

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.1359 Internationally active insurance group; group-wide supervisor; determination factors; duties.

Sec. 1359.

(1) The director may act as the group-wide supervisor for any internationally active insurance group in accordance with this section. However, the director may otherwise acknowledge another regulatory official as the groupwide supervisor if any of the following apply to the internationally active insurance group:

(a) The internationally active insurance group does not have substantial insurance operations in the United States.

(b) The internationally active insurance group has substantial insurance operations in the United States, but not in this state.

(c) The internationally active insurance group has substantial insurance operations in the United States and this state, but the director has determined under the factors set forth in subsections (3), (4), and (8) that the other regulatory official is the appropriate group-wide supervisor.

(2) An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the director make a determination or acknowledgement as to a group-wide supervisor under this section.

(3) Subject to subsection (4), in cooperation with other state, federal, and international regulatory agencies, the director shall identify a single group-wide supervisor for an internationally active insurance group. The director may determine that the director is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state. However, the director may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The director shall consider all of the following factors when making a determination or acknowledgement under this subsection:

(a) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities.

(b) The place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group.

(c) The location of the executive offices or largest operational offices of the internationally active insurance group.

(d) Whether another regulatory official is acting or is seeking to act as the groupwide supervisor under a regulatory system that the director determines to be either of the following:

(i) Substantially similar to the system of regulation provided under the laws of this state.

(ii) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.

(e) Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the director with reasonably reciprocal recognition and cooperation.

(4) A commissioner identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgement of the group-wide supervisor must be made in consideration of the factors under subsection (3), and must be made in cooperation with and subject to the acknowledgement of other regulatory officials involved with supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.

(5) Notwithstanding any other provision of law, if another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the director shall acknowledge that regulatory official as the group-wide supervisor. However, the director shall make a determination or acknowledgement as to the appropriate group-wide supervisor for the internationally active insurance group under subsection (3) in the event of a material change in the internationally active insurance group that results in either of the following:

(a) The internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets, or liabilities.

(b) This state being the place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group.

(6) Pursuant to section 1351, the director may collect from an insurer registered under section 1324 all information necessary to determine whether the director may act as the group-wide supervisor of an internationally active insurance group or if the director may acknowledge another regulatory official to act as the group-wide supervisor. Before issuing a determination that an internationally active insurance group is subject to group-wide supervision by the director, the director shall notify the insurer registered under section 1324 and the ultimate

controlling person within the internationally active insurance group. The internationally active insurance group has at least 30 days to provide the director with additional information pertinent to the pending determination. The director shall publish on its website the identity of internationally active insurance groups that the director has determined are subject to group-wide supervision by the director.

(7) If the director is the group-wide supervisor for the internationally active insurance group, the director may engage in any of the following group-wide supervision activities:

(a) Assess the enterprise risks within the internationally active insurance group to ensure both of the following:

(i) That the material financial condition and liquidity risk to the members of the internationally active insurance group that are engaged in the business of insurance are identified by management.

(ii) That reasonable and effective mitigation measures are in place.

(b) Request, from any member of the internationally active insurance group subject to the director's supervision, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the internationally active insurance group regarding any of the following:

(i) Governance, risk assessment, and management.

(ii) Capital adequacy.

(iii) Material intercompany transactions.

(c) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance.

(d) Communicate with other state, federal, and international regulatory agencies for members within the internationally active insurance group and share relevant information, subject to the confidentiality provisions of section 1355, through supervisory colleges as provided in section 1357 or otherwise.

(e) Enter into agreements with or obtain documentation from any insurer registered under section 1324, any member of the internationally active insurance group, and any other state, federal, and international regulatory agencies for members of the internationally active insurance group, providing the basis for or otherwise clarifying the director's role as group-wide supervisor, including provisions for resolving disputes with the other regulatory officials. The agreements or documentation described in this subdivision must not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state.

(f) Other group-wide supervision activities, consistent with the authorities and purposes provided in this subsection, as considered necessary by the director.

(8) If the director acknowledges that another regulatory official from a jurisdiction that is not accredited by the NAIC is the group-wide supervisor, the director may reasonably cooperate, through supervisory colleges or otherwise, with group-wide supervision undertaken by the group-wide supervisor if both of the following apply:

(a) The director's cooperation is in compliance with the laws of this state.

(b) The regulatory official acknowledged as the group-wide supervisor also recognizes and cooperates with the director's activities as a group-wide supervisor for other internationally active insurance groups where applicable. If recognition and cooperation described in this subdivision is not reasonably reciprocal, the director may refuse recognition and cooperation.

(9) The director may enter into agreements with or obtain documentation from any insurer registered under section 1324, any affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group, that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

(10) A registered insurer subject to this section is liable for and shall pay the reasonable expenses of the director's participation in the administration of this section, including the engagement of attorneys, actuaries, and any other professionals and all reasonable travel expenses.

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