

CHAPTER 27. DISCLOSURE OF MATERIAL TRANSACTIONS

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Authority

The provisions of this Chapter 27 issued under section 320 of The Insurance Company Law of 1921 (40 P. S. § 443), unless otherwise noted.

Source

The provisions of this Chapter 27 adopted May 22, 1998, effective May 23, 1998, 28 Pa.B. 2406, unless otherwise noted.

§ 27.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Acquisition of assets—The purchase, lease, exchange, succession or other acquisition of assets, other than the following:

(i) The purchase, construction or development of real property occupied or to be occupied by the insurer for the transaction of its business or the acquisition of materials for that purpose.

(ii) Electronic data processing hardware and operating software acquired by the insurer to support the transaction of its business.

Act—The Insurance Company Law of 1921 (40 P. S. §§ 341—991.1718).

Association—Individuals, partnerships or associations of individuals, authorized to engage in the business of insurance in this Commonwealth as insurers on the Lloyds plan.

Commissioner—The Insurance Commissioner of the Commonwealth.

Department—The Insurance Department of the Commonwealth.

Disposition of assets—The sale, lease, transfer, exchange, mortgage, hypothecation, assignment (whether for the benefit of creditors or otherwise), abandonment, destruction, alienation or other conveyance of an interest in assets.

Domestic—Incorporated or organized under the laws of the Commonwealth.

Exchange—Individuals, partnerships and corporations, authorized by the laws of the Commonwealth to exchange with each other inter-insurance or reciprocal insurance contracts.

Insurer—A stock or mutual insurance company (including title insurance companies), association or exchange.

Licensed—Currently authorized by the Commissioner to transact the business of insurance in this Commonwealth under the act, as evidenced by a certification issued by the Commissioner.

§ 27.2. Scope.

(a) This chapter provides for the interim filing of statements of transactions that may have a material effect on the financial condition of a domestic insurer.

(b) This chapter applies to licensed domestic insurers subject to section 320 of the act (40 P. S. § 443) relating to the filing of statements of financial condition.

(c) This chapter does not supersede or in any way affect an insurer's duty to comply with the act of July 31, 1968 (P. L. 941, No. 288) (40 P. S. §§ 995.1—995.4), relating to prior notice to the Commissioner of disposal of assets and certain reinsurance cessions.

§ 27.3. Disclosure of material acquisitions or dispositions of assets.

(a) An insurer shall file a statement disclosing an acquisition of assets or disposition of assets if the following apply:

(1) A single transaction, or a series of related transactions during a 30-day period, involves more than 5% of the insurer's total admitted assets as reported in the insurer's most recent annual statutory financial statement filed with the Department.

(2) The transaction is nonrecurring.

(3) The transaction is not in the ordinary course of business.

(b) Statements of material acquisitions or dispositions of assets as required under subsection (a) shall include the following information:

(1) The dates of the transactions.

(2) The manner of acquisition or disposition.

(3) A description of the assets involved.

(4) The nature and amount of the consideration given or received.

(5) The purpose of or reason for the transactions.

(6) The manner by which the amount of consideration was determined.

(7) The gain or loss recognized or realized as a result of the transaction.

(8) The name of person from whom the assets were acquired or to whom they were disposed.

(9) The name, title, address and telephone number of the individual to whom notices and correspondence concerning the statements should be addressed.

(10) A certification by an officer of the insurer as provided in Appendix A (relating to certification for statement disclosing material transaction).

(c) Insurers shall prepare statements disclosing material acquisitions and dispositions of assets as required under subsection (a) on a nonconsolidated basis.

(d) An insurer shall file a statement disclosing a material acquisition or disposition of assets consisting of a single transaction as required under subsection (a) with the Department within 30 days after the date on which the transaction was closed.

(e) An insurer shall file a statement disclosing a material acquisition or disposition of assets consisting of a series of related transactions as required under subsection (a) within 30 days after the closing date of any transaction within a 30-day period that results in the aggregate of related transactions within that period involving more than 5% of the reporting insurer’s total admitted assets as reported in that insurer’s most recent annual statutory financial statement filed with the Department. For example:

**Company A has total admitted assets of \$5 million.
Threshold for Filing Statement: \$250,000.**

Series of Related Transactions

<i>Closing Date</i>	<i>Amount</i>	<i>30-Day Total</i>	<i>% of Assets</i>	<i>30-Day Total</i>	<i>Filing Required</i>
1 — Jan. 1	\$50,000	\$	1%		No
	Jan. 15	100,000	150,000	2% 3%	No
2 — Jan. 21	200,000	250,000	4% 7%		Yes-1
	Feb. 8	25,000	325,000	.5% 6.5%	Yes-2

Filing 1 shall be made within 30 days of January 21.

Filing 2 shall be made within 30 days of February 8.

(f) A filing is not required if statements disclosing the acquisition of assets or disposition of assets have been submitted to the Department under other laws, regulations or requirements.

§ 27.4. Disclosure of material nonrenewals, cancellations or revisions of ceded reinsurance agreements.

(a) A property and casualty insurer shall file:

(1) A statement disclosing a nonrenewal, cancellation or revision of a ceded reinsurance agreement with respect to property and casualty business—including accident and health business written by a property and casualty insurer—if it relates to reinsurance cessions which generate any of the following.

- (i) Fifty percent or more of the insurer's ceded written premiums as reported in the most recent annual statutory financial statement filed by the insurer.
 - (ii) Fifty percent or more of the insurer's total ceded indemnity loss and loss adjustment expense reserves.
- (2) A statement disclosing a revision of a ceded reinsurance agreement with respect to property and casualty business—including accident and health business written by a property and casualty insurer—if any of the following events occur:
- (i) A reinsurer which represents more than 10% of a total cession and which is licensed to transact business in this Commonwealth or included on the Department's list of qualified reinsurers is replaced by one or more reinsurers that are neither licensed nor on the Department's list of qualified reinsurers.
 - (ii) Previously established collateral requirements have been reduced or waived for one or more reinsurers that are neither licensed nor on the Department's list of qualified reinsurers, representing collectively more than 10% of a total cession.
 - (iii) The percentage increase in the net aggregate retention by the domestic ceding insurer is equal to or greater than 50%.
- (b) A property and casualty insurer is not required to file a statement under subsection (a) if any of the following conditions are met:
- (1) The total ceded written premium of a property and casualty insurer represents, on an annualized basis, less than 10% of the sum of the insurer's total written premium, for direct and assumed business as reported in the insurer's most recent annual statutory financial statement filed with the Department.
 - (2) A ceded reinsurance agreement which is nonrenewed or canceled is replaced under the following conditions: The replacement reinsurer is licensed or on the Department's list of qualified reinsurers and the percentage increase in the net aggregate retention by the domestic ceding insurer is less than 50%.
 - (3) A revision to a ceded reinsurance agreement does not increase the ceding insurer's retention of risk or exposure to loss.
 - (4) A revision is made to an inter-company pooling reinsurance agreement among affiliated insurers.
- (c) A life insurer shall file:
- (1) A statement disclosing a nonrenewal, cancellation or revision of a ceded reinsurance agreement with respect to life, annuity and accident and health business if the transaction affects more than 50% of the total reserve credit taken for business ceded as reported in the insurer's most recent annual statutory financial statement filed with the Department.
 - (2) A statement disclosing a revision of a ceded reinsurance agreement with respect to life, annuity and accident and health business if any of the following events occur:

(i) A reinsurer that represents more than 10% of a total cession and that is either licensed or included on the Department's list of qualified reinsurers is replaced by any reinsurers that are neither licensed nor on the Department's list of qualified reinsurers.

(ii) Previously established collateral requirements have been reduced or waived with regard to any reinsurers that are neither licensed nor on the Department's list of qualified reinsurers, representing collectively more than 10% of a total cession.

(d) A life insurer is not required to file a statement under subsection (c) if any of the following conditions are met:

(1) The total reserve credit taken for business ceded represents less than 10% of the amount of gross reserves reported in the insurer's most recent annual statutory financial statement filed with the Department.

(2) A ceded reinsurance agreement that is nonrenewed or canceled is replaced under the following conditions: The replacement reinsurer is either licensed or on the Department's list of qualified reinsurers and the percentage increase in the amount of reserve credit taken by the domestic ceding insurer under the replacement agreement does not exceed 50% of the reserve credit which was taken under the agreement being replaced.

(3) A revision to a ceded reinsurance agreement does not increase the ceding insurer's retention of risk or exposure to loss.

(4) A revision is made to an intercompany pooling reinsurance agreement among affiliated insurers.

(e) Statements of material nonrenewal, cancellation or revision of ceded reinsurance agreements as required under this section shall include the following information:

(1) The effective date of the nonrenewal, cancellation or revision.

(2) A description of the transaction.

(3) Identification of the party which initiated the transaction.

(4) The purpose of or reason for the transaction.

(5) The identity of replacement reinsurers, if applicable.

(6) Quantification of additional risk to the insurer resulting from the transaction.

(7) The name, title, address and telephone number of the individual to whom notices and correspondence concerning the statements should be addressed.

(8) A certification of an officer of the insurer as provided in Appendix A (relating to certification for statement disclosing material transaction).

(f) Statements disclosing material nonrenewals, cancellations or revisions of ceded reinsurance agreements as required under this section shall be prepared on a nonconsolidated basis; except that statements may be prepared on a consolidated basis if the insurer meets the following requirements:

- (1) The insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100% reinsurance agreement which affects the solvency and integrity of the reporting insurer's reserves.
- (2) The insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1 million total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than 5% of the insurer's capital and surplus as reported in its most recent annual statutory financial statement filed with the Department.
- (g) An insurer shall file a statement disclosing a material nonrenewal, cancellation or revision of a ceded reinsurance agreement as required under this section with the Department within 30 days after the date on which the transaction was closed.
- (h) A filing is not required under this section if statements disclosing material nonrenewals, cancellations or revisions of ceded reinsurance agreements have been submitted to the Department under other laws, regulations or requirements.

§ 27.5. Confidentiality of statements disclosing material transactions.

- (a) Statements filed under this chapter shall be given confidential treatment, unless any of the following occur:
 - (1) The insurer gives its prior written consent that the information may be published.
 - (2) The Commissioner exercises discretion and determines that all or any part of the information related to the transaction be published. Prior to making a determination to publish all or any part of the information, the Commissioner will notify the affected insurer of the right to request a confidential review by the Commissioner. At the review, the affected insurer shall have an opportunity to demonstrate why the transaction and related information should remain confidential. After the review, the Commissioner may order some, all or none of the information related to the transaction be made public. Any of the Commissioner's responsibilities may be delegated to a designee.
 - (3) The statements are subpoenaed. The Department will notify the insurer prior to providing the information subject to subpoena, unless otherwise prohibited by statute or rule of court.
- (b) The Department may share statements filed under this chapter with regulatory or law enforcement officials of this Commonwealth or other jurisdictions, as long as, prior to the Department's disclosure, those officials or jurisdictions demonstrate by written statement the authority and intent to provide the same confidential treatment required by Article II-A of The Insurance Department Act of 1921 (40 P. S. §§ 65.1A and 65.2A) regarding authority to share confidential information with other Jurisdictions (Act 20 of 1997). The Department may also

share statements filed under this chapter with the National Association of Insurance Commissioners, or successor organization, if that organization agrees in writing prior to receiving the information to provide to it the same confidential treatment as required by Act 20 of 1997.

**APPENDIX A
CERTIFICATION FOR STATEMENT DISCLOSING
MATERIAL TRANSACTION**

CERTIFICATION

The undersigned deposes and says that (s)he has executed the attached Statement of Material Transaction dated _____, _____, for and on behalf of (NAME OF INSURER); that (s)he is the (TITLE OF OFFICER) of such company and that (s)he is authorized to execute and file the attached statement on such company's behalf. Deponent further says that (s)he is familiar with the statement and the contents thereof, and that the facts therein set forth are true and correct to the best of her/his knowledge, information and belief.

(SEAL)

(SIGNATURE OF OFFICER)

(NAME AND TITLE)

Attest:

(SIGNATURE OF OFFICER)

(NAME AND TITLE)

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