

8/3/92

**STATE OF MINNESOTA  
DEPARTMENT OF COMMERCE**

**In the Matter of the Proposed  
Adoption of the Rule Relating  
to Insurance Holding Company Systems**

**STATEMENT OF NEED  
AND REASONABLENESS  
OF PROPOSED RULES**

**STATEMENT OF AUTHORITY**

Minnesota Statutes Section 60D.23 permits the Commissioner of Commerce to adopt rules to carry out the provisions of Chapter 60D governing Insurance Holding Company Systems. These rules are proposed pursuant to that authority and authority granted the Commissioner under Minnesota Statutes Section 45.023. The purpose of the rules is to provide procedures to be followed by members of an insurance holding company system to adequately inform the public, the Commissioner, shareholders and policyholders of proposed changes in control of the holding company system. The proposed rules would conform the rules with national model regulations.

**FACTS ESTABLISHING NEED AND REASONABLENESS**

Adoption of the proposed Insurance Holding Company Rules is one of the final stages of an upgrading of insurance regulation which began in Minnesota several years ago with the combined Department-Insurance Industry Task Force on Solvency ("Task Force"). The enhancement of insurance regulation has been pursued on a national level by the National Association of Insurance Commissioners (NAIC) through its accreditation process. In both instances, the concern about the solvency of life and health insurance companies resulted in recommendations to improve the regulatory structure as well as the statutory investment and operational requirements for life and health insurance companies.

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Similar requirements, at least in Minnesota, have also been pursued in regard to property and casualty companies.

In Minnesota, the Task Force produced a report which required a number of statutory and other changes. At the same time, the NAIC developed a number of model laws and regulations, as well as other standards and criteria, which each state was required to adopt in order to be accredited. The accreditation process of the NAIC is intended to set minimum standards for each state's insurance department. Achieving these standards results in the department being accredited. Without accreditation, the examinations and reports on the financial condition of insurers, primarily of domestic insurance companies, performed by the department need not be given full faith and credit by the other states in which these companies are doing business. Accordingly, those states can conduct their own examinations of Minnesota domestic insurers. As these examinations are rather expensive and time consuming, duplication would impose a severe financial burden on domestic insurers of a non-accredited state. The insurers must pay the department's examination expense. Consequently, the Minnesota domestic insurance industry has fully supported the accreditation process.

The accreditation process, as well as the work of the Task Force has performed a significant public service because increased regulation and better standards reduce the likelihood of insolvency and loss to policyholders. The insurance industry benefits by not having to pay, through the guaranty associations and similar means, the cost of insurance failures. The state gains through increased confidence in the insurance products being sold in Minnesota. In addition, by preventing insolvencies that involve domestic insurers, Minnesota maintains jobs and income for its residents.

The NAIC accreditation process and the Task Force's work were combined and codified into the 1991 Solvency Bill (Chapter 325 of the 1991 Session Laws). Under this bill, the legislature adopted all of the NAIC model acts not previously enacted in Minnesota, and brought previously adopted model acts into conformity with the current NAIC versions of those acts. In addition, the 1991 Solvency Bill granted the Department of Commerce other powers recommended by the Task Force and all authority believed to be necessary for the Department to receive NAIC accreditation. It was a full and unqualified endorsement of the process. The 1991 Solvency Bill passed unanimously in both houses with very vocal support, particularly concerning those portions of the law that would ensure public protection from future insurer insolvencies. Specific references were made by legislators to major insolvencies that received so much press coverage in the last year.

One of the model laws previously adopted in Minnesota which needed to be amended to conform with the new NAIC models was the Insurance Holding Company Act, codified as Minnesota Statutes Chapter 60D. Due to changes in the nature of holding companies operations, as well as the discovery of inadequacies in the prior law a number of substantial changes were made by the 1991 legislature. As a result of the changes to Chapter 60D in 1991, it became necessary to amend Minnesota Rules Chapter 2720 to reflect the new requirements and, in some cases, the new terminology and styles of the amended Chapter 60D. Adoption of the proposed rules is necessary to complete the process of conformity with the NAIC standards for accreditation. Failure to do so would jeopardize the accreditation of Minnesota and, as importantly, would leave Minnesota with regulations that are inconsistent with the current law.

Additionally, filings in Minnesota under the Act are also generally made in several states since a holding company usually

does business in more than one state. The change of control in a holding company will thus trigger filing requirements in numerous states. To reduce the administrative burden and allow the various states to meaningfully communicate with each other and with the insurer regarding the acquisition at issue, it is important that the form of the materials submitted be as uniform as possible. Adopting the national model regulation in this instance is the most effective means to assure uniformity and efficiency in communication.

### **ANALYSIS**

As more specifically stated in the following paragraphs, the proposed rules are necessary to bring established procedures into conformity with recent changes in Minnesota Statutes Chapter 60D and the NAIC model regulation.

#### **PART 2720.0100 DEFINITIONS**

Part 2720.0100 defines terms as they relate to the Insurance Company Holding Systems Act (the "Act") under Minnesota Statutes Chapter 60D and the reporting requirements specifically described in these rules. These definitions clarify the terms used in the body of the rules.

**Subpart 1. Scope.** This subpart has been amended to simplify the language and remove archaic and unnecessary terminology. The last portion of this subpart has been deleted, since the language is redundant of provisions found elsewhere under Minnesota law.

**Subpart. 2. Acquisition filing statement.** This subpart has been amended to update the statutory reference to the Act to conform with the new codification passed by the legislature in 1991. There is no substantive change to this subpart.

**Subpart. 3. Act.** This definition has been deleted because the term "act" throughout the rules has been replaced with updated statutory citations. The term "act" referring to Chapter 288 of the 1971 Laws of Minnesota was not current or as precise as references to specific sections of Minnesota Statute Chapter 60D.

**Subpart. 4. Company.** This definition is no longer relevant, since the legislature amended the Act in 1991 to include "company" under the definition of "person". References in the rules to person now incorporate references to companies as well.

**Subpart. 5. Executive officer.** This subpart has been amended to conform with the language in the NAIC model regulation thereby assuring uniformity in all states where filings under the Act will be required. The change in terminology is designed to incorporate updated title designations and to be more descriptive of job responsibilities.

**Subpart. 7. Registration statement.** The statutory reference has been amended to conform with the new codification passed by the legislature in 1991. There is no substantive change to this subpart.

**Subpart. 8. Ultimate controlling person.** This change parallels the change made in the Act in 1991 and in the NAIC model regulation language. The term "controlling person" incorporates both individuals and companies, and thus more appropriately defines the person or entity in control of the holding company operation than the former terminology. It clarifies previous ambiguity as to the application of the Act and the rule where the voting power and controlling interest of the insurance holding company system was in the hands of an individual person and not a company.

**PART 2720.0200 AUTHORITY**

This part has been deleted because it is redundant. Minnesota Statutes Sections 60D.23 and 45.023 set forth the authority for promulgation of these rules. The repeal of this part is intended to help streamline the rules and remove superfluous provisions.

**PART 2720.0350 SEVERABILITY CLAUSE**

This part adopts the language of the NAIC model regulation. It is intended to preserve the balance of these rules in the event that any one part or subpart is deemed by a court or other enforcement authority to be invalid or in violation of other state or federal law. While Minnesota law already provides for this, the NAIC auditors want to see this language included in the rules to be absolutely sure that the balance of the rules will remain in effect.

**Part 2720.0400 APPROVAL OF ACQUISITION OF CONTROL**

This part has been changed for clarification purposes. Under Minnesota Statutes, Section 60D.17, subdivision 4, the Commissioner must hold a public hearing only before denying an application of control acquisition. It is permissible to hold hearings even if they are not mandatory. The rule was amended to make this clear. This part is intended to explain that there may be some instances where a hearing is desirable even though the Commissioner has no inclination of denying the application.

The rule also makes it clear that the hearing is not mandatory except as required by Minnesota Statutes Chapter 60D. The Commissioner determines when to hold an informational public hearing. There is no absolute right to a hearing except if denial of the application is expected.

**PART 2720.0500 EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS**

The requirements of Part 2720.0500 mimic similar provisions found in the NAIC model regulation and, in other instances, repeat the

mandates of Minnesota Statutes Section 60D.20. The detailed information and disclosures required under this part of the rules are designed to protect the shareholders and the public by making insurers accountable for all dividends paid out or other distributions made to shareholders.

**Subpart. 1. Format for Request.** Pursuant to Minnesota Statutes Section 60D.20, subdivision 2, an insurer must request approval for disbursement of extraordinary dividends or other types of extraordinary distribution to shareholders. This subpart has been amended to require, in the request for approval, disclosure of the amount of the proposed dividend. This is an essential piece of information for the Commissioner to have in order to carry out the duties of review and approval of the distribution, as required by the above referenced statute.

Subpart 1 D is being changed to require the filing of detailed calculations and work papers used to determine the proposed extraordinary dividend. Minnesota Statutes Section 60D.20, subdivision 2 sets out certain limitations on dividend payments. The calculation process used to show that the dividends are within these limitations is best illustrated in tabular form. The rule identifies specific items to be shown as part of the calculations and work papers, all of which are necessary for the Commissioner to determine the appropriateness of the dividend or distribution. The information described in the rule is identical to the items listed under the corresponding provision in the NAIC model regulation. The work papers make the proposed dividend or distribution easily verifiable and discernable when compared with the records upon which they are based.

Item (1) under subpart 1D has been changed by adding that the form of payment must be disclosed with respect to all dividends or distributions. Although this change appears to be a simple one, the form of payment can be pertinent in terms of the

appropriateness of the distribution. This subpart also includes new language which is required because of recent legislative changes that allow the insurer to exclude from the disclosures required under this subpart information about distribution of the insurer's own securities. Minnesota Statute Section 60D.20, subdivision 2, now specifically excludes these securities from disclosure requirements, because such distributions presumably have no significant effect on the transaction under scrutiny.

Items (2) through (5) of subpart 1D have been added to conform the rule with the NAIC model regulation. Minnesota Statute, Section 60D.20, subdivision 2 (b) lists certain criteria to be used in determining whether the distribution is extraordinary. The criteria set forth in the statute are repeated under Items (2) through (5) of this subpart. By requiring specific and separate disclosures as outlined in Items (2) through (5), the Commissioner will be in a position to evaluate the existence of an extraordinary dividend or distribution.

**Subpart 2. Report of Distributions.** This subpart is intended to clarify the relationship between two sections of Minnesota Statutes, Chapter 60D. Pursuant to Minnesota Statute, Section 60D.19, subdivision 5, each registered insurer must report to the Commissioner all dividends and other distributions to shareholders within 15 business days following declaration of the dividend or distribution. Subpart 2 of Part 2720.0500 makes it clear that the reporting requirement under the above-referenced statute also applies to the declaration of extraordinary dividends or other distributions. Subitems (4) and (5) referred to in Subpart 2 are necessary for purposes of determining the existence of extraordinary dividends or distributions. Pursuant to Minnesota Statutes, Section 60D.20, subdivision 2, the Commissioner has 30 days after declaration of an extraordinary dividend to review and approve or disapprove the dividend or

distribution. The language of this subpart is similar to that found in provisions of the NAIC model regulation.

**Part 2720.0600 ADEQUACY OF SURPLUS**

The statutory reference to "act" under this part of the rules has been eliminated and replaced with a reference to Minnesota Statute Chapter 60D, to conform with the new codification passed by the legislature in 1991. There is no substantive change to this part.

**Part 2720.1100 FORMS**

The first sentence of this part has been amended to include references to all of the forms described at the end of the chapter. This part lists general requirements as to the filing of any or all of the forms required pursuant to the Act or these rules. Other changes in the first paragraph of Part 2720.1100 are for grammatical or clarification purposes and are not substantive.

Under the second paragraph of Subpart 2, an insurer is required to file a copy of the summary statement on Form C with all states in which it is authorized to do business and where the commissioner of that state has requested such filing of the insurer. This provision is included under this rule pursuant to the authority of Minnesota Statute, Section 60D.19, Subdivision 1. This provision is also consistent with the NAIC model regulation. This filing requirement is intended to expedite the reporting of changes in holding company systems registration statements to other states without the need for the other state to formally request the full-blown registration information on Form B. By requiring insurers to supply a copy of the Form C to other state regulators as a part of this rule, insurers become subject to sanctions in Minnesota for failure to file a Form C in another state as requested by the other state's commissioner. Minnesota may be in the best position to exert the maximum

leverage to assure nationwide compliance by the holding company with other state laws. Reciprocal enforcement among state regulators promotes consistency in regulation of insurers and holding companies nationwide.

**PART 2720.1200 INCORPORATION BY REFERENCE, SUMMARIES AND OMISSIONS**

Parts 2720.1200 through 2720.1500 contain general information to be used by the insurer in completing the disclosures required by the Act. Since the Act was amended last year to add two new types of disclosures, the rules were necessarily modified to include Forms C and D at the end of this chapter. To ensure consistency in the way that all of these forms are being completed, Parts 2720.1200 through 2720.1500 have been changed to include references to Forms C and D as well as Forms A and B.

Under Part 2720.1200, insurers making filings can refer to documents filed with Commissioner within the previous three years without including a copy of the document as an exhibit. This change was prompted by the Department's record retention schedule. Due to limited storage space and the voluminous documents filed with the Department, the Department does not keep copies of filed documents beyond three years. Consequently, there is no guarantee that the information filed more than three years before the current filing date would be available for review by its current Department examiners. Insurers or companies can still make references to documents filed more than three years ago, but they must attach a copy as an exhibit.

Part 2720.1200 has also been changed to require the insurer to list the date that the document incorporated by reference was actually filed with the Department of Commerce. The date of filing is obviously required for ease in finding the documents that the company intends to rely upon by cross-reference. Other amendments in this paragraph are grammatical and not substantive.

The last sentence of Part 2720.1200 has been deleted because it appears to be unnecessary. Oftentimes it is more burdensome for the entity making the filing to detail the differences between two similar documents than it would be to file both documents.

**PART 2720.1300 INFORMATION UNKNOWN OR UNAVAILABLE**

**Subpart 2. Extension of time.** The first sentences has been changed to eliminate awkward language and legalese. The references to application in the second sentence are confusing and have been changed to "request for extension of time" to better identify what is being asked for by the applicant. No substantive changes have been made to this section.

**PART 2720.1400 ADDITIONAL INFORMATION AND EXHIBITS**

All of the changes made to this part are intended to clean-up the language of this provision to clarify the original intent of rule. There has been no substantive change to this part of the rules.

**PART 2720.1500 AMENDMENTS**

This part has been amended to reflect the fact that there are now four forms incorporated as part of these rules. Grammatical changes have been made but they do not result in any substantive changes to this part.

**PART 2720.1600 ACQUISITION FILING STATEMENT**

**Subpart 1. Statement required.** Part 2720.1600 states that Form A is the form to be filed with the Department to comply with the statutory filing requirements under Minnesota Statutes Sections 60D.17 and 60D.18. Subpart 1 has not been changed in any substantive way. The statutory citation has been changed from "act" to a more specific reference to the current statute section under Chapter 60D (which reflects the recodification of this statute in 1991). Other changes to this subpart are simply grammatical changes for clarification purposes.

**Subpart 2. Amendments.** This part has been changed to make the text clearer and easier to read. The word "promptly" in this subpart was determined to be too indefinite. The Department considers the acquisition filing statements to be a top priority, since they involve control of domestic insurers. It is essential to have immediate disclosure of any changes in the information furnished to the Department on the original acquisition filing statements. Such amendments could affect the Commissioner's decision with respect to approval or disapproval of the merger or acquisition. Consequently, it is extremely important that any change in the information on the filing statement be submitted to the Commissioner within one business day of the change to ensure that the decision is based on the most current and accurate information possible.

**Subpart 3. Acquisition of other insurers.** Minnesota Statutes Section 60D.18 establishes certain notification and approval requirements for mergers involving any insurer authorized to do business in Minnesota, even if the insurer is not domiciled in this state. This statute potentially makes a non-resident insurer (as determined by other section of Minnesota insurance law) a "domestic insurer" for purposes of complying with the Act. This subpart has been amended to conform with the NAIC model regulation which refers to these insurers as "domestic insurers." Based on changes to the NAIC model regulation and to Minnesota Statutes Section Chapter 60D, it is no longer accurate to refer to "securities of other insurers" in terms of state regulation of mergers or acquisitions. Mergers or acquisitions subject to state regulation could involve acquiring something other than the voting securities previously referred to in subpart 3 of Part 2720.1600. The amendments to subpart 3 involve changes in the titles used to describe the persons or entities that need to comply with the rule. The basic requirement of this subpart (i.e., how to list the name of the person or entity on the cover page of the filing statement) remains unchanged.

**PART 2720.1700 ANNUAL REGISTRATION OF INSURERS; STATEMENT;  
FILING**

The title of this part has been changed to more accurately describe the contents of this part of the rules. The modifications to this part are not substantive. The filing required under this part involves insurers of the holding company system and must be made annually.

**Subpart 1. Statement required.** This subpart has been amended to conform with the requirements of Minnesota Statutes, Section 60D.19, subdivision 1. These changes clarify that the filing is required annually on March 1, as is set forth in the statute. This subpart now specifically refers to Form B as it appears in Part 2720.9920 of the rules.

**Subpart 2. Summary of Registration.** This subpart is new and is intended to give effect to Minnesota Statutes Section 60D.19, subdivision 3. This statute requires all persons filing a registration statement to also file a summary statement that outlines any changes on the registration statement currently being filed as compared with the prior registration statement filed the previous year. The NAIC model regulation contains this provision and sets out the recommended format for the outline, which has been added to these rules as Form C under Part 2720.9930.

Subpart 2 also includes the NAIC model regulation provision that requires an insurer to file a completed copy of Form C in each state in which the insurer is authorized to do business, if required by the commissioner of that state. The significance of this provision is discussed under Part 2720.1100 of this Statement of Need and Reasonableness.

**Subpart 3. Amendments.** The changes made to the first paragraph of this subpart are for clarification purposes. References to

Form B and to the annual registration statement more clearly identify the documents being discussed in this subpart.

The second paragraph of this subpart has been modified to conform with the NAIC model regulation and to simplify the filing process for the insurer. A person need only file an amendment report for those items on Form B that contain changes, since the original Form B was filed with the Commissioner. This subpart also establishes a marking method for the cover pages of these amendments that enables the Department to track and sequence the amendments being made to Form B filings.

**Subpart 4. Alternative and consolidated registration.** Items A, D and E of this subpart each contain changes to the statutory references to the Act to conform with the new codification of the Act in 1991. Item D also contains a grammatical change to make the reference to Commissioner gender neutral.

Item A of Subpart 4 includes clarification language that is recommended in the NAIC model regulation. The amendment makes it clear that an insurer can choose to include additional information it may deem to be relevant to the filing, even if such information is not required by the Act. An example of this situation might be if a foreign insurer is the leading participant or insurer of a holding company group but it is not otherwise authorized to do business in Minnesota. It might be important for the entities that must file statements in Minnesota under the Act to include in the alternative or consolidated registration statements specific information on this foreign insurer for a complete understanding of how the holding company operates. The change to Subpart 4, Item A makes it clear that the person filing the statement would be allowed to include such information.

**PART 2720.2000 TRANSACTIONS SUBJECT TO PRIOR NOTICE**

Minnesota Statutes, Section 60D.20, subdivision 1(b) establishes the requirement for domestic insurers and any person in the holding company system to give at least 30-days advance notice to the Commissioner of specific proposed transactions. The advance notice is required for any material transactions involving an insurer in a holding company that may adversely affect the interests of the insurer's policyholders. Part 2720.2000 has been added to these rules to identify Form D (found under Part 2720.9940) as the official format for the notice required by this statute. Part 2720.2000 and Form D are identical to provisions in the NAIC model regulation.

**PART 2720.9910 FORM A; ACQUISITION FILING STATEMENT**

As discussed previously in this Statement of Need and Reasonableness, the NAIC has prepared forms for use by insurers or other persons making filings pursuant to the Act which can be filed in every state that has jurisdiction over the transaction. By using these uniform filing statements, states eliminate or reduce the burden on insurers who must make filings in more than one state. Forms A and B have already been adopted in Minnesota under Parts 2720.9910 and 2720.9920. Most of the changes being made to Forms A and B involve changes in statutory citation or grammatical changes which are not substantive.

Item 2(c) has been amended to refer to the ultimate controlling person, as it is now defined under subpart 8 of Part 2720.0100. The term "involving" is more accurate than "looking toward".

Item 3, as well as the Certification section of Form A, include changes to make the references to "applicant" gender neutral.

Item 3(d) has been changed to require the applicant to give a detailed listing and discussion of any criminal inquiries, investigations or convictions involving the applicant that

occurred within the ten years immediately preceding the filing of the Form A. The detailed information requested of the applicant under this item is similar to the information requested of persons seeking insurance or real estate licenses from the Department of Commerce. Persons filing a Form A and any executive officer, director or ten percent shareholder of the entity filing a Form A could have substantial control or influence over a domestic insurer. The character of these persons is critical to the Department's analysis with respect to any criminal investigation or conviction of individuals in control of the holding company or related entities. In order to evaluate the appropriateness of the proposed acquisition and to adequately protect the interests of Minnesota residents who might be involved with the applicant, the Commissioner must have a detailed response to the information requested under Item 3(d).

Item 4 deals with disclosure of the type and amount of consideration involved in the transaction. Such disclosures assist the Commissioner in analyzing the applicant's financial capability to effect the transaction. The changes to this section of the rule are intended to require an applicant to also disclose any interest in a domestic insurer that might have been accumulated before notification of the current proposed merger was made to the Commissioner pursuant to Minnesota Statutes Sections 60D.17 or 60D.18. The fact that a portion of the consideration was paid prior to the filing of Form A can be an important factor in the Commissioner's analysis, since it affects the overall financial status of the participants in the transaction.

The signature section of Form A has been revised to update and correct references to Minnesota Statutes Section 60D.17 and Part 2720.1100.

**PART 2720.9920 FORM B. ANNUAL REGISTRATION STATEMENT**

The changes made to this part and more fully described below were designed to conform Form B to the NAIC model regulation language. Item 1 has been added in as a paragraph heading to correct an omission from the first promulgation of this rule.

Item 2 includes a change from the term "ultimate holding company" to "ultimate controlling person". This change is necessary for consistency with the definition found under Part 2720.0100, subpart 8.

Item 2 also contains a new provision that limits the ability of the registrant to exclude an affiliate from disclosure on the organizational chart if the affiliate has assets valued at or above \$250,000. The NAIC model regulation includes comparable language, but leaves the decision of the threshold amount to the individual states for their determination as to what would be a reasonable level. Over the past several years, it has become apparent that the identity of affiliates with assets over \$250,000 can be important, especially if the holding company is relatively small. Establishing the threshold for disclosure at \$250,000 is intended to give the Commissioner relevant information concerning the holding company or registrant, while minimizing burdensome reporting requirements on the registrant. Any threshold limit set higher than \$250,000 could result in incomplete information about the registrant and hinder a sound evaluation of the registrant by the Commissioner.

Item 3 again involves changing the old reference of ultimate holding company to ultimate controlling person. See the discussion under Part 2720.0100, subpart 8 for further details. Changes to "person" or "individual" under Item 3 are needed since the change in terminology to "ultimate controlling person" in the Act incorporates individuals as well as companies. Other changes

in Item 3 are grammatical and not substantive.

Item 4 requires disclosure of biographical data on the individuals in charge of the ultimate controlling person. This disclosure requirement is more detailed than the one included in the NAIC model regulation. The language added to this item concerning disclosure of criminal or administrative inquiries, investigations or convictions is virtually identical to the language added to Item 3(d) of Form A under Part 2720.9910. The explanation of the need and reasonableness of this language found under Item 3(d) of Part 2720.9910 applies equally to the changes proposed to Item 4 of Form B.

Item 5(a) has been modified to clarify that the report on Form B should specifically include any information concerning business activities that have taken place since the filing of the last Form B so that the decision of the Commissioner is based on the most current information possible. This change is in the NAIC model regulation. It does not incorporate a substantive change, simply a clarification.

Other subdivisions of Item 5(a) of this part have been amended in the proposed rules. Subdivisions (5) through (9) have been either modified or added to bring the rules into conformance with Minnesota Statutes, Section 60D.19, subdivision 2 and the NAIC model regulation. Subdivisions (5) and (6) of Item 5(a) have been changed because disclosure of all management and service contracts, and all reinsurance agreements may be significant in evaluating the operations and financial status of the registrant. Subdivisions (7) through (9) of Item 5(a) are taken verbatim from the statute. Inclusion of these reporting requirements on Form B provides the method by which an registrant will comply with the Act.

The final amendments to Item 5 of this part were made to correct ambiguities and to eliminate awkward language. In the event that there is an issue as to what information would be material in a filing statement, the second to the last paragraph of Item 5 was modified to clarify that the Commissioner has the authority to evaluate such issues.

Items 6 and 8 of Form B include changes to conform the references from ultimate holding company to ultimate controlling person, as defined under Part 2720.0100 subpart 8.

Item 7 relates to changes made in 1991 to Minnesota Statutes, Section 60D.20, subdivision 1 (c). This statute prohibits a domestic insurer from entering into "transactions which are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amounts and thus avoid the review that would otherwise occur." See Minnesota Statutes Section 60D.20, subdivision 1(c). The language added to the proposed rule as item 7 is identical to the language of this statutory section and to the NAIC model regulation. The disclosures required under Item 7 of Form B are necessary in order for the Commissioner to be able to properly examine the insurer making the filing, and if necessary, to exercise the authority granted under Minnesota Statutes, Section 60D.25.

Item 9 incorporates the method of complying with Minnesota Statute Section 60D.19 subdivision 3 and Minnesota Rules Part 2720.1700 subpart 2. See discussion under this Statement of Need and Reasonableness pertaining to Part 2720.1700.

The Signature section of Form B has been changed to refer to the new codification of the Act as Minnesota Statutes Chapter 60D. The Certification section of Form B has been amended to make references to the Commissioner gender neutral.

**PART 2720.9930 FORM C; REGISTRATION SUMMARY STATEMENT**

As discussed previously in this Statement of Need and Reasonableness under Part 2720.1700 subpart 2, the Minnesota Legislature adopted the NAIC model act which includes a provision requiring all persons filing a registration on Form B to also file a summary statement on Form C. This summary statement describes changes in information on the Form B currently being filed as compared to the Form B filed the previous year. See Minnesota Statutes Section 60D.19 subdivision 3. This Part 2720.9930 referred to as Form C sets out the format to be used by registrants to outline these changes. This Form C is identical to the Form C included in the NAIC model regulation.

**PART 2720.9940 FORM D; TRANSACTION NOTICE**

Form D set forth under this part of the rules is identical to the Form D in the NAIC model regulation. As described more fully under Part 2720.2000 of this Statement of Need and Reasonableness, Minnesota Statutes Section 60D.20 requires prior disclosure of certain transactions, because those transactions could adversely affect the interests of the policyholders of the insurer subject to the proposed transaction. The format of Form D has been chosen because it will conform with the NAIC model regulation.

By adopting forms in Minnesota that conform with the NAIC model forms, the Department will make it easier for insurers to file disclosure documents in more than one state. The information required on Forms A through D will provide all of the disclosures necessary under Minnesota Statutes Chapter 60D. In addition, these forms will be accepted and given full faith and credit in other states accredited by the NAIC. Adoption of uniform rules with respect to insurance holding company systems is intended to reduce the burden on insurers doing business in more than one state, by minimizing the number of different reporting forms to be filed in these states.

### **SMALL BUSINESS CONSIDERATIONS**

The insurance holding company rules are applicable only to insurance companies and in particular insurance holding companies and their relationships with the insurance companies they own or are acquiring. Accordingly, we do not believe that there is any way that the rules would be applicable to a small business as defined by Minnesota Statutes, Section 14.115.

Accordingly, in considering matters raised under Minnesota Statutes, Section 14.115, Subdivision 2, we determined that there was no need to establish less stringent compliance or reporting requirements for small businesses under item (a) as no small businesses were subject to the rules. Even if they were, since the purpose of the rules is to protect the policyholders and the solvency of the companies involved, less stringent compliance and reporting requirements would be at odds with the purposes and intent of the rules and the enabling legislation.

As to items (b), (c), (d) and (e) the same rationale and evaluation was performed and the same result was reached. Small businesses were not included in the rulemaking process on a special basis because the Department was not aware of any small business that would be effected by the rules.