoed 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 repropsoed new rules relate to filing of financial information by insurers with the NAIC and the Department.

Full text of the repropsoed 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 and the Department.

(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

(a) 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 addition to filing this information with the Department in hard copy as set forth in (b) below.

(b) In addition to filing with the NAIC pursuant to (a) above, all domestic insurers regardless of premium volume, as well as any foreign or alien admitted insurer with more than

90 percent of its direct written premiums in New Jersey, shall file required statements in hard copy with the Department. Eligible surplus lines insurers may comply with applicable filing requirements by filing such statements electronically with the NAIC, provided that hard copies of the Juart page, Schedule T and page 3 (Liabilities and Surplus) are filed 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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