



Wisconsin Office of the  
**COMMISSIONER**  
**OF INSURANCE**

Tony Evers, Governor of Wisconsin  
Mark Afable, Commissioner of Insurance

Ch. Ins 40, Wis. Adm. Code, relating to holding company system regulation amendments.

Statement of Scope of a Proposed Rule SS 039-21

In accordance with s. 227.135 (1) and (2), Stats., I hereby certify that I am the individual with the policy-making powers for the Office of the Commissioner of Insurance, that the above-listed Statement of Scope and Preliminary public hearing were published in the Wisconsin Administrative Register No. 778B and 785A3, respectively. The public hearing was held on May 24, 2021 and a report summarizing the hearing and any comments was received by me on June 11, 2021. I have reviewed the report and I approve this Statement of Scope on this 14th day of June, 2021.

Work may now commence on this proposed rule.

*Mark V. Afable*

\_\_\_\_\_  
Mark Afable, Commissioner  
Office of the Commissioner of Insurance

# STATEMENT OF SCOPE

## OFFICE OF THE COMMISSIONER OF INSURANCE

Rule No.: 145 Ch. Ins 40, Wis. Adm. Code

Relating to: Holding company system regulation amendments

Rule Type: Permanent

### Detailed description of the objective of the proposed rule:

The National Association of Insurance Commissioners (NAIC) is a standard setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories. It develops model laws and regulations using a committee structure that includes both members of the committee and interested regulators. The NAIC also provides an accreditation process for state insurance departments. Accreditation of the Office of the Commissioner of Insurance (OCI) by the NAIC helps Wisconsin insurers by ensuring that the OCI has full regulatory authority over its domestic insurers. It accomplishes this by subjecting domestic insurers to financial regulation only by their domestic commissioner if the state is accredited. Because Wisconsin is accredited, Wisconsin insurers are not subject to separate financial regulation in every state in which they do business. Recent changes in the NAIC model laws 440 and 450 that are the bases for the proposed rule are anticipated to become accreditation standards in 2022, and therefore, it is important to implement these changes into the Wisconsin holding company system regulations as soon as practicable.

The rule change would modernize Wisconsin's holding company system provisions by adopting uniform standards for determining group-wide capital filing requirements in alignment with requirements of the agreement between the United States of America, the European Union, and the United Kingdom regarding insurance and reinsurance (covered agreement). The covered agreement was authorized by Title V of the Dodd-Frank Act that authorized the Secretary of the Treasury and the United States Trade Representative to jointly negotiate a covered agreement on behalf of the United States with one or more foreign governments, authorities, or regulatory entities.

### Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter Ins 40, Wis. Adm. Code, establishes the requirements for holding company standards including, for example, registration, transaction requirements, acquisition of control or merger with a domestic insurer or divestiture of shares in a domestic insurer. Additionally, the newly revised NAIC model laws add and revise requirements for the regulation and oversight of insurance holding company systems including a liquidity stress test, group capital calculations, and confidential treatment of certain documents.

The proposed changes would bring the rules into compliance with the covered agreement and bring the OCI into alignment with NAIC accreditation requirements. The alternative is to risk preemption by federal law or risk OCI losing its accreditation which would have a significant financial impact on all domestic insurers.

### Detailed explanation of statutory authority for the rule (including the statutory citation and language):

The statutory authority for this rule is specifically Wis. Stat. § 623.02 that provides when promulgating accounting rules, the commissioner shall consider recommendations made by the NAIC. Wis. Stats. §§  
Rev. 03.05.2019

623.03 and 623.04, grant the commissioner authority to promulgate rules specifying how insurers should account for assets and liabilities which would include liquidity stress tests and group capital calculations. Wis. Stats. § 617.11 (1) grants the commissioner the authority to promulgate rules specifying the timing of reports on affiliates including requiring periodic reporting and the form and procedure for filing reports. Additionally, the commissioner has general rule-making authority under Wis. Stat. §§ 601.41 and 227.11 (2) (a).

**Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

200 hours and no other resources are necessary to develop the rule.

**List with description of all entities that may be affected by the proposed rule:**

The update of Wisconsin's standards to match those in other states will create uniformity. The revisions will apply to insurers who belong to an insurance holding company system.

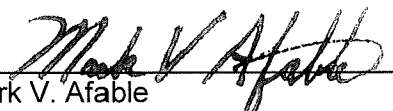
**Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

Currently, there are no existing federal regulations intended to address this area. The United States has entered into a covered agreement with the European Union and United Kingdom which could preempt state law if a state does not enact its requirements by September of 2022. There is also a provision where federal preemption could occur if substantial progress has not been made by September of 2021.

**Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The anticipated economic impact of implementing the rule is minimal as the proposed rule will primarily add an additional filing requirement to insurers that belong to a holding company system.

**Contact Person:** Julie Walsh at [Julie.Walsh@wisconsin.gov](mailto:Julie.Walsh@wisconsin.gov)

  
\_\_\_\_\_  
Mark V. Afable  
Commissioner of Insurance

1/13/2021  
\_\_\_\_\_  
Date

1/13/2021  
\_\_\_\_\_  
Date Submitted to Governor



# Tony Evers

Office of the Governor | State of Wisconsin

April 15, 2021

By Electronic Mail Only

Dear Secretaries and Agency Heads:

On this day, I approved the following statements of scope pursuant to Wis. Stat. § 227.135(2):

- A statement of scope by the Occupational Therapists Affiliated Credentialing Board, submitted March 17, 2021, relating to continuing education (Wis. Admin. Code ch. OT 3); and
- A statement of scope by the Medical Examining Board, submitted February 17, 2021, relating to licenses to practice medicine and surgery (Wis. Admin. Code ch. Med 1); and
- A statement of scope by the Office of the Commissioner of Insurance, submitted January 13, 2021, relating to holding company system regulation amendments (Wis. Admin. Code ch. Ins 40); and
- A statement of scope by the Department of Natural Resources, submitted January 5, 2021, relating to revisions to ch. NR 811, Wis. Adm. Code, to update, correct and clarify existing code requirements and add requirements for new technologies related to community drinking water system sources, source water quality, storage, treatment and distribution (Wis. Admin. Code ch. NR 811); and
- A statement of scope by the Department of Natural Resources, submitted February 19, 2021, relating to removing shot size restrictions for hunting certain game (Wis. Admin. Code chs. NR 10 and 45); and
- A statement of scope by the Department of Health Services, submitted March 31, 2021, relating to biennial review of administrative rules under s. 227.29, stats. (Wis. Admin. Code chs. DHS 1-251).

On this day, I approved the following proposed administrative rules pursuant to Wis. Stat. § 227.185:

- A proposed rule by the Controlled Substances Board, submitted February 15, 2021, relating to removing FDA approved cannabidiol from schedule V and excluding FDA approved cannabidiol from schedule I (Wis. Admin. Code ch. CSB 2.75); and
- A proposed rule by the Massage Therapy and Bodywork Therapy Affiliated Credentialing Board, submitted March 29, 2021, relating to reciprocal credentials for

service members, former service members, and their spouses (Wis. Admin. Code ch. MTBT 2); and

- A proposed rule by the renewal and reinstatement of licenses, submitted April 1, 2021, relating to Psychology Examining Board (Wis. Admin. Code ch. Psy 4); and
- A proposed rule by the biennial review of administrative rules under s. 227.29, stats., submitted January 7, 2021, relating to Department of Health Services (Wis. Admin. Code chs. DHS 90, 103, 104, 105, 106, 107, 152, 250 and 251); and
- A proposed rule by the real estate appraisers, submitted February 11, 2021, relating to Department of Safety and Professional Services (Wis. Admin. Code ch. SPS 85).

Please direct any questions about this letter to my deputy policy director, Katie Domina.

Sincerely,

A handwritten signature in black ink that reads "Tony Evers". The signature is fluid and cursive, with the first name "Tony" and last name "Evers" clearly distinguishable.

Tony Evers  
Governor

cc: Ryan Nilsestuen, chief legal counsel ([ryan.nilsestuen1@wisconsin.gov](mailto:ryan.nilsestuen1@wisconsin.gov))  
Katie Domina, deputy policy director ([katherine.domina1@wisconsin.gov](mailto:katherine.domina1@wisconsin.gov))  
DOA State Budget Office ([SBOAdminRules@spmail.wi.gov](mailto:SBOAdminRules@spmail.wi.gov))  
DSPS ([DPSPSAdminRules@wisconsin.gov](mailto:DPSPSAdminRules@wisconsin.gov))  
Nathan Houdek, OCI ([nathan.houdek@wisconsin.gov](mailto:nathan.houdek@wisconsin.gov))  
Jackson Keuler, DHS ([jackson.keuler@dhs.wisconsin.gov](mailto:jackson.keuler@dhs.wisconsin.gov))  
Emma Esch, DNR ([emma.esch@wisconsin.gov](mailto:emma.esch@wisconsin.gov))