

## CHAPTER 2710

### DEPARTMENT OF COMMERCE

### ANNUAL AUDITS

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#### DEFINITIONS, AUTHORITY, PURPOSE, AND SCOPE

#### 2710.0100 DEFINITIONS.

Subpart 1. **Scope.** Unless the context requires otherwise, the terms defined in subparts 2 to 7 have the meanings given them.

Subp. 2. **Accountant; independent public accountant.** "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

Subp. 3. **Audited financial report.** "Audited financial report" includes those items specified in part 2710.1200.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of commerce of the state of Minnesota.

Subp. 5. **Examiner.** "Examiner" means an examiner of the Department of Commerce of the state of Minnesota.

Subp. 6. **Executive officer.** "Executive officer" means any individual whose duties relate to active participation in control, supervision, and management of a person, whether incorporated or unincorporated. The term includes a chairman of the board, president, vice president, treasurer, secretary, controller, and any other individual performing in a similar position.

Subp. 7. **Insurer.** "Insurer" means a company required to have an annual audit by Minnesota Statutes, section 60A.13, subdivision 3a.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**History:** *L 1983 c 289 s 114 subd 1; L 1984 c 655 art 1 s 92*

#### 2710.0200 AUTHORITY.

Parts 2710.0100 to 2710.3300 are promulgated by the commissioner of commerce under Minnesota Statutes, sections 60A.031 and 60A.13.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**History:** *L 1983 c 289 s 114 subd 1; L 1984 c 655 art 1 s 92*

**2710.0300 PURPOSE AND SCOPE.**

Subpart 1. **Purpose.** The purpose of parts 2710.0100 to 2710.3300 is to improve the Minnesota Department of Commerce's surveillance of the financial condition of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial condition and the results of operations of insurers.

Subp. 2. **Scope.** Parts 2710.0100 to 2710.3300 shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of the practices, procedures, financial condition, market conduct, and other aspects of the operations of insurers.

Parts 2710.0100 to 2710.3300 apply to all insurers required under Minnesota Statutes, section 60A.13, subdivision 3a to file a report of their annual audit, except that insurers having direct premiums written in this state of less than \$100,000 in any year and having fewer than 500 policyholders in this state at the end of any year are exempt from the provisions of parts 2710.0100 to 2710.3300 for that year.

Subp. 3. **Exempt insurers.** Insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from the provisions of parts 2710.0100 to 2710.3300 if:

A. a copy of the audited financial report, the evaluation of accounting procedures, and systems of internal control report, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in parts 2710.1100 and 2710.1800. (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance); and

B. a copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in part 2710.1700.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**History:** *L 1983 c 289 s 114 subd 1; L 1984 c 655 art 1 s 92*

**AUDIT REPORTS****2710.1100 FILING AND EXTENSIONS FOR FILING OF ANNUAL AUDITED FINANCIAL REPORTS.**

All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 30 for the year ending December 31.

Extensions of the June 30 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**2710.1200 CONTENTS OF ANNUAL AUDITED FINANCIAL REPORT.**

Subpart 1. **Required information.** The annual audited financial report shall report, in conformity with statutory accounting practices required or permitted by the commissioner of commerce of the state of domicile, the financial condition of the insurer as of the end of the most recent calendar year and the results of its operations, changes in financial position, and changes in capital and surplus for the year then ended.

The annual audited financial report shall include all of the following:

- A. a report of an independent certified public accountant;
- B. a balance sheet reporting admitted assets, liabilities, capital, and surplus;
- C. a statement of gain or loss from operations;
- D. a statement of changes in financial position;
- E. a statement of changes in capital and surplus;
- F. any notes to financial statements; and
- G. supplementary information, which includes any additional information that the commissioner may from time to time require to be disclosed.

Subp. 2. **Notes to financial statements.** The notes required under subpart 1, item F shall be those required by generally accepted accounting principles and shall include:

A. a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under Minnesota Statutes, section 60A.13, subdivision 1 with a written description of the nature of these differences; and

B. a narrative explanation of all significant intercompany transactions and balances.

Subp. 3. **Financial statements.** The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner.

The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

The amounts may be rounded to the nearest thousand dollars, and all insignificant amounts may be combined.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**History:** *L 1983 c 289 s 114 subd 1; L 1984 c 655 art 1 s 92*

### **2710.1300 DESIGNATION OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.**

Each insurer required by part 2710.1100 to file an annual audited financial report must notify the commissioner in writing of the name and address of the certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement.

Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained certified public accountant not less than six months before the date when the first certification is to be filed.

The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance division of the state of domicile. The letter shall affirm that opinions on the financial statements will be expressed in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that division, unless exceptions to these practices are appropriate. The letter shall specify all exceptions believed to be appropriate. A copy of this letter shall be filed with the commissioner.

If an accountant who was not the accountant for the immediately preceding filed audited financial report is engaged to audit the insurer's financial statements, the insurer shall notify the division of this event within 30 days of the date the accountant is engaged. The insurer shall also furnish the commissioner

with a separate letter stating whether in the 24 months preceding this engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to the subject matter of the disagreement in connection with his opinion. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons that he does not agree. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

#### **2710.1400 QUALIFICATIONS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.**

The commissioner shall not recognize any person or firm as an independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or for a Canadian or British company, that is not a chartered accountant.

Except as otherwise provided, a certified public accountant shall be recognized as independent as long as he or she conforms to the standards of his or her profession.

The commissioner, after notice and hearing under Minnesota Statutes, chapter 14, may find that the accountant is not independent for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is independent within the meaning of this rule.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

#### **2710.1500 CONSOLIDATED OR COMBINED AUDITS.**

Upon written application and for specified periods, the commissioner may permit an insurer to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements. In such cases, the report shall include an organization chart of the companies together with a columnar consolidating or combining worksheet.

Amounts shown on the audited consolidated or combined financial statement shall be shown on the worksheet.

Amounts for each insurer subject to this rule shall be stated separately.

Noninsurance operations may be shown on the worksheet on a combined or individual basis.

Explanations of consolidating and eliminating entries shall be included on the worksheet.

A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers shall be included on the worksheet.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

#### **2710.1600 SCOPE OF EXAMINATION AND REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.**

Financial statements furnished under part 2710.1200 shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards and consideration should be given to such other procedures illustrated in the Financial Condition Examiners Handbook, in the Examiners

Handbook, issued by the National Association of Insurance Commissioners (Milwaukee, Wisconsin: 1976, as amended) as the independent certified public accountant deems necessary.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**2710.1700 NOTIFICATION OF ADVERSE FINANCIAL CONDITION.**

The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to immediately notify in writing an executive officer and all directors of the insurer of the final determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirement of Minnesota Statutes, section 60A.07 as of that date.

Any executive officer or director of an insurer required to file an annual audited financial report who received any notification of adverse financial condition from the accountant shall make a written report to the commissioner of the existence of the materially misstated financial condition or the failure to meet the minimum capital and surplus requirements of the commissioner within three business days of the notification.

If the accountant becomes aware of facts which might have affected this report subsequent to the date of the audited financial report filed under this rule, the accountant shall take the action prescribed by section AU561, volume 1 of the AICPA Professional Standards, issued by the American Institute of Certified Public Accountants.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**2710.1800 EVALUATION OF ACCOUNTING PROCEDURES AND SYSTEM OF INTERNAL CONTROL.**

In addition to the annual audited financial report, each insurer shall furnish the commissioner with a report of the evaluation performed by the accountant, in connection with the examination, of the accounting procedures of the insurer and its system of internal control.

A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, shall be filed annually by the insurer with the division within 60 days after the filing of the annual audited financial report.

This report on internal control shall be in the form prescribed by generally accepted auditing standards.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**2710.1900 DEFINITION, AVAILABILITY, AND MAINTENANCE OF CERTIFIED PUBLIC ACCOUNTANT WORKPAPERS.**

Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the examination of the financial statements of an insurer. Workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the examination of the financial statements of an insurer and that support his opinion.

Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners

the workpapers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported upon.

In the conduct of the periodic review by the examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the Department of Commerce. These copies shall be part of the commissioner's workpapers.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**History:** *L 1983 c 289 s 114 subd 1; L 1984 c 655 art 1 s 92*

#### **2710.2000 REPORTS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.**

With the commissioner's approval, an insurer may comply with this rule by filing the requisite reports that have been prepared in accordance with generally accepted accounting principles if the notes to the financial statements include a reconciliation of differences between net income and capital and surplus on the annual statement filed pursuant to Minnesota Statutes, section 60A.13, subdivision 1 and comparable totals on the audited financial statements, and a written description of the nature of these differences.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

#### **2710.2100 EXAMINATIONS.**

The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this rule conducted by examiners under Minnesota Statutes, section 60A.031. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioner's Insurance Regulatory Information System, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this rule shall be compliance examinations, targeted examinations, and comprehensive examinations.

Compliance examinations will consist of a review of the accountant's workpapers defined under part 2710.1900 and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the Department of Commerce. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

Comprehensive examinations will be performed when the report of the accountant as provided for in part 2710.1600, the notification required by part 2710.1700, the results of compliance or targeted examinations, or other circumstances indicate in the judgment of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant that the examiners may have utilized to supplement their examination procedures and the procedures that were performed by the registered independent certified public accountant if included as a supplement to

the examination.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**History:** *L 1983 c 289 s 114 subd 1; L 1984 c 655 art 1 s 92*  
**EXEMPTIONS AND SPECIAL SITUATIONS**

**2710.3100 EXEMPTIONS.**

Upon written application of any insurer, the commissioner may grant an exemption from compliance with the provisions of parts 2710.0100 to 2710.3300 if the commissioner finds, upon review of the application, that compliance would constitute a financial hardship upon the insurer. An exemption may be granted at any time and from time to time for specified periods. Within ten days from a denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing shall be held in accordance with Minnesota Statutes, chapter 14.

Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. No exemption shall be granted until the insurer presents an alternative method satisfying the purposes of this rule. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing shall be held in accordance with Minnesota Statutes, chapter 14.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**2710.3200 CANADIAN AND BRITISH COMPANIES.**

Subpart 1. **Annual audited financial report.** In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

Subp. 2. **Conformity letter.** For these insurers, the letter required in part 2710.1300 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under part 2710.1100 and shall affirm that the opinion expressed is in conformity with those requirements.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*

**2710.3300 INSURERS NOT REQUIRED TO FILE FIRST AUDIT IN JUNE 1982.**

Notwithstanding the provisions of part 2710.1200, subpart 1, items A to F, an insurer that is not required pursuant to Minnesota Statutes, section 60A.13, subdivision 3a to file its first audit with the commissioner on June 30, 1982, may for its annual filing due on or before June 30, 1983, file a report of an independent certified public accountant; a balance sheet reporting admitted assets, liabilities, capital, and surplus; and any notes to financial statements. These notes shall be those required by generally accepted accounting principles and shall include:

A. a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under Minnesota Statutes, section 60A.13, subdivision 1 with a written description of the nature of these differences; and

B. a narrative explanation of all significant intercompany balances.

**Statutory Authority:** *MS s 60A.031 subd 8; 60A.13 subd 4a*