

SENT VIA EMAIL AND U.S. MAIL



June 21, 2010

Mr. James T. Odiorne
Deputy Insurance Commissioner
Company Supervision Division
Office of Insurance Commissioner
State of Washington
P. O. Box 40255
Olympia, WA 98504-0255

Dear Deputy Commissioner Odiorne:

We appreciate the opportunity to provide specific proposed changes to the OIC draft of the possible amendment to Chapter RCW 48.13, the Insurer Investments Act (the "Act"). The comments in this letter are offered on behalf of Premera Blue Cross as well as its subsidiaries LifeWise Health Plan of Washington and LifeWise Assurance Company.

1. Section 7, Authorized Classes of Investments

OIC Current Draft:

NEW SECTION. Sec. 7. AUTHORIZED CLASSES OF INVESTMENTS. The following classes of investments may be counted for the purposes specified in Section 11, whether they are made directly or as a participant in a partnership, joint venture or limited liability company (partnerships, joint ventures, and limited liability companies are authorized investments only pursuant to sec. 7(12) of this act, and must have prior approval of the commissioner):

Requested Change: Delete the parenthetical underlined above: "(partnerships, joint ventures, and limited liability companies are authorized investments only pursuant to sec. 7(12) of this act, and must have prior approval of the commissioner)"

Reason for Requested Change: We appreciate the clarification in the OIC's most recent draft that insurers may invest directly or indirectly through partnerships, joint ventures or LLC's. Your comments in your email of April 16, 2010, also indicate that the intent in initially excluding reference to these types of entities was merely to indicate that those investments would not be counted toward the minimum asset requirement identified in Section 11. However, the language added in the most recent draft appears to introduce additional restrictions. If that is the intent, the rationale for varying from the Model Act and for imposing additional restrictions on investments made as participants in a partnership, joint venture or LLC is unclear. It is not clear why structuring an investment through a limited partnership or an LLC, versus the insurer making a direct investment, would trigger prior commissioner approval in addition to the other limitations of the Act. We do not believe there is any rationale for treating LLC's and limited partnerships differently than other equity investments. LLC's are commonly used as alternatives to the corporation structure, and offer the same liability protections to the investor. Certain mutual

funds in which insurers may invest are organized as LLPs or LLCs. Often investment through a limited partnership or LLC, versus directly, signals a collaboration of entities with similar interests and may actually increase the likelihood of business success, and therefore decrease the risk of the investment. Moreover, the form of the investment as between a corporation, LLC, or partnership, does not necessarily determine liquidity. Neither LLC's nor limited partnerships present additional risks that would necessitate heightened scrutiny or pre-approval requirements.

Further, the scope of any additional restrictions is unclear. Because "joint venture" is not defined in this draft, it is not clear under what circumstances that approval requirement would be triggered, or the rationale for requiring such approval. In addition, as drafted, it is not clear whether by adding this language, it is intended that any investment in these types of vehicles, regardless of size or nature of the investment risk, would require pre-approval of the commissioner.

For these reasons, we urge that the NAIC Model Act language be retained and proposed parenthetical language not be included. An investment in an LLC or a limited partnership should be treated like other equity investments, such as an investment in a corporation, and should not require prior approval of the commissioner.

2. Section 8(1)(c), Limit on Domestic Equity Investments

OIC Current Draft:

~~(c) Investments authorized by Section 7(4), ((other than subsidiaries of the types authorized under [cite applicable provisions of holding company law])) twenty percent (20%) of admitted assets in the case of life insurers and twenty-five percent (25%) of admitted assets in the case of non-life insurers;~~

Requested Change: restore the language "(other than subsidiaries of the types authorized under Section 7(4))"

Reason for Requested Change: By deleting the Model Act phrase "other than subsidiaries of the types authorized by [holding company law]", the OIC draft appears to require an insurer's subsidiaries to be counted toward the aggregate limit on equity investments. As we noted before, this is a significant deviation from the Model Act and the current Act, and effectively lowers the amount of equities an insurer with subsidiaries can hold in its investment portfolio. For many companies, portfolio investments and subsidiaries serve different purposes: a well managed portfolio allows an insurer to benefit from market changes and provides opportunities for liquidity as well as investment return; subsidiaries generally represent longer term investments that support a company's operations and business strategies. For example, LifeWise Assurance Company provides products and services that complement Premera Blue Cross's business. In addition, a corporate structure utilizing subsidiaries may afford legal protections to a parent company. Accordingly, we respectfully reiterate our request that the OIC revert to the language of the Model Act, thereby excluding subsidiaries from the calculation of investments counted toward the aggregate equity limit.

3) Section 8(1)(c)(ii), Limit on Subsidiary Investments

OIC Current Draft:

(ii) Investments authorized in Section 7(4) of this Act in one or more subsidiaries shall not exceed the lesser of 10% of admitted assets or 50% of surplus.

Requested Change: Add the following sentence to 8(1)(c)(ii): “In calculating the amount of investments under this Section, investments in domestic or foreign subsidiary insurers, health care service contractors and health maintenance organizations are excluded.”

Reason for Requested Change: For the reasons set forth in comment #2 above, we believe the limit on investments in subsidiaries, as added to the Model Act, should be no more restrictive than the current Act, which allows an insurer to exclude subsidiary insurers, health care service contractors and health maintenance organizations from this calculation. The language suggested above is taken from current RCW 48.13.218.

4) Request for Clarification: Interplay between Section 8(1)(c) Limit on Domestic Equities and Section 8(1)(f) Limit on Foreign Securities

We interpret these sections together to mean that non-life insurers would be entitled to hold up to 25% of admitted assets in domestic equities authorized by Section 7(4), and up to an additional 20% of admitted assets in foreign debt and equities authorized by Section 7(7), for an aggregate of up to 45% of admitted assets in these types of investments, for the purpose of satisfying the minimum asset requirements. In addition, we assume the OIC would look to the underlying securities in a mutual fund in determining whether a mutual fund is considered a Section 7(4) investment or a 7(7) investment. For example, the Silchester Fund invests exclusively in foreign securities, thus would be counted toward the Section 7(7) limit, even though it is registered with the Securities and Exchange Commission of the United States. We would appreciate confirmation of these interpretations.

5) Section 8, Limitations Generally Applicable

Requested Change: Add the following language as new Section 8(8):

“The foregoing limits do not bar insurers with capital in excess of the minimum asset requirement from investing such excess amounts in the insurer’s discretion, subject to Section 10 (Prohibited Investments) and the insurer’s written investment policy.”

Reason for Requested Change: This codifies the intent of the NAIC Model Act, as articulated in NAIC Annotations to the Model Act, Section 8, Annotation 6, #3.

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6) Other Comments

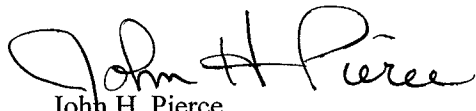
There are two additional comments/concerns expressed in our letter dated March 15, 2010 which we do not believe have been addressed in subsequent correspondence or discussions. They are as follows:

Section 8(3) Investment Subsidiaries: We asked for clarification whether the deemed ownership of assets of an insurer's subsidiaries is intended to apply only to Section 7(4)(g) investment subsidiaries. The scope of Section 8(3) remains unclear.

OIC Rulemaking Authority: We stated our support of the Model Act's approach of setting a reasonable financial security benchmark, under which admitted assets counted toward satisfaction of the requirement must be invested according to the Act and our understanding of the OIC preserving some rulemaking authority to interpret and implement the Act where necessary and appropriate. However, we expressed concern that, as currently drafted, the broad rulemaking authority afforded the Commissioner in several sections of the OIC draft will not provide adequate certainty to insurers in setting and following investment policies with regard to meeting a clearly identified and applied minimum financial security benchmark and investment limitations. We believe that changes to the minimum benchmark for a class of insurers, as well as any new investment requirements or limitations an insurer is expected to follow, should be addressed through the legislative process with sufficient notice to allow an insurer to adjust its investment policy and balance its portfolio assets.

Once again, thank you for the opportunity to participate in the discussions and preliminary feedback, and to comment on this draft. We respectfully urge you to consider our comments stated above and to incorporate the proposed revisions into your next working draft. If you have questions, please feel free to contact me. We look forward to continuing to work with you on this subject.

Sincerely,



John H. Pierce
Senior Vice President, General Counsel