

CSI - Ohio
The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance

Regulation/Package Title: Mergers, Acquisitions and Holding Company Transactions

Rule Number(s): 3901-3-01 and 3901-3-03

Date: **May 29, 2015**

Rule Type:

☐ New
 ☒ 5-Year Review
☒ Amended
 ☐ No Change
☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

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

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

The purpose of both rules in this package is to establish the form and content that an insurance company must use to either notify the department of a proposed transaction or to apply for approval of a proposed transaction with a domestic insurance company.

Rule 3901-3-01 has one proposed amendment to correct a citation in paragraph (F).

Rule 3901-3-03 has proposed amendments to update the rule to match the National Association of Insurance Commissioners' (NAIC) insurance holding company system model regulation with reporting forms and instructions, which is a part of the department's

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accreditation program with the NAIC. There are no concept changes and all the amendments are current practices for Ohio domestic insurers.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Sections 3901.041, 3901.321 and 3901.341 of the Revised Code.

3. 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.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. 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 public purpose is to set the standard content and form each insurer must use in order to propose a transaction or to apply for approval for an acquisition or merger with an Ohio-domiciled insurance company.

To retain the department's accreditation with NAIC, one of the mandatory standards is for the department to adopt the insurance holding company system model regulation with reporting forms and instructions (model #450.) This model is part of the NAIC system to ensure solvency from state to state.

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

Success means the continued consistent regulation the department holds all insurers to when proposing a transaction, acquisition, or merger.

Development of the Regulation

7. 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.*

Interested stakeholders for these rules include Ohio Insurance Institute (OII), Ohio Association of Life Insurance Companies (AOLIC), Ohio Association of Health

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Underwriters, Ohio Association of Health Plans (OAHP), Professional Insurance Agents Association of Ohio (PIAA), and domestic insurers. The department posted the rule chapter on its website for public review and made trade associations representing insurance companies aware the rules were due for five year review. In addition, in March 2015, an email requesting comment on the rule was sent to various stakeholders, interested parties, and trade associations who signed up for updates on the department's rules and bulletins. On April 20, 2015, the department held a public information meeting to facilitate comments, questions and concerns.

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

Stakeholders have not expressed concerns or requests for additional changes.

9. 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?

Due to both rules being a part of the department's accreditation program by NAIC, scientific data was not used to develop either rule. The rules match the respective sections in the insurance holding company system model regulation with reporting forms and instructions (model #450) that was vetted and voted on by the department as well as the other participatory insurance departments nationwide.

10. 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?

Since these rules are based on NAIC model #450, any alternative regulations would have been discussed and voted upon in NAIC committees and adopted by Financial Regulation Standards and Accreditation (F) committee, in which the department actively participates.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No. The intention of both rules is to spell out the specific content, form and application needed to complete the process of notifying the department of a proposed transaction. The rules define the process.

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

As the rules detail a very specific insurance practice and is a mandatory provision of the department's NAIC accreditation, there is no other duplicate regulation that sets for the terms and content of completing these transactions in Ohio.

13. 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.

The purpose of these rules is to ensure that regulation of insurers is consistent and predictable. The actual forms that need to be completed by the insurer are in these rules. These standards, and the others that complete the accreditation program, were adopted so that the regulation of the insurance industry nationwide is more consistent and predictable which assists both the regulated community and those regulating.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

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

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. Any insurer as defined in section 3901.32 of the Revised Code that desires to engage in a transaction.

b. The company desiring to complete a transaction needs to complete the appropriate application, which is only used as needed and is not an annual form.

c. The form A in rule 3901-3-01 of the Administrative Code takes an average of 25-30 hours to complete and the form D in rule 3901-3-03 of the Administrative Code takes an average of 6 hours to complete, but are only used if the company is completing these specific transactions.

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

The purposes of these rules to have each state department of insurance use the same forms for transactions and notice of transactions. This allows for smooth inter-state cooperation and reduces regulatory redundancies.

Regulatory Flexibility

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

No. Both rules apply to all insurers, no matter of size.

17. 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?

Both of these rules spell out the form and content of two applications that are only used by an insurer, as needed by them. The use of these forms is a mandatory piece of the NAIC accreditation program. Therefore, the completion of the form is necessary, no matter of size.

However, the department will assist the insurer if the company needs assistance with completing the form.

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

The department's office of risk assessment is able to assist all insurers with these regulations, no matter of size.