

Notice of Submittal of Proposed Rule to Legislative Council Rules Clearinghouse

On November 2, 2022, the Wisconsin Office of the Commissioner of Insurance submitted a proposed rule to the Wisconsin Legislative Council Clearinghouse pursuant to s. 227.15 (1), Wis. Stats.

Analysis

The proposed rule affects ss. Ins 50.01 & 50.155, Wis. Adm. Code, relating to the office's access to financial compilations produced by independent certified public accountants in the course of examining the financial statements of insurers.

Statement of Scope

The scope statement for this rule, SS 157-20, was approved by the Governor on December 11, 2020, published in Register No.780A3 on December 21, 2020, and approved by the Commissioner on January 13, 2021.

Agency Procedure for Promulgation

A public hearing is required and will be held on December 6, 2022.

Agency Organizational Unit Primarily Responsible for Promulgating Rule

Wisconsin Office of the Commissioner of Insurance

Agency Contact Person

Sharone Assa

(608) 264-8129

sharone.assa1@wisconsin.gov

NOTICE OF PUBLIC HEARING
OFFICE OF THE COMMISSIONER OF INSURANCE

The Office of the Commissioner of Insurance (OCI) announces that it will hold a public hearing on a permanent rule revising ss. Ins 50.01 & 50.155, Wis. Adm. Code, relating to the office's access to financial compilations produced by independent certified public accountants in the course of examining the financial statements of insurers.

Hearing Information:

Date: December 6, 2022
Time: 10 am
Location: Office of the Commissioner of Insurance
125 S. Webster St., 2nd Floor Rm. 227
Madison, WI 53703

MS TEAMS

+1 608-571-2209, 170536617# United States, Madison
Phone Conference ID: 170 536 617#

Accessibility:

Pursuant to the American with Disabilities Act reasonable accommodations including the provision of informational materials in an alternative format, will be provided for individuals with disabilities upon request. Please call Karyn Culver at (608) 267-9586 with specific information on your request at least 5 days before the date of the hearing. There is also handicap access to the hearing location.

Appearances at the Hearing and Submittal of Written Comments:

Persons wishing to testify or provide oral or written comments regarding the proposed administrative rule may appear during the hearing. Additionally, the rule may be reviewed and comments made at <https://docs.legis.wisconsin.gov/code>. Finally, you may also review the rule at <https://oci.wi.gov/Pages/Regulation/RulesCurrentlyPending.aspx> and make comments by mail, hand delivery or email as follows:

Written comments can be mailed or hand-delivered to:

Sharone Assa
Legal Unit—OCI Rule Comment for Rule Ins 50.01 & 50.155
Office of the Commissioner of Insurance
125 South Webster St - 2nd Floor
Madison WI 53703-3474

Comments can be emailed to:

Sharone Assa
sharone.assa1@wisconsin.gov

For additional information please contact Sharone Assa at (608) 264-8129 or sharone.assa1@wisconsin.gov.

The deadline for submitting comments is 4:00 pm on December 9, 2022.

Initial Regulatory Flexibility Analysis:

The proposed rule will not have an effect on small businesses, as defined under s. 227.114 (1).

Agency Small Business Regulatory Coordinator:

The OCI small business coordinator is Kristina Thole and she may be reached at Kristina.Thole@wisconsin.gov or (608) 264-6232.

This Notice of a Public Hearing
is approved on 11/2/22.

DocuSigned by:

Rachel Cissne Carabell

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Rachel Cissne Carabell, Deputy Commissioner
Office of the Commissioner of Insurance

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
AMENDING, CREATING AND REPEALING A RULE**

Office of the Commissioner of Insurance

Rule No. Agency 145 – S. Ins 50.01 and 50.155

The Commissioner of Insurance proposes an order to amend Ins 50.01, related to the office's access to financial compilations produced by independent certified public accountants in the course of examining the financial statements of insurers. The order would also amend Ins 50.155, related to the exemption from internal audit function requirements.

The statement of scope for this rule SS: 157-20 was approved by the Governor on December 11, 2020, published in Register No.780A3 on December 21, 2020, and approved by the Commissioner on January 13, 2021.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. **Statutes interpreted:**

Wisconsin Statutes ss. 601.42, 601.43, 623.02, 623.03, 623.04.

2. **Statutory authority:**

Wisconsin Statutes ss. 601.42, 601.43, 623.02, 623.03 and 623.04.

3. **Explanation of OCI's authority to promulgate the proposed rule under these statutes:**

Section 601.42 (1g), Stats., authorizes the commissioner to request statements, reports, and other information from regulated persons. Section 601.42 (2), Stats., authorizes the commissioner to prescribe forms for these reports. Section 601.43, Stats., authorizes the commissioner to examine regulated persons. Sections 623.03 and 623.04, Stats., authorize the commissioner to promulgate rules regarding the valuation of assets and liabilities, respectively. Section 623.02, Stats., recognizes the commissioner's authority to promulgate standards for accounting rules.

4. **Related statutes or rules:**

Wis. Admin. Code ch. INS 50 Subchapter I

5. **The plain language analysis and summary of the proposed rule:**

The definition of work papers in Wis. Admin. Code § INS 50.01 (9) will be amended to clarify that work papers includes financial compilations. Additionally, the proposed rule will allow smaller insurers that are not part of a group to be eligible for the small-size exemption from the internal audit function requirements of Wis. Admin. Code § INS 50.155.

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

NA

7. **Comparison of similar rules in adjacent states as found by OCI:**

Illinois: Ill. Admin. Code tit. 50, § 925.130 (CPA work papers)

Ill. Admin. Code tit. 50, § 925.141 (Internal audit function requirements)

Iowa: Iowa Admin Code r. 191-98.12 (CPA work papers)

Iowa Admin Code rr. 191-98.2(1), 191.98.16 (Internal audit function requirements)

Michigan: Mich. Comp. Laws § 500.1021 (CPA work papers)

Mich. Comp. Laws § 500.1028 (Internal audit function requirements)

Minnesota: Minn. Stat. § 60a.1291, subd. 14. (CPA work papers)

Minn. Stat. § 60a.1291, subd. 15a.. (Internal audit function requirements)

8. **A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

Access to CPA work papers reduces the amount of information that OCI is required to obtain from insurers and aids in the efficient oversight of insurers. This small clarification to the definition of work papers will further aid OCI in efficiently regulating insurers. The small change to the internal audit function requirements will make clear that small insurers that are not part of group of insurers are eligible for an exemption from those requirements, which OCI believes is appropriate for smaller insurers.

9. **Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

This rule will have little or no effect on small businesses. Insurers will not be affected by the clarification of what constitutes CPA work papers. It will also be clearer that small insurers that are not part of a group of insurers are exempt from the internal audit function requirements and those associated costs.

10. **A description of the Effect on Small Business:**

This rule will have little or no effect on small businesses.

11. **Agency contact person:**

A copy of the full text of the proposed rule changes, analysis, and fiscal estimate may be obtained from the web site at <https://oci.wi.gov/Pages/Regulation/RulesCurrentlyPending.aspx> or by contacting Karyn Culver at:

Phone: (608) 267-9586

Email: karyn.culver@wisconsin.gov

Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474

Mail: PO Box 7873, Madison, WI 53707-7873

12. **Place where comments are to be submitted and deadline for submission:**

Persons wishing to testify or provide oral or written comments regarding the proposed administrative rule may appear during the hearing. Additionally, the rule may be reviewed and comments made at <https://docs.legis.wisconsin.gov/code> or sent to the following:

The deadline for submitting comments is 4:00 p.m. on Friday, December 9, 2022.

Written comments can be mailed or hand-delivered to:

Legal Unit - OCI Rule Comment for Rule Ins 50.01 and 50.155

Office of the Commissioner of Insurance

125 South Webster St – 2nd Floor
Madison WI 53703-3474

Email address: sharone.assal@wisconsin.gov

For additional information please contact: sharone.assal@wisconsin.gov.

The proposed rule changes are:

SECTION 1. Ins 50.01 (9) is amended to read:

(9) "Work papers" means records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the independent certified public accountant's examination of the financial statements of an insurer. "Work papers" include, but are not limited to, audit planning documentation, audit guides, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents, financial compilations, even if not produced during a full audit, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of examination of the financial statements of an insurer or which support the opinion of the independent certified public accountant regarding the financial statements.

SECTION 2. Ins 50.155 (1) is amended to read:

(1) An insurer is exempt from the requirements of this section if ~~both of the following conditions are true:~~

(a) The insurer has total annual direct written and unaffiliated assumed premiums, including international direct and assumed premiums but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000; and:

(b) ~~The~~ If the insurer is a member of a group of insurers, ~~and~~ the group has total annual direct written and unaffiliated assumed premiums, including international direct and assumed premiums but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$1,000,000,000.

SECTION 3. EFFECTIVE DATE. The rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this 2nd day of November, 2022.

Rachel Cissne Carabell
Deputy Commissioner of Insurance

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Repeal Modification

2. Administrative Rule Chapter, Title and Number

Ins. 50.01 (9) and 50.155 (1)

3. Date Rule promulgated and/or revised; Date of most recent Evaluation

Ins. 50.01 (9) - 8/1/93; Ins. 50.155 - 1/1/18

4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

The definition of work papers in Ins. 50.01 (9) will be amended to clarify that work papers includes financial compilations. Additionally, the proposed rule will allow smaller insurers that are not part of a group to be eligible for the small-size exemption from the internal audit function requirements of Ins. 50.155.

5. Describe the Rule's Enforcement Provisions and Mechanisms

This rule shall be enforced through OCI's general enforcement authority under s. 601.64, Stats.

6. Repealing or Modifying the Rule Will Impact the Following
(Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Small Businesses

7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

It is anticipated that there will be no significant impact on small businesses. Small insurers may realize some reduced costs if they are exempt from certain internal audit functions.

8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

By October 12, 2022 email, Medica/Dean Health Plan stated that it did not expect the proposed rule to have a financial impact on the organization and that it therefore took no position on the proposed regulatory change. OCI has received no other comments.

9. Did the Agency consider any of the following Rule Modifications to reduce the Impact of the Rule on Small Businesses in lieu of repeal?

Less Stringent Compliance or Reporting Requirements

Less Stringent Schedules or Deadlines for Compliance or Reporting

Consolidation or Simplification of Reporting Requirements

Establishment of performance standards in lieu of Design or Operational Standards

Exemption of Small Businesses from some or all requirements

Other, describe:

10. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

11. Chapter 20, Stats. Appropriations Affected

12. Fiscal Effect of Repealing or Modifying the Rule

No Fiscal Effect

Increase Existing Revenues

Increase Costs

Indeterminate

Decrease Existing Revenues

Could Absorb Within Agency's Budget

Decrease Cost

13. Summary of Costs and Benefits of Repealing or Modifying the Rule

There are no anticipated costs to small businesses, affected insurers, or OCI. Small insurers may realize some reduced

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

costs.

14. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes No

15. Long Range Implications of Repealing or Modifying the Rule

There are no significant long-range implications for OCI, regulated entities, or other stakeholders.

16. Compare With Approaches Being Used by Federal Government

N/A

17. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

See:

Illinois:

Ill. Admin. Code tit. 50, § 925.130 (CPA work papers)

Ill. Admin. Code tit. 50, § 925.141 (Internal audit function requirements)

Iowa:

Iowa Admin Code r. 191-98.12 (CPA work papers)

Iowa Admin Code rr. 191-98.2(1), 191.98.16 (Internal audit function requirements)

Michigan:

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Mich. Comp. Laws § 500.1028 (Internal audit function requirements)

Minnesota:

Minn. Stat. § 60a.1291, subd. 14. (CPA work papers)

Minn. Stat. § 60a.1291, subd. 15a.. (Internal audit function requirements)

18. Contact Name

Sharone Assa

19. Contact Phone Number

(608) 264-8129

This document can be made available in alternate formats to individuals with disabilities upon request.