



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Joseph Baker, Director

## Business Impact Analysis

Agency Name:	<u>Ohio Department of Insurance</u>
Rule Contact Name:	<u>Loretta Medved</u>
Rule Contact Information:	<u>614-644-0239</u> <u>loretta.medved@insurance.ohio.gov</u>
Regulation/Package Title (a general description of the rules' substantive content):	<u>Chapter 3 rules - Valuation of investments, Derivative use plan, NAIC manuals</u>
Rule Number(s):	<u>3901-3-05</u> <u>3901-3-12</u> <u>3901-3-18</u>
Date of Submission for CSI Review:	<u>June 21, 2024</u>
Public Comment Period End Date:	<u>July 8, 2024, 11:59 PM</u>
Rule Type/Number of Rules:	
<input type="checkbox"/> New/ rules	<input type="checkbox"/> No Change/ rules (FYR? )
<input checked="" type="checkbox"/> Amended/ 3 rules (FYR? Yes )	<input type="checkbox"/> Rescinded/ rules (FYR? )

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the Agency determined the rule(s) create?

The rule(s):

- ☒ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- ☐ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- ☒ c. Requires specific expenditures or the report of information as a condition of compliance.
- ☐ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

***Rule 3901-3-05 establishes a procedure for the department to check and understand how well insurance companies are doing financially. It sets up steps for insurance companies to follow when they are valuing their investments. This helps insurers when submitting their financial reports and other financial info to the department. Proposed amendments to this rule will make technical corrections and reduce regulatory restrictions.***

***Rule 3901-3-12 establishes the content of derivative use plans that companies are required to submit to the department when calculating alternative investments to qualify those investments as business assets. Proposed amendments to this rule will make technical corrections and reduce regulatory restrictions.***

***Rule 3901-3-18 adopts the most current versions of the NAIC "Valuation of Securities Manual". This annual publication provides guidelines for the preparation and filing of statutory financial statements and other financial information which the department reviews to determine the financial condition of an insurance company. Proposed amendments to this rule will make technical corrections and reduce regulatory restrictions.***

3. Please list the Ohio statute(s) that authorizes the Agency to adopt the rule(s) and the statute(s) that amplify that authority.

***Sections 3901.041 and 3903.723 of the Revised Code.***

4. Does the regulation implement a federal requirement? ☐ Yes ☒ No

Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

☐ Yes ☒ No

*If yes, please briefly explain the source and substance of the federal requirement.*

***Not applicable.***

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

***Not applicable.***

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

***The department is responsible for monitoring the financial condition of all insurance companies domiciled in this state. The rules included in this package allow the department to ensure that companies follow standards by which those companies demonstrate their financial condition. In turn, the procedures in place allow the department to accurately examine the company filings to ensure the financial health of each company. Establishing minimum reserve standards is a critical component to ensure that insurance companies are able to maintain financial solvency. Solvency protects current and future policyholders by ensuring that insurers are able to pay claims. Solvency is necessary to the ongoing function of the insurer, and crucial for consumer protection as well as the overall insurance market. Model acts developed by the NAIC and adopted by respective states maintain national consistency within the industry.***

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

***The department reviews and analyzes the financial condition of Ohio domiciled insurance companies through the examination process. If a company fails to meet the filing requirements or appears to have taken on risks that could harm the financial condition of the company, the department will communicate recommendations to address the areas of concern.***

***This regulation provides transparent guidance for insurance companies. By issuing such guidance, insurers will have clarity on requirements and will eliminate confusion as the rule***

***is maintained. Consumer protection will also be maintained, and the regulations will work to reduce damages and complaints.***

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931? ☐ Yes ☒ No

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

***Not applicable.***

### **Development of the Regulation**

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.*

***In April of 2024, an email requesting comment on the rule was sent to various stakeholders, interested parties, trade associations and companies. Specifically, the department reached out to the Association of Ohio Life Insurance Companies (AOLIC), the American Council of Life Insurance (ACLI), the National Association of Insurance and Financial Advisors (NAIFA), Ohio Association of Health Plans (OAHP) among others. Additionally, these rules have remained posted on the department's web site for review.***

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

***These rules were reviewed as part of the five-year rule review. The department received no comments on the rules from industry or the general public during the comment period.***

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

***These rules follow national models that have been adopted by the national association of insurance commissioners (NAIC). When developing a model, the NAIC works with a subgroup consisting of representatives from multiple states. Stakeholders also provide comment to find the right balance between consumer protection and ease of compliance. Formulas are developed by reviewing trends and used to determine the valuation of investments in order to properly determine the financial condition of an insurance company.***

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

*These rules are based upon current NAIC models and publications which represent nationwide industry standards. These rules provide consistent regulatory requirements for insurance carriers. Therefore, no other alternatives were considered.*

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

*The department, which serves as the sole regulator of the insurance industry in Ohio, reviewed Ohio statutes and rules and determined that it does not duplicate other regulations.*

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

*These rules are applied consistently and predictably through transactions described, which requires companies to follow standard procedures so that financial condition may be demonstrated with the greatest emphasis on accuracy. These regulations have been in place for many years and those impacted by the rule are familiar with the requirements.*

### **Adverse Impact to Business**

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Quantify and identify the nature of the adverse impact (e.g., fees, fines, employer time for compliance).

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

*A. Ohio law requires the insurers to file a financial statement and a derivative use plan, if applicable. The purpose of these rules is to establish procedures for filing these statements and adopts the forms, instructions and manuals prescribed by the NAIC to streamline the process – as many, if not all insurers are doing business in multiple states. Additionally, companies using derivatives to utilize alternative investments must submit a plan to ensure the adequacy of those business assets.*

*B. The NAIC manuals are reference materials that are used in preparing financial statements and simplify the preparation process by providing specific nationally accepted procedures for companies to use when valuing investments. There is a cost for companies to purchase the manuals, which is currently a maximum of \$2200 for all three manuals. However, since these rules have been in place for many years, companies already are*

*meeting the provisions of these rules and resources appear to already be in place. Financial statements are comprised of aggregate data obtained over time, any time necessary to gather the data should be limited to a few hours or less.*

*A derivative use plan is a statutory requirement, and it is expected that plans exist within the companies between board and management. If there is additional information required by the rule that management does not already document, it is anticipated that such information would be limited in scope. Preparing the plan in the form and content requested should be limited to a few hours or less.*

*The filing of financial statements is statutorily required, and the purpose of these rules do not add adverse impact but establish procedures for filing these statements and adopts the forms, instructions and manuals prescribed by NAIC to streamline the process.*

16. Are there any proposed changes to the rule(s) that will reduce a regulatory burden imposed on the business community? Please identify. *(Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors.)*

*Proposed amendments will reduce regulatory restrictions.*

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

*These rules provide guidance to properly determine assets values. They maintain accountability and provide consumer protection. Not adhering to the standards promulgated by the department could result in a hazardous financial condition of an insurance company.*

### **Regulatory Flexibility**

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

*These rules provide important consumer protections and standards to maintain solvency to which all insurance companies must adhere, regardless of size.*

19. How will the Agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

*Non-compliant filings or filing submissions with inappropriate information are identified in the review process and discussed with the company. Generally, companies agree to change a filing as requested by the department or propose an acceptable alternative. In the event that a company would refuse to revise a filing, the department may proceed with the administrative remedies available.*

20. What resources are available to assist small businesses with compliance of the regulation?

***Department staff are available to answer questions, regardless of the size of business. Furthermore, the department provides filing information and instructions on its web site.***