

August 14, 2020

Bryan E. Brock
Hearing Officer
Office of the New Mexico Superintendent of Insurance

Via email to OSI-docketfiling@state.nm.us

2020 AUG 17 AM 9:20
FILED
OFFICE OF
SUPERINTENDENT
OF INSURANCE

Re: Docket No. 20-00040-RULE-PC

Dear Mr. Brock:

On behalf of the National Association of Mutual Insurance Companies (NAMIC),¹ thank you for the opportunity to comment on the amendments proposed to Rule 13.2.5 under the docket number referenced above.

As you know, this rule generally adopts amendments to the National Association of Insurance Commissioners' (NAIC's) model annual audited financial report rules, generally to reflect changes to those model rules.

In general, NAMIC encourages OSI to adopt language that tracks the model act as closely as possible. NAMIC also offers the following specific comments:

- The proposed rule would delete section 13.2.5.9(C) of the current rule, which grants an automatic extension to the filing of management's report of internal control over financial reporting if an extension is granted for filing the annual audited financial report. This may be because the new rule language assumes that both reports would automatically be subject to the same extension, anyway, but for clarity and consistency NAMIC requests that OSI maintain the model language, which includes the automatic extension.
- New section 13.2.5.16(B), which relates to the duties of an audit committee, deviates slightly from the model act language by removing the proviso that this requirement only applies if an internal audit function is required. NAMIC would recommend tracking the model act by adding the clause, "if required by 13.2.5.17 NMAC" to the end of subsection B.

¹ NAMIC is the largest property and casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies as well as some of the country's largest national insurers. Nationally, NAMIC members companies write \$273 billion in annual premiums, and our members account for 58 percent of homeowners, 44 percent of automobile, and 30 percent of the business insurance markets.



Bryan E. Brock
August 14, 2020

- New section 13.2.5.17(E)(2), in the second to last line, contains a typographical error; the word “excluding” is misspelled.
- The revised language in section 13.2.5.23(G), relating to the confidentiality of a management report on internal controls required to be reported under the rule, varies from the model and arguably creates ambiguity about the appropriate confidentiality standard. As the NAIC model rule and current NMAC provision recognize, information reported under this rule should be protected from disclosure. The model rule and the current NMAC rule provision state simply that this information “shall be kept confidential.” The proposed change would provide that the information “will be kept confidential by the OSI in accordance with state law.” This change could create arguments as to what other provisions of state law might apply and limit the confidentiality of the information. NAMIC recommends retaining the clearer language in the current rule, which tracks the model act.
- New section 13.2.5.26(C)(1), in the third line, contains a typographical error; the word “superintendent” is misspelled.

Thank you again for the opportunity to comment on this rule. Please feel free to contact me if I may provide additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Schnautz'.

Jon Schnautz
Regional Vice President
Southwest Region
National Association of Mutual Insurance Companies (NAMIC)