



ADMINISTRATIVE RULES OF MONTANA



6.6.3401 STANDARDS FOR EVALUATING FINANCIAL CONDITION OF REGULATED COMPANIES

- (1) The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to its policyholders, creditors, or the general public:
 - (a) adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries;
 - (b) the National Association of Insurance Commissioners (NAIC) Insurance Regulatory Information System and its other financial analysis solvency tools and reports;
 - (c) whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts;
 - (d) the ability of an assuming reinsurer to perform, and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written, as well as the financial condition of the assuming reinsurer;
 - (e) whether the insurer's operating loss in the last 12-month period or any shorter period of time, including but not limited to net capital gain or loss, change in nonadmitted assets, and cash dividends paid to shareholders, is greater than 50% of the insurer's remaining surplus as regards policyholders in excess of the minimum required;
 - (f) whether the insurer's operating loss in the last 12-month period, or any shorter period of time, excluding net capital gains, is greater than 20% of the insurer's remaining surplus as regards policyholders in excess of the minimum required;
 - (g) whether a reinsurer, obligor, or any entity within the insurer's insurance holding company system is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations, and which in the opinion of the commissioner may affect the solvency of the insurer;
 - (h) contingent liabilities, pledges, or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

- (i) whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;
- (j) the age and collectability of receivables;
- (k) whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness, and reputation deemed necessary to serve the insurer in such position;
- (l) whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;
- (m) whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the commissioner;
- (n) whether management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of a material amount in the books of the insurer;
- (o) whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;
- (p) whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems;
- (q) whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles, and standards of practice;
- (r) whether management persistently engages in material under-reserving that results in adverse development;
- (s) whether transactions among affiliates, subsidiaries, or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity, or diversity to assure the insurer's ability to meet its outstanding obligations as they mature; and
- (t) any other finding determined by the commissioner to be hazardous to the insurer's policyholders, creditors, or general public.

Authorizing statute(s): 33-1-313, 33-2-1517, 33-28-206, MCA

Implementing statute(s): 33-1-401, 33-2-1321, 33-2-1517, 33-28-108, 33-28-109, 33-28-207, 33-30-102, 33-30-105, MCA

History: NEW, 1993 MAR p. 2408, Eff. 10/15/93; AMD, 2011 MAR p. 1128, Eff. 6/24/11; AMD, 2017 MAR p. 1888, Eff. 10/14/17.