



July 6, 2010

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INSURANCE COMMISSIONER
COMPANY SUPERVISION

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

Re: Chapter 48.13 RCW – Insurer Investment Modernization

Dear Mr. Odiorne:

We appreciate the opportunity to continue working with your office and others on the latest draft proposal to amend Chapter 48.13 RCW that was issued on June 2, 2010. We are encouraged that the draft proposal is moving in what we would consider to be a good direction. There are however, some areas where we believe the model act language could be further clarified, defined, or restored to its original intent. We believe this would not only benefit the insurers, but also the OIC as it would reduce time and resources spent on potential disagreements of interpretation between insurers and the OIC. Clear and transparent expectations and rules will also enable insurers to meet their compliance goals and improve their ability to invest in such a way to support their business objectives and protect their members' premium dollars.

The following highlights particular sections where we would like to request changes to the proposed legislation. Please note that deletions to current language are struck through, while additions are underlined.

Section 3.1(b) – Discretionary Power of Commissioner to Define Minimum Asset Requirement

The model law language as currently stated appears to significantly increase the discretionary power of the commissioner with respect to setting a minimum financial security benchmark. It does not however, state under what circumstances that power would be exercised. We request the following changes to Section 3.1(b):

The commissioner may, in accordance with the factors in Subsection 2(b) of this section, establish by ~~order~~ rule a minimum financial security benchmark to apply to a specific insurer, provided it is not less than the amount determined by subsection 1(a), in the event the insurer falls below two times the authorized control level risk-based capital applicable to the insurer as set forth by RCW 48.05.450.

Section 6.1 – Insurer Investment Policy

The model law language pertaining to the Insurer Investment Policy currently refers to the inclusion of procedures and controls. We believe that a policy document is not the appropriate place to specify procedures and controls, but should rather be focused on the overall investment policy. It may be that the model law intends to state that the investment policy should require the separate documentation of procedures and controls, however, this is not clearly stated. Therefore, we request the following change to Section 6.1:

The general investment policy of the insurer, including the policy that procedures and controls covering all aspects of the investing functions are documented and updated annually.

Section 7 – Authorized Classes of Investments (Partnerships, Joint Ventures, and LLCs)

Current law, as well as model law language, does not require the prior approval of the commissioner for purchases of partnerships, joint ventures, and limited liability companies. The treatment of these entities in the current 48.13 draft proposal departs from current and model law as it does require prior commissioner approval. This seems inconsistent with the commissioner's reliance on a prudent investor standard and gives the commissioner additional discretion over what is currently exercised today. In addition, as the proposed rule subjects these investments to the limitations of Section 7.12 Miscellaneous Investments, there is already a control in place to prevent excessive exposure to them. Therefore, we request that the wording in the first paragraph of Section 7 be changed to the following:

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 Section 7(12) of this act, ~~and must have prior approval of the commissioner~~).

Section 7 – Canadian Investments

The model law specifically includes Canada, along with the United States, in the definition of investments that are subject to domestic vs. foreign limitations which is consistent with many years of similar treatment. This reflects the fact that Canada has a special and unique relationship with the United States, a strong and stable economy, and the quality and liquidity of Canadian investments are no different than those of the United States. We would also note that Canada has significantly greater transparency and regulatory oversight of both its accounting standards, and financial markets as compared with many other foreign markets. It is also fair to point out that the bankruptcy system in Canada is much more refined than many other foreign courts and is more typical of the U.S. system. Further, we are aware of no issues or occurrences with regard to investments in Canadian domiciled securities which would necessitate this change. The NAIC would be unlikely to include Canada if there was a consistent problem with recovery of assets. Therefore, we request restoring the model law language to include Canadian investments with the limitations applied to United States investments rather than treat it as a foreign investment.

Section 8.1(c) – Investment in Subsidiaries

The model law language *excludes* certain subsidiaries as defined in Section 7(4)(a)-(k) from the limitations in Section 8.1(c). The current draft proposal departs from the model law as it includes these subsidiaries under the overall equity investment limitation. We understand the concern around investment in certain types of subsidiaries, however, we believe the model law intended to allow the specific list of insurance-related subsidiaries to be counted toward the minimum asset requirement. These types of subsidiaries are not speculative in nature, but rather serve to support the insurance company. Our request for wording in Section 8(1)(c) would be as follows:

Investments authorized by Section 7(4) (other than subsidiaries of the type authorized under Section 7.4(a)-(k)), 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

Section 8.1(c)(ii) – Limit on Subsidiary Investments

Current law allows the exclusion of investments in foreign or domestic subsidiary insurers, health care service contractors, and health maintenance organizations in the calculation of this limit. The model law as well, does not impose this limit on the assets applicable to the minimum asset requirement calculation. We believe these types of entities should be excluded due to the fact that they are themselves subject to regulation by the OIC and therefore do not pose the same risk that an unregulated entity might. In addition, the fact that the parent company incurs an additional RBC risk charge in proportion to the combined level of asset and underwriting risk for these entities means that the parent company has already taken additional risk into account. As a compromise, we request the following change:

(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. In calculating the amount of investments under this Section, investments in foreign or domestic insurers, health care service contractors, and health maintenance organizations are excluded.

Section 8.5 – Special Rule for Mutual Funds

The model law language as written is not clear with respect to the circumstances under which the commissioner would ask for a “look-through” treatment for mutual funds, pooled investment vehicles, and other investment companies. Further, it is not clear whether this is intended to include SVO listed mutual funds or not. Our concern is that this would require a significant amount of additional work and time, and does not reflect the way in which we buy and manage mutual fund investments. We request that the language be clarified as follows to specify under which circumstances the commissioner could make this request:

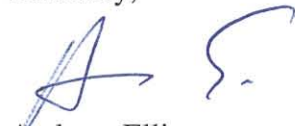
(5) Special rule for mutual funds, pooled investment vehicles, and other investment companies (excluding SVO listed mutual funds). At the discretion of the commissioner, as may be deemed necessary in order to determine compliance with this Act in relation to limitations of particular classes of investments, the commissioner may require that investments in mutual funds, pooled investment vehicles, or other investment companies be treated for purposes of this Act as if the investor owned directly its proportional share

of the assets owned by the mutual fund, pooled investment vehicle, or investment company to the extent such individual non-SVO listed mutual funds, pooled investment vehicles, and other investment companies exceed 2% of admitted assets or, in aggregate, 10% of admitted assets.

As stated earlier, we do feel that the proposed draft is moving in the right direction, and we appreciate the flexibility and compromise that has been extended thus far. We respectfully ask that you consider our requests as outlined above and that you contact us if you have any specific questions, or should need clarification of our position.

Thank you again for the opportunity to be included in this process, and we look forward to assisting with any additional comments or suggestions to facilitate drafting the proposed bill to amend Chapter 48.13 RCW.

Sincerely,

A handwritten signature in blue ink, appearing to be 'A. Ellis', written over a faint blue line.

Andreas Ellis
Vice President & Treasurer