

ARKANSAS REGISTER



Proposed Rule Cover Sheet

Secretary of State

Cole Jester

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Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



Name of Department Department of Commerce

Agency or Division Name State Insurance Department

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

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Name of Rule Insurance Holding Company Systems with Reporting Forms and Instructions

Newspaper Name Arkansas Democrat Gazette

Date of Publishing 11/7, 8, and 9th

Final Date for Public Comment 12/8/2025

Location and Time of Public Meeting 1 Commerce Way, Little Rock, AR 72202- 2nd Floor Diamond Mine Room, December 8, 2025



Hugh McDonald
SECRETARY OF COMMERCE

Jimmy Harris
COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

November 3, 2025

Honorable Cole Jester
Arkansas Secretary of State
State Capitol Building
Little Rock, AR 72201
Attn. Arkansas Register

sent via email: register@sos.arkansas.gov

Re: 23 CAR pt. 9 "Insurance Holding Company Systems with Reporting Forms and Instructions"

Dear Secretary:

The Arkansas Insurance Department has scheduled a public hearing as to 23 CAR pt. 9 "Insurance Holding Company Systems with Reporting Forms and Instructions". Enclosed are the DOI Notices of Public Hearing and a copy of the proposed rule.

Please arrange to publish the information in a format acceptable to the Secretary for at least 30 days in advance. Can you send us confirmation that we can use in the transcript as a public hearing exhibit?

An electronic filing will be made within the statutorily required 7 days. Thanks for your help.

Thank you,

Clara D. Mezza
Administrative Analyst
Legal Division
Arkansas Insurance Department
clara.mezza@arkansas.gov
501-683-3497

Enclosures



Hugh McDonald
SECRETARY OF COMMERCE

Jimmy Harris
INSURANCE COMMISSIONER,
ARKANSAS INSURANCE
DEPARTMENT

November 3, 2025

To: All Licensed Insurers, Health Maintenance Organizations, Trade Organizations, NAIC and Other Interested Parties
FROM: Arkansas Insurance Department
SUBJECT: 23 CAR pt. 9 "Insurance Holding Company Systems with Reporting Forms and Instructions"

NOTICE OF PUBLIC HEARING

Pursuant to Arkansas Code Ann. §§ 23-61-108, 23-63-501, *et seq.*, 25-15-201, *et seq.*, and other applicable Arkansas laws or rules, NOTICE is hereby given that a PUBLIC HEARING will be held on December 8, 2025 at 10:00 a.m., in the Diamond Mine Room on the Second Floor, Arkansas Insurance Department ("Department"), One Commerce Way, Little Rock, Arkansas 72202.

The purpose of the Public Hearing is to determine whether the Insurance Commissioner should adopt Proposed Amended 23 CAR pt. 9, "Insurance Holding Company Systems with Reporting Forms and Instructions" as a permanent Rule. The purpose of this proposed amendment is to modernize the Rule and promote uniformity among the states as well as to clarify Act 261 of 2025, amending the law regarding insurance holding companies.

All interested persons are encouraged to attend the Public Hearing and may appear and present, orally or in writing, statements, arguments, or opinions on the proposed amended Rule. All licensees and other interested persons are responsible for notifying their personnel, agents, and employees about this Public Hearing.

Persons wishing to testify should notify the Legal Division as soon as possible, and are requested to submit intended statements in writing in advance.

Direct your inquiries to the Legal Division at (501) 371-2820 or insurance.legal@arkansas.gov.

A copy of Proposed Amended 23 CAR pt. 9 can be obtained on the Legal Division's Internet Web Site at <https://portal.insurance.arkansas.gov/LegalPubsPublic/web/proposed-rules/index>.

Proposed Rulemaking

Title

Promulgated by:
State Insurance Department

Title 23. Public Utilities and Regulated Industries

Chapter I. State Insurance Department, Department of Commerce

Subchapter A. Generally

Part 9. Insurance Holding Company Systems with Reporting Forms and Instructions

Subpart 1. Generally

23 CAR § 9-101. Purpose.

(a) The purpose of this rule is to set forth rules and procedures that the Insurance Commissioner deems necessary to carry out the provisions of the Insurance Holding Company Regulatory Act, Arkansas Code §§ 23-63-501, et seq., hereinafter referred to as "the act".

(b) The information to be filed pursuant to this rule is hereby declared to be necessary and appropriate in the public interest and for the protection of the policyholders in this state.

23 CAR § 9-102. Definitions.

(a) As used in this part:

(1) "Commissioner" means the Insurance Commissioner;

(2) "Enterprise risk" means any activity, circumstance, event, or series of events involving at least one (1) affiliate of an insurer that, if not remedied, is likely to have a material adverse effect on the financial condition or liquidity of the insurer or the

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insurer's insurance holding company as a whole, including any action that may cause an insurer's risk-based capital to fall into company action level or cause an insurer to be in hazardous financial condition;

(3) "Executive officer" means:

(A) Chief executive officer;

(B) Chief operating officer;

(C) Chief financial officer;

(D) Treasurer;

(E) Secretary;

(F) Controller; and

(G) Any other individual performing functions corresponding to those performed by the foregoing officers under whatever title; and

(4) "Ultimate controlling person" means that person which is not controlled by any other person.

(b)(1) Unless the context otherwise requires, other terms found in this rule and in Arkansas Code § 23-63-503 are used as defined in the Insurance Holding Company Regulatory Act, Arkansas Code §§ 23-63-501, et seq., if not defined herein.

(2) Other nomenclature or terminology is in accordance with the Arkansas Insurance Code or industry usage if not defined by the Arkansas Insurance Code.

23 CAR § 1-103. Severability clause.

If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this rule which can be given effect without the invalid provision or application, and to that end the provisions of this rule are severable.

23 CAR § 1-104. Forms — General requirements.

(a)(1) Forms A, B, C, D, E, and F are intended to be guides in the preparation of the statements required by the Insurance Holding Company Regulatory Act, Arkansas Code §§ 23-63-501, et seq.

(2) They are not intended to be blank forms which are to be filled in.

(3) The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted, provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items.

(4) All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted.

(5) Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b)(1) Two (2) complete copies of each statement including exhibits and all other papers and documents filed as a part thereof, accompanied by the appropriate filing fee set forth in 23 CAR pt. 22, shall be filed with the Insurance Commissioner by personal delivery or mail addressed to:

Insurance Commissioner of the State of Arkansas
One Commerce Way, Suite 102
Little Rock, Arkansas 72202
Attention: Legal Division

(2)(A) At least one (1) of the copies shall be manually signed in the manner prescribed on the form.

(B) Unsigned copies shall be conformed.

(3) If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(c)(1) Statements shall be easily readable and suitable for review and reproduction.

(2) Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(3)(A) Statements shall be in the English language and monetary values shall be stated in United States currency.

(B) If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language, and any monetary value shown in a foreign currency normally shall be converted into United States currency.

23 CAR § 9-105. Forms — Incorporation by reference, summaries, and omissions.

(a)(1) Information required by any item of Form A, Form B, Form D, Form E, or Form F may be incorporated by reference in answer or partial answer to any other item.

(2) Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, Form E, or Form F provided such document or paper is filed as an exhibit to the statement.

(3) Excerpts of documents may be filed as exhibits if the documents are extensive.

(4)(A) Documents currently on file with the Insurance Commissioner which were filed within three (3) years need not be attached as exhibits.

(B) References to information contained in exhibits or in documents already on file shall:

(i) Clearly identify the material; and

(ii) Specifically indicate that such material is to be incorporated by reference in answer to the item.

(5) Matter shall not be incorporated by reference in any case where such incorporation would render the statement:

(A) Incomplete;

(B) Unclear; or

(C) Confusing.

(b)(1) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document.

(2) In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the commissioner which was filed within three (3) years and may be qualified in its entirety by such reference.

(3) In any case where two (2) or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one (1) of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which the documents differ from the documents, a copy of which is filed.

23 CAR § 9-106. Forms — Information unknown or unavailable and extension of time to furnish.

If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there shall be filed with the Insurance Commissioner a separate document:

- (1) Identifying the information, document, or report in question;
- (2) Stating why the filing thereof at the time required is impractical; and
- (3)(A) Requesting an extension of time for filing the information, document, or report to a specified date.

(B) The request for extension shall be deemed granted unless the commissioner within sixty (60) days after receipt thereof enters an order denying the request.

23 CAR § 9-107. Forms — Additional Information and exhibits.

(a)(1) In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, Form E, and Form F, the Insurance Commissioner may

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request such further material information, if any, as may be necessary to make the information contained therein not misleading.

(2)(A) The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement.

(B) Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

(b) Changes to Forms A, B, C, D, E, or F shall:

(1) Include on the top of the cover page the phrase: "Change No. [insert number] to"; and

(2) Indicate the date of the change and not the date of the original filing.

23 CAR § 9-108. Subsidiaries of domestic insurers.

The authority to invest in subsidiaries under Arkansas Code § 23-63-505 is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the Arkansas Insurance Code.

23 CAR § 9-109. Acquisition of control — Statement filing.

(a) A person required to file a statement pursuant to Arkansas Code §§ 23-63-506 – 23-63-513 shall furnish the required information on Form A, hereby made a part of this rule.

(b) Such person shall also furnish the required information on Form E, hereby made a part of this rule and described in 23 CAR § 9-112.

23 CAR § 9-110. Amendments to Form A.

The applicant shall promptly advise the Insurance Commissioner of any changes in the information furnished on Form A arising subsequent to the date upon which such information was furnished but prior to the commissioner's disposition of the application.

23 CAR § 9-111. Acquisition of Arkansas Code § 23-63-506 insurers.

(a) If the person being acquired is deemed to be a “domestic insurer” solely because of the provisions of Arkansas Code § 23-63-506, the name of the domestic insurer on the cover page should be indicated as follows:

“ABC Insurance Company, a subsidiary of XYZ Holding Company”.

(b) Where an Arkansas Code § 23-63-506 insurer is being acquired, references to “the insurer” contained in Form A shall refer to both:

- (1) The domestic subsidiary insurer; and
- (2) The person being acquired.

23 CAR § 9-112. Preacquisition notification.

(a) If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to Arkansas Code §§ 23-63-506 – 23-63-513, that person shall file a preacquisition notification form, Form E, which was developed pursuant to Arkansas Code § 23-63-527.

(b) Additionally, if a nondomiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to Arkansas Code §§ 23-63-525 – 23-63-530, that person shall file a preacquisition notification form, Form E.

(c) No preacquisition notification form need be filed if the acquisition is beyond the scope of Arkansas Code §§ 23-63-525 – 23-63-528, as set forth in Arkansas Code § 23-63-526(b), unless the Insurance Commissioner so requests.

(d) In addition to the information required by Form E, the commissioner may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

23 CAR § 9-113. Statement filing — Annual registration of insurers.

(a) An insurer required to file and maintain a registration statement pursuant to Arkansas Code § 23-63-514 shall furnish the required information on Form B, hereby made a part of this rule.

(b) Notwithstanding the frequency or lack of filed amendments that report material transactions in the intervening period, each domestic insurer subject to registration under this rule shall update, restate, and refile with the State Insurance Department a full and complete registration statement, Form B, with the companion summary, Form C, annually on or before May 1.

23 CAR § 9-114. Statement filing — Summary of registration.

(a) An insurer required to file and maintain a registration statement pursuant to Arkansas Code § 23-63-514 is also required to furnish information required on Form C, hereby made a part of this rule.

(b) A copy of Form C shall be filed in each state in which an insurer is authorized to do business, if the insurance commissioner of that state has notified the insurer of its request in writing, in which case the insurer has twenty (20) days from receipt of the notice to file such form.

23 CAR § 9-115. Amendments to Form B.

(a) An amendment to Form B shall be filed within fifteen (15) days after the end of any month in which there is a material change to the information provided in the annual registration statement.

(b)(1) Amendments shall be filed in the Form B format reporting only those items which are being amended.

(2) Each amendment shall:

(A) Include at the top of the cover page "AMENDMENT NO. [insert number] to Form B for [insert year]"; and

(B) Indicate the date of the change and not the date of the original filings.

23 CAR § 9-116. Alternative and consolidated registrations.

(a)(1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under Arkansas Code § 23-63-514.

(2) A registration statement may include information not required by the Insurance Holding Company Regulatory Act, Arkansas Code §§ 23-63-501, et seq., regarding any insurer in the insurance holding company system even if the insurer is not authorized to do business in this state.

(3) In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

(A) The statement or report contains substantially similar information required to be furnished on Form B; and

(B)(i) The filing insurer is the principal insurance company in the insurance holding company system.

(ii) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact, and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(b) With the prior approval of the Insurance Commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subsection (a) of this section.

(c)(1) Any insurer may take advantage of the provisions of Arkansas Code § 23-63-514(f) or (g) without obtaining the prior approval of the commissioner.

(2) The commissioner, however, reserves the right to require individual filings if he or she deems such filings necessary in the interest of:

(A) Clarity;

(B) Ease of administration; or

(C) The public good.

23 CAR § 9-117. Disclaimers and termination of registration.

(a) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person, hereinafter referred to as the "subject", shall contain the following information:

(1) The number of authorized, issued, and outstanding voting securities of the subject;

(2) With respect to the person whose control is denied and all affiliates of such person:

(A) The number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned; and

(B) The number of shares concerning which there is a right to acquire, directly or indirectly;

(3) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person; and

(4) A statement explaining why the person should not be considered to control the subject.

(b) A request for termination of registration shall be deemed to have been granted unless the Insurance Commissioner, within thirty (30) days after receipt of the request, notifies the registrant otherwise.

23 CAR § 9-118. Transactions subject to prior notice — Notice filing.

(a) An insurer required to give notice of a proposed transaction pursuant to Arkansas Code § 23-63-515(a)(2) shall furnish the required information on Form D, hereby made a part of this rule.

(b) Agreements for cost-sharing services and management services shall at a minimum and as applicable:

(1) Identify the person providing services and the nature of such services;

(2) Set forth the methods to allocate costs;

(3) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;

(4) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

(5) State that:

(A) The insurer will maintain oversight for functions provided to the insurer by the affiliate; and

(B) The insurer will monitor services annually for quality assurance;

(6) Define records and data of the insurer to include all records and data developed or maintained under or related to the agreement that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records, or similar records within the possession, custody, or control of the affiliate;

(7) Specify that all records and data of the insurer are and remain the property of the insurer, and:

(A) Are subject to control of the insurer;

(B) Are identifiable; and

(C) Are segregated from all other persons' records and data, or are readily capable of segregation at no additional cost to the insurer;

(8) State that all funds and invested assets of the insurer are:

(A) The exclusive property of the insurer;

(B) Held for the benefit of the insurer; and

(C) Subject to the control of the insurer;

(9) Include standards for termination of the agreement with and without cause;

(10) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services and

for any actions by the affiliate that violate the provisions of the agreement in subsections (b)(11) – (15) of this section ;

(11) Specify that, if the insurer is placed in supervision, seizure, conservatorship, or receivership pursuant to Arkansas Code §§ 23-68-101, et seq.:

(A) All of the rights of the insurer under the agreement extend to the receiver or commissioner to the extent permitted by Arkansas Code §§ 23-68-101, et seq.;

(B) All records and data of the insurer shall be identifiable and segregated from all other persons' records and data or readily capable of segregation at no additional cost to the receiver or the commissioner;

(C) A complete set of records and data of the insurer:

(i) Will immediately be made available to the receiver or the commissioner;

(ii) Shall be made available in a usable format;

(iii) Shall be turned over to the receiver or the commissioner immediately upon the receiver or the commissioner's request;

(iv) Shall be transferred to the receiver or commissioner at a cost that is fair and reasonable; and

(D) The affiliated person(s) will make available all employees essential to the operations of the insurer and the services associated therewith for the immediate continued performance of the essential services ordered or directed by the receiver or the commissioner;

(12) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed into supervision, seizure, conservatorship, or receivership pursuant to Arkansas Code §§ 23-68-101, et seq.;

(13) Specify that the affiliate will provide the essential services for a minimum period of time, as specified in the agreement, after termination of the agreement, if the insurer is placed into supervision, seizure, conservatorship, or receivership pursuant to Arkansas Code §§ 23-68-101, et seq., as ordered or directed by the receiver or commissioner. Performance of the essential services will continue to be provided

without regard to pre-receivership unpaid fees, as long as the affiliate continues to receive timely payment for post-receivership services rendered, unless released by the receiver, commissioner, or supervising court;

(14) Specify that the affiliate will:

(A) Continue to maintain any systems, programs, or other infrastructure notwithstanding supervision, seizure, conservatorship, or receivership pursuant to Arkansas Code §§ 23-68-101, et seq.; and

(B) Make them available to the receiver or commissioner as ordered or directed by the receiver or commissioner, for so long as the affiliate continues to receive timely payment for services rendered, unless released by the receiver, commissioner, or supervising court; and

(15) Specify that, in furtherance of the cooperation between the receiver and the affected guaranty association(s) and subject to the receiver's authority over the insurer, if the insurer is placed into supervision, seizure, conservatorship, or receivership pursuant to Arkansas Code §§ 23-68-101, et seq., and portions of the insurer's policies or contracts are eligible for coverage by one or more guaranty associations, the affiliate's commitments under subsections (b)(11) – (14) of this section will extend to such guaranty association(s).

23 CAR § 9-119. Enterprise risk report.

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Arkansas Code § 23-63-514(m) shall furnish the required information on Form F, hereby made a part of this rule.

23 CAR § 9-120. Group Capital Calculation.

(a) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company meets all of the following criteria:

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(1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than one billion dollars (\$1,000,000,000);

(2) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

(3) Has no banking, depository, or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;

(4) The holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group that have occurred since the last filing of the annual group capital; and

(5) The non-insurers within the holding company system do not pose a material financial risk to the insurers' ability to honor policyholder obligations.

(b) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to accept, in lieu of the group capital calculation, a limited group capital filing if the insurance holding company system has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than one billion dollars (\$1,000,000,000), and all of the following criteria are met:

(1) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

(2) Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and

(3) The holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of the report to the lead state commissioner and the non-insurers within the holding company system do not pose a material financial risk to the insurers' ability to honor policyholder obligations.

(c) For an insurance holding company system that has previously met an exemption with respect to the group capital calculation pursuant to subsections (a) or (b) of this section, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

(1) Any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in Arkansas Code §§ 23-63-1301, et seq., or similar standard for a non-U.S. insurer;

(2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in 23 CAR pt. 19; or

(3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

(d) A non-U.S. jurisdiction is considered to “recognize and accept” the group capital calculation if it satisfies the following criteria:

(1) With respect to the calculation required by Arkansas Code § 23-63-514(n)(3)(A)(iv):

(A) The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision, including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(B) Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in subsection (d)(1)(A) of this section.

(2) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreement are in force.

(e) A list of non-U.S. jurisdictions that “recognize and accept” the group capital calculation will be published through the NAIC Committee Process:

(1) A list of jurisdictions that “recognize and accept” the group capital calculation pursuant to Arkansas Code § 23-63-514(n)(3)(A)(iv), is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under Arkansas Code § 23-63-514(n)(3)(A)(iv). To assist with a determination under Arkansas Code § 23-63-514(n)(3)(B), the list will also identify whether a jurisdiction that is exempted under either Arkansas Code § 23-63-514(n)(3)(A)(iii) or (iv) requires a group capital filing for any U.S. insurance group’s operations in that non-U.S. jurisdiction.

(2) For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of subsection (d)(1)(B) of this section will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC Committee Process.

(3) If the lead state commissioner makes a determination pursuant to Arkansas Code § 23-63-514(n)(3)(A)(iv) that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

(4) Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to "recognize and accept" the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that "recognize and accept" the group capital calculation.

23 CAR § 9-121. Extraordinary dividends and other distributions.

(a) Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

(1) The amount of the proposed dividend;

(2) The date established for payment of the dividend;

(3) A statement as to whether the dividend is to be in cash or other property and, if in property:

(A) A description thereof;

(B) Its cost; and

(C) Its fair market value together with an explanation of the basis for valuation;

(4)(A) A copy of the calculations determining that the proposed dividend is extraordinary.

(B) The work paper shall include the following information:

(i) The amounts, dates, and form of payment of all dividends or distributions, including regular dividends but excluding distributions of the insurer's own securities, paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(ii) Surplus as regards policyholders, total capital and surplus, as of the thirty-first day of December next preceding;

(iii) If the insurer is a life insurer, the net gain from operations for the twelve-month period ending the thirty-first day of December next preceding; and

(iv) If the insurer is not a life insurer:

(a) The net income less realized capital gains for the twelve-month period ending the thirty-first day of December next preceding and the two (2) preceding twelve-month periods; and

(b) The dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years;

(5) A balance sheet and statement of income for the period intervening from the last annual statement filed with the Insurance Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(6) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(b) Subject to Arkansas Code § 23-63-515(c), (d), (e), and (f) as to extraordinary dividends, each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by subdivision (a)(4) of this section.

23 CAR § 9-122. Adequacy of surplus.

(a)(1) The factors set forth in Arkansas Code § 23-63-515(b) are not intended to be an exhaustive list.

(2) In determining the adequacy and reasonableness of an insurer's surplus, no single factor is necessarily controlling.

(b)(1) The Insurance Commissioner, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer.

(2) In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each of these factors varies from company to company, and in determining the quality and liquidity of investments in subsidiaries, the commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

Appendix A. Statement Regarding the Acquisition of Control of or Merger With a Domestic Insurer

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/141/23CARpt.9FormA.pdf>

Appendix B. Insurance Holding Company System Registration Statement

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/142/23CARpt.9FormB.pdf>

Appendix C. Summary of Registration Statement

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/143/23CARpt.9FormC.pdf>

Appendix D. Prior Notice of a Transaction

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/144/23CARpt.9FormD.pdf>

Appendix E. Pre-Acquisition Notification Regarding the Potential Competitive Impact of a Proposed Merger or Acquisition by a Non-Domiciliary Insurer Doing Business in this State or by a Domestic Insurer

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/145/23CARpt.9FormE.pdf>

Appendix F. Enterprise Risk Report

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/146/23CARpt.9FormF.pdf>

Proposed Rulemaking

Title

Promulgated by:
State Insurance Department

Title 23. Public Utilities and Regulated Industries

Chapter I. State Insurance Department, Department of Commerce

Subchapter A. Generally

Part 9. Insurance Holding Company Systems with Reporting Forms and Instructions

Subpart 1. Generally

23 CAR § 9-101. Purpose.

(a) The purpose of this rule is to set forth rules and procedures that the Insurance Commissioner deems necessary to carry out the provisions of the Insurance Holding Company Regulatory Act, Arkansas Code § 23-63-501 et seq., hereinafter referred to as "the act".

(b) The information to be filed pursuant to this rule is hereby declared to be necessary and appropriate in the public interest and for the protection of the policyholders in this state.

23 CAR § 9-102. Definitions.

(a) As used in this part:

(1) "Commissioner" means the Insurance Commissioner;

(2) "Enterprise risk" means any activity, circumstance, event, or series of events involving at least one (1) affiliate of an insurer that, if not remedied, is likely to have a material adverse effect on the financial condition or liquidity of the insurer or the

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insurer's insurance holding company as a whole, including any action that may cause an insurer's risk-based capital to fall into company action level or cause an insurer to be in hazardous financial condition;

(3) "Executive officer" means:

(A) Chief executive officer;

(B) Chief operating officer;

(C) Chief financial officer;

(D) Treasurer;

(E) Secretary;

(F) Controller; and

(G) Any other individual performing functions corresponding to those performed by the foregoing officers under whatever title; and

(4) "Ultimate controlling person" means that person which is not controlled by any other person.

(b)(1) Unless the context otherwise requires, other terms found in this rule and in Arkansas Code § 23-63-503 are used as defined in the Insurance Holding Company Regulatory Act, Arkansas Code § 23-63-501 et seq.,- if not defined herein.

(2) Other nomenclature or terminology is in accordance with the Arkansas Insurance Code or industry usage if not defined by the Arkansas Insurance Code.

23 CAR § 1-103. Severability clause.

If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this rule which can be given effect without the invalid provision or application, and to that end the provisions of this rule are severable.

23 CAR § 1-104. Forms — General requirements.

(a)(1) Forms A, B, C, D, E, and F are intended to be guides in the preparation of the statements required by the Insurance Holding Company Regulatory Act, Arkansas Code § 23-63-501 et seq.

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(2) They are not intended to be blank forms which are to be filled in.

(3) The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted, provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items.

(4) All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted.

(5) Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b)(1) Two (2) complete copies of each statement including exhibits and all other papers and documents filed as a part thereof, accompanied by the appropriate filing fee set forth in 23 CAR pt. 22, shall be filed with the Insurance Commissioner by personal delivery or mail addressed to:

Insurance Commissioner of the State of Arkansas
One Commerce Way, Suite 102
Little Rock, Arkansas 72202
Attention: Legal Division

(2)(A) At least one (1) of the copies shall be manually signed in the manner prescribed on the form.

(B) Unsigned copies shall be conformed.

(3) If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(c)(1) Statements shall be easily readable and suitable for review and reproduction.

(2) Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(3)(A) Statements shall be in the English language and monetary values shall be stated in United States currency.

(B) If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language, and any monetary value shown in a foreign currency normally shall be converted into United States currency.

23 CAR § 9-105. Forms — Incorporation by reference, summaries, and omissions.

(a)(1) Information required by any item of Form A, Form B, Form D, Form E, or Form F may be incorporated by reference in answer or partial answer to any other item.

(2) Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, Form E, or Form F provided such document or paper is filed as an exhibit to the statement.

(3) Excerpts of documents may be filed as exhibits if the documents are extensive.

(4)(A) Documents currently on file with the Insurance Commissioner which were filed within three (3) years need not be attached as exhibits.

(B) References to information contained in exhibits or in documents already on file shall:

(i) Clearly identify the material; and

(ii) Specifically indicate that such material is to be incorporated by reference in answer to the item.

(5) Matter shall not be incorporated by reference in any case where such incorporation would render the statement:

(A) Incomplete;

(B) Unclear; or

(C) Confusing.

(b)(1) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document.

(2) In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the commissioner which was filed within three (3) years and may be qualified in its entirety by such reference.

(3) In any case where two (2) or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one (1) of such documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which the documents differ from the documents, a copy of which is filed.

23 CAR § 9-106. Forms — Information unknown or unavailable and extension of time to furnish.

If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there shall be filed with the Insurance Commissioner a separate document:

- (1) Identifying the information, document, or report in question;
- (2) Stating why the filing thereof at the time required is impractical; and
- (3)(A) Requesting an extension of time for filing the information, document, or report to a specified date.

(B) The request for extension shall be deemed granted unless the commissioner within sixty (60) days after receipt thereof enters an order denying the request.

23 CAR § 9-107. Forms — Additional Information and exhibits.

(a)(1) In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, Form E, and Form F, the Insurance Commissioner may

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request such further material information, if any, as may be necessary to make the information contained therein not misleading.

(2)(A) The person filing may also file such exhibits as it may desire in addition to those expressly required by the statement.

(B) Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

(b) Changes to Forms A, B, C, D, E, or F shall:

(1) Include on the top of the cover page the phrase: "Change No. [insert number] to"; and

(2) Indicate the date of the change and not the date of the original filing.

23 CAR § 9-108. Subsidiaries of domestic insurers.

The authority to invest in subsidiaries under Arkansas Code § 23-63-505 is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the Arkansas Insurance Code.

23 CAR § 9-109. Acquisition of control — Statement filing.

(a) A person required to file a statement pursuant to Arkansas Code §§ 23-63-506 – 23-63-513 shall furnish the required information on Form A, hereby made a part of this rule.

(b) Such person shall also furnish the required information on Form E, hereby made a part of this rule and described in 23 CAR § 9-112.

23 CAR § 9-110. Amendments to Form A.

The applicant shall promptly advise the Insurance Commissioner of any changes in the information furnished on Form A arising subsequent to the date upon which such information was furnished but prior to the commissioner's disposition of the application.

23 CAR § 9-111. Acquisition of Arkansas Code § 23-63-506 insurers.

(a) If the person being acquired is deemed to be a “domestic insurer” solely because of the provisions of Arkansas Code § 23-63-506, the name of the domestic insurer on the cover page should be indicated as follows:

“ABC Insurance Company, a subsidiary of XYZ Holding Company”.

(b) Where an Arkansas Code § 23-63-506 insurer is being acquired, references to “the insurer” contained in Form A shall refer to both:

- (1) The domestic subsidiary insurer; and
- (2) The person being acquired.

23 CAR § 9-112. Preacquisition notification.

(a) If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to Arkansas Code §§ 23-63-506 – 23-63-513, that person shall file a preacquisition notification form, Form E, which was developed pursuant to Arkansas Code § 23-63-527.

(b) Additionally, if a nondomiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to Arkansas Code §§ 23-63-525 – 23-63-530, that person shall file a preacquisition notification form, Form E.

(c) No preacquisition notification form need be filed if the acquisition is beyond the scope of Arkansas Code §§ 23-63-525 – 23-63-528, as set forth in Arkansas Code § 23-63-526(b), unless the Insurance Commissioner so requests.

(d) In addition to the information required by Form E, the commissioner may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

23 CAR § 9-113. Statement filing — Annual registration of insurers.

(a) An insurer required to file and maintain a registration statement pursuant to Arkansas Code § 23-63-514 shall furnish the required information on Form B, hereby made a part of this rule.

(b) Notwithstanding the frequency or lack of filed amendments that report material transactions in the intervening period, each domestic insurer subject to registration under this rule shall update, restate, and refile with the State Insurance Department a full and complete registration statement, Form B, with the companion summary, Form C, annually on or before May 1.

23 CAR § 9-114. Statement filing — Summary of registration.

(a) An insurer required to file and maintain a registration statement pursuant to Arkansas Code § 23-63-514 is also required to furnish information required on Form C, hereby made a part of this rule.

(b) A copy of Form C shall be filed in each state in which an insurer is authorized to do business, if the insurance commissioner of that state has notified the insurer of its request in writing, in which case the insurer has twenty (20) days from receipt of the notice to file such form.

23 CAR § 9-115. Amendments to Form B.

(a) An amendment to Form B shall be filed within fifteen (15) days after the end of any month in which there is a material change to the information provided in the annual registration statement.

(b)(1) Amendments shall be filed in the Form B format reporting only those items which are being amended.

(2) Each amendment shall:

(A) Include at the top of the cover page "AMENDMENT NO. [insert number] to Form B for [insert year]"; and

(B) Indicate the date of the change and not the date of the original filings.

23 CAR § 9-116. Alternative and consolidated registrations.

(a)(1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under Arkansas Code § 23-63-514.

(2) A registration statement may include information not required by the Insurance Holding Company Regulatory Act, Arkansas Code § 23-63-501 et seq., regarding any insurer in the insurance holding company system even if the insurer is not authorized to do business in this state.

(3) In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

(A) The statement or report contains substantially similar information required to be furnished on Form B; and

(B)(i) The filing insurer is the principal insurance company in the insurance holding company system.

(ii) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact, and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(b) With the prior approval of the Insurance Commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subsection (a) of this section.

(c)(1) Any insurer may take advantage of the provisions of Arkansas Code § 23-63-514(f) or (g) without obtaining the prior approval of the commissioner.

(2) The commissioner, however, reserves the right to require individual filings if he or she deems such filings necessary in the interest of:

(A) Clarity;

(B) Ease of administration; or

(C) The public good.

23 CAR § 9-117. Disclaimers and termination of registration.

(a) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person, hereinafter referred to as the "subject", shall contain the following information:

(1) The number of authorized, issued, and outstanding voting securities of the subject;

(2) With respect to the person whose control is denied and all affiliates of such person:

(A) The number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned; and

(B) The number of shares concerning which there is a right to acquire, directly or indirectly;

(3) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person; and

(4) A statement explaining why the person should not be considered to control the subject.

(b) A request for termination of registration shall be deemed to have been granted unless the Insurance Commissioner, within thirty (30) days after receipt of the request, notifies the registrant otherwise.

23 CAR § 9-118. Transactions subject to prior notice — Notice filing.

(a) An insurer required to give notice of a proposed transaction pursuant to Arkansas Code § 23-63-515(a)(2) shall furnish the required information on Form D, hereby made a part of this rule.

(b) Agreements for cost-sharing services and management services shall at a minimum and as applicable:

(1) Identify the person providing services and the nature of such services;

(2) Set forth the methods to allocate costs;

(3) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;

(4) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

(5) State that:

(A) The insurer will maintain oversight for functions provided to the insurer by the affiliate; and

(B) The insurer will monitor services annually for quality assurance;

(6) Define ~~books and~~ records and data of the insurer to include all ~~books and~~ records and data developed or maintained under or related to the agreement that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to:

(A) Claims and claim files;

(B) Policyholder lists;

(C) Application files;

(D) Litigation files;

(E) Premium records;

(F) Rate books;

(G) Underwriting manuals;

(H) Personnel records;

(I) Financial records; or

(J) Similar records within the possession, custody, or control of the affiliate;

(7) Specify that all ~~books and~~ records and data of the insurer are and remain the property of the insurer, ~~and~~ are:

(A) ~~are subject~~ Subject to control of the insurer;

(B) Identifiable; and

(C) Segregated from all other persons' records and data, or are readily capable of segregation at no additional cost to the insurer;

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- (8) State that all funds and invested assets of the insurer are:
- (A) The exclusive property of the insurer;
 - (B) Held for the benefit of the insurer; and
 - (C) Subject to the control of the insurer;
- (9) Include standards for termination of the agreement with and without cause;
- (10) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services and for any actions by the affiliate that violate the provisions of the agreement in subdivisions (b)(11) – (15) of this section;
- (11) Specify that, if the insurer is placed in supervision, seizure, conservatorship, or receivership pursuant to ~~receivership or seized by the Insurance Commissioner under~~ Arkansas Code § 23-68-101 et seq.:
- (A) All of the rights of the insurer under the agreement extend to the receiver or commissioner to the extent permitted by Arkansas Code § 23-68-101 et seq.; and
 - (B) All records and data of the insurer shall be identifiable and segregated from all other persons' records and data or readily capable of segregation at no additional cost to the receiver or the commissioner;
 - ~~(B)(C)~~ All books and A complete set of records and data of the insurer:
 - (i) Will immediately be made available to the receiver or the commissioner; ~~and~~
 - (ii) Shall be made available in a usable format;
 - (iii) Shall be turned over to the receiver or the commissioner immediately upon the receiver or the commissioner's request; and
 - (iv) Shall be transferred to the receiver or commissioner at a cost that is fair and reasonable; and
 - (D) The affiliated person or persons will make available all employees essential to the operations of the insurer and the services associated therewith for the

immediate continued performance of the essential services ordered or directed by the receiver or the commissioner;

(12) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed ~~in~~ into supervision, seizure, conservatorship, or receivership pursuant to Arkansas Code § 23-68-101 et seq.; ~~and~~

(13)(A) Specify that the affiliate will provide the essential services for a minimum period of time, as specified in the agreement, after termination of the agreement, if the insurer is placed into supervision, seizure, conservatorship, or receivership pursuant to Arkansas Code § 23-68-101 et seq., as ordered or directed by the receiver or commissioner.

(B) Performance of the essential services will continue to be provided without regard to pre-receivership unpaid fees, as long as the affiliate continues to receive timely payment for post-receivership services rendered, unless released by the receiver, commissioner, or supervising court;

~~(13)~~(14) Specify that the affiliate will:

(A) Continue to maintain any systems, programs, or other infrastructure notwithstanding supervision, seizure, conservatorship, or receivership pursuant to a seizure by the commissioner under Arkansas Code § 23-68-101 et seq.; and

(B) Make them available to the receiver or commissioner as ordered or directed by the receiver or commissioner, for so long as the affiliate continues to receive timely payment for services rendered, unless released by the receiver, commissioner, or supervising court; and-

(15) Specify that, in furtherance of the cooperation between the receiver and the affected guaranty association or associations and subject to the receiver's authority over the insurer, if the insurer is placed into supervision, seizure, conservatorship, or receivership pursuant to Arkansas Code § 23-68-101 et seq., and portions of the insurer's policies or contracts are eligible for coverage by one or more guaranty associations, the affiliate's commitments under subdivisions (b)(11) – (14) of this section will extend to such guaranty association or associations.

23 CAR § 9-119. Enterprise risk report.

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Arkansas Code § 23-63-514(m) shall furnish the required information on Form F, hereby made a part of this rule.

23 CAR § 9-~~120~~120. Extraordinary dividends and other distributions.

(a) Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

- (1) The amount of the proposed dividend;
- (2) The date established for payment of the dividend;
- (3) A statement as to whether the dividend is to be in cash or other property and, if in property:

- (A) A description thereof;
- (B) Its cost; and
- (C) Its fair market value together with an explanation of the basis for valuation;

(4)(A) A copy of the calculations determining that the proposed dividend is extraordinary.

(B) The work paper shall include the following information:

(i) The amounts, dates, and form of payment of all dividends or distributions, including regular dividends but excluding distributions of the insurer's own securities, paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(ii) Surplus as regards policyholders, total capital and surplus, as of the thirty-first day of December next preceding;

(iii) If the insurer is a life insurer, the net gain from operations for the twelve-month period ending the thirty-first day of December next preceding; and

(iv) If the insurer is not a life insurer:

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(a) The net income less realized capital gains for the twelve-month period ending the thirty-first day of December next preceding and the two (2) preceding twelve-month periods; and

(b) The dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years;

(5) A balance sheet and statement of income for the period intervening from the last annual statement filed with the Insurance Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(6) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(b) Subject to Arkansas Code § 23-63-515(c), (d), (e), and (f) as to extraordinary dividends, each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by subdivision (a)(4) of this section.

23 CAR § 9-~~121~~ 121. Adequacy of surplus.

(a)(1) The factors set forth in Arkansas Code § 23-63-515(b) are not intended to be an exhaustive list.

(2) In determining the adequacy and reasonableness of an insurer's surplus, no single factor is necessarily controlling.

(b)(1) The Insurance Commissioner, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer.

(2) In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each of these factors varies from company to company, and in determining the quality and liquidity of investments in subsidiaries, the

commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

23 CAR § 9-122. Group capital calculation.

(a) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company meets all of the following criteria:

(1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than one billion dollars (\$1,000,000,000);

(2) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

(3) Has no banking, depository, or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;

(4) The holding company system attests that there are no material changes in the transactions between insurers and noninsurers in the group that have occurred since the last filing of the annual group capital; and

(5) The noninsurers within the holding company system do not pose a material financial risk to the insurers' ability to honor policyholder obligations.

(b) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to accept, in lieu of the group capital calculation, a limited group capital filing if the insurance holding company system has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than one billion dollars (\$1,000,000,000), and all of the following criteria are met:

_____ (1) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

_____ (2) Does not include a banking, depository, or other financial entity that is subject to an identified regulatory capital framework; and

_____ (3) The holding company system attests that there are no material changes in transactions between insurers and noninsurers in the group that have occurred since the last filing of the report to the lead state commissioner and the noninsurers within the holding company system do not pose a material financial risk to the insurers' ability to honor policyholder obligations.

_____ (c) For an insurance holding company system that has previously met an exemption with respect to the group capital calculation pursuant to subsections (a) or (b) of this section, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the National Association of Insurance Commissioners (NAIC) Group Capital Calculation Instructions, if any of the following criteria are met:

_____ (1) Any insurer within the insurance holding company system is in a risk-based capital action level event as set forth in Arkansas Code § 23-63-1301 et seq., or similar standard for a non-United States insurer;

_____ (2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in 23 CAR pt. 19; or

_____ (3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances including, but not limited to:

 (A) The type and volume of business written;

 (B) Ownership and organizational structure;

 (C) Federal agency requests; and

 (D) International supervisor requests.

_____ (d) A non-United States jurisdiction is considered to "recognize and accept" the group capital calculation if it satisfies the following criteria:

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_____ (1) With respect to the calculation required by Arkansas Code § 23-63-514(n)(3)(A)(iv):

_____ (A) The non-United States jurisdiction recognizes the United States state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision, including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-United States jurisdiction; or

_____ (B)(i) Where no United States insurance groups operate in the non-United States jurisdiction, that non-United States jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard.

_____ (ii) This will serve as the documentation otherwise required in subdivision (d)(1)(A) of this section; and

_____ (2)(A) The non-United States jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

_____ (B) The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreement are in force.

(e) A list of non-United States jurisdictions that “recognize and accept” the group capital calculation will be published through the NAIC Committee Process:

(1)(A) A list of jurisdictions that “recognize and accept” the group capital calculation pursuant to Arkansas Code § 23-63-514(n)(3)(A)(iv), is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation.

(B) The list will clarify those situations in which a jurisdiction is exempted from filing under Arkansas Code § 23-63-514(n)(3)(A)(iv).

(C) To assist with a determination under Arkansas Code § 23-63-514(n)(3)(B), the list will also identify whether a jurisdiction that is exempted under either Arkansas Code § 23-63-514(n)(3)(A)(iii) or (iv) requires a group capital filing for any United States insurance group’s operations in that non-United States jurisdiction;

(2) For a non-United States jurisdiction where no United States insurance groups operate, the confirmation provided to meet the requirement of subdivision (d)(1)(B) of this section will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC Committee Process.

(3) If the lead state commissioner makes a determination pursuant to Arkansas Code § 23-63-514(n)(3)(A)(iv) that differs from the NAIC list, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states;

(4) Upon determination by the lead state commissioner that a non-United States jurisdiction no longer meets one (1) or more of the requirements to “recognize and accept” the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-United States jurisdiction be removed from the list of jurisdictions that “recognize and accept” the group capital calculation.

Appendix A. Statement Regarding the Acquisition of Control of or Merger With a Domestic Insurer

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Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/145/23CARpt.9FormE.pdf>

DRAFT

Appendix F. Enterprise Risk Report

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/146/23CARpt.9FormF.pdf>

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT State Insurance Department

BOARD/COMMISSION Arkansas Department of Commerce

BOARD/COMMISSION DIRECTOR Alan McClain, Commissioner

CONTACT PERSON Amanda Rose

ADDRESS One Commerce Way, Suite 102, Little Rock, Arkansas 72202

PHONE NO. (501) 371-2820 **EMAIL** amanda.rose@arkansas.gov

NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING

Leo Liu, Amanda Rose, and Mel Anderson

PRESENTER EMAIL(S) leo.liu@arkansas.gov, amanda.rose@arkansas.gov, mel.anderson@arkansas.gov

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

Insurance Holding Company Systems with Reporting Forms and Instructions

2. What is the subject of the proposed rule? 23 CAR pt 9 - Insurance Holding Company Systems with Reporting Forms and Instructions

3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☒

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☐

4. Is this rule being filed for permanent promulgation? Yes ☒ No ☐

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☒

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes ☐ No ☒

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes ☐ No ☒

If yes, please provide the state statute and/or rule citation.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes ☐ No ☒

If yes, please list the rules being repealed.

If no, please explain.

This Rule amends existing 23 CAR pt 9 and is not a new Rule. Additionally, it is required to be adopted by January 1, 2026, in order for Arkansas to remain nationally accredited by the National Association of Insurance Commissioners.

8. Is this a new rule? Yes ☐ No ☒

Does this repeal an existing rule? Yes ☐ No ☒

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes ☒ No ☐

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

Ark. Code Ann. 23-61-108(a) - (b) and 23-63-518.

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes ☒ No ☐

If yes, please provide the year of the act(s) and act number(s).

2025, Act No. 261

11. What is the reason for this proposed rule? Why is it necessary?

To incorporate the newly added financial regulation tools for insurance groups, which include group capital calculations and liquidity stress testing. In addition to providing insurers and groups subject to the Holding Company Act with information and instruction, it is a required national accreditation standard beginning January 1, 2026.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

<https://portal.insurance.arkansas.gov/LegalPubsPublic/web/proposed-rules/index>

13. Will a public hearing be held on this proposed rule? Yes ☒ No ☐

If yes, please complete the following:

Date: 12/08/2025

Time: 10:00 am

Place: Arkansas Department of Commerce, 2nd floor Diamond Mine Room

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. 12/08/2025

15. What is the proposed effective date for this rule? 2/1/2026

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

No comments are expected.

19. Is the rule expected to be controversial? Yes ☐ No ☒

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT State Insurance Department

BOARD/COMMISSION Arkansas Department of Commerce

PERSON COMPLETING THIS STATEMENT Amanda Rose

TELEPHONE NO. (501) 371-2828 **EMAIL** amanda.rose@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Insurance Holding Company System with Reporting Forms and Instructions

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes ☐ No ☒

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes ☒ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue \$0.00 _____
 Federal Funds \$0.00 _____
 Cash Funds \$0.00 _____
 Special Revenue \$0.00 _____
 Other (Identify) \$0.00 _____

Total \$0.00 _____

Next Fiscal Year

General Revenue \$0.00 _____
 Federal Funds \$0.00 _____
 Cash Funds \$0.00 _____
 Special Revenue \$0.00 _____
 Other (Identify) \$0.00 _____

Total \$0.00 _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

The potential cost to private insurance companies subject to the Insurance Holding Company Regulatory Act is not known, but it is not expected to be significant.

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

There should be no additional cost to the state, county, or municipal government with the implementation of this amendment to the current Rule.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.