



# *Vermont . . .*

**Department of Banking, Insurance, Securities  
and Health Care Administration**

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## Regulation 97-5 Mutual Insurance Holding Companies, Revised

### Section

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### §1. Purpose

This regulation is intended to implement the provisions of Title 8, Chapter 101, subchapter 3A.

### §2. Authority

This regulation is issued pursuant to the authority vested in the Commissioner of Banking, Insurance, Securities and Health Care Administration by Title 8, Section 75 and Chapter 101, subchapter 3A and subchapter 13.

### §3. Definitions

- (1) “Adoption date” means the first date any board of directors of a domestic or foreign mutual insurance company or a mutual insurance holding company initially adopts a plan of reorganization.
- (2) “Affiliate” of, or person “affiliated” with, a specific person, means a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.
- (3) “Commissioner” means the Commissioner of Banking, Insurance, Securities and Health Care Administration.

(4) “Control” means the possession, direct or indirect, of the power to direct or cause the direction of management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person.

(5) “Division” means the Vermont Insurance Division.

(6) “Domestic mutual insurance company” means an insurance company organized on a mutual plan and incorporated under the laws of Vermont.

(7) “Effective date” means the date upon which the reorganization of a domestic or foreign mutual insurance company or mutual insurance holding company shall be effective subject to the rights of dissenting members or policyholders in accordance with this regulation.

(8) (A) “Independent Director” means:

(i) A person who is not and has never been an officer or employee of a mutual insurance holding company or a member of the immediate family of such person;

(ii) A person who is not currently and has not been within the past five years an officer, employee or 5% shareholder of an affiliate of a reorganized insurer created by a plan of reorganization, a reorganized insurer or a member of the immediate family of such person;

and

(B) A person who is or becomes, on or after the date of an initial stock offering, a director of an entity created under the plan of reorganization is not an independent director of any other entity created under the plan of reorganization.

(9) “Interested person” of another person means:

1. Any affiliated person of such company;

2. Any member of the immediate family of any natural person who is an affiliated person of such company. Immediate family includes parents, spouse of a parent, child, spouse of a child, spouse, or sibling, including step and adoptive relationships;

3. Any person or partner or employee of any person who at any time since the beginning of the last two completed fiscal years of such company has acted as legal counsel for such

company; or

4. Any natural person whom the Commissioner by order shall have determined to be an interested person by reason of having had, at any time since the beginning of the last two completed fiscal years of such company, a business or professional relationship with such company or with the principal executive officer of such company.

(10) "Member" means a person who, by the records of the domestic or foreign mutual insurance company, is deemed to be a policyholder of a policy or annuity contract of such insurer. On or after the effective date of a plan of reorganization that creates a mutual insurance holding company, the term member means a member of the mutual insurance holding company as provided for by 8 V.S.A. §3441(b).

(11) "Membership interests" means, with reference to an entity that is a domestic or foreign mutual insurance company or mutual insurance holding company, the rights of members arising under the articles of association, bylaws or charter of such entity or under this regulation or otherwise by law.

(12) "Mutual insurance holding company" means a holding company organized on a mutual plan and incorporated under the laws of Vermont, resulting from the reorganization of a domestic mutual insurance company pursuant to 8 V.S.A. §3441 with at least one or more stock insurance holding company subsidiaries or stock insurance company subsidiaries.

(13) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, limited liability company, trust, government or governmental agency, state or political subdivision thereof, public or private corporation, board, association, estate, trustee or fiduciary, or any similar entity.

(14) "Plan of reorganization" means a plan to reorganize a domestic mutual insurance company by forming a mutual insurance holding company, to merge a domestic or foreign mutual insurance company into a mutual insurance holding company pursuant to 8 V.S.A. §3442 or to form a stock insurance holding company.

(15) "Policyholder" means the owner of an insurance policy or contract other than a reinsurance contract.

(16) "Reorganized insurer" or "reorganizing insurer" means the stock insurance company into which a domestic or foreign mutual insurance company has been or will be reorganized in accordance with Title 8, Chapter 101, subchapter 3A and this regulation. A reorganized insurer shall be deemed to have been organized as of the original date of organization of the predecessor mutual insurance company.

(17) "Stock insurance holding company" means a corporation at least a majority of the voting securities

of which is owned, directly or through another stock insurance holding company, by a mutual insurance holding company and which holds, directly or indirectly, all the voting securities of the reorganized insurer.

(18) “Stock offering” means any proposed sale, exchange, transfer or other change of ownership of stock or of securities convertible into or exchangeable or exercisable for stock. The term shall not mean an offering of preferred stock which is not convertible or exchangeable into common stock and which has no ordinary voting rights.

(19) “Subsidiary” of a specified person means an affiliate controlled by such person directly, or indirectly through one or more subsidiaries.

(20) “Voting security” means a security which, in law or by contract, gives the holder thereof the right to vote in the election of directors and on any other matters submitted to a vote of shareholders. Voting security includes any security convertible into or evidencing a right to acquire a voting security.

#### §4. Mutual Insurance Holding Company Formation

A. Pursuant to 8 V.S.A. §3441, a domestic mutual insurance company may form a mutual insurance holding company through the application process provided for by this regulation. The reorganizing insurer shall continue, without interruption, its corporate existence as a stock insurance company subsidiary of the mutual insurance holding company or as a stock insurance company subsidiary of an intermediate stock insurance holding company which is subsidiary to the mutual insurance holding company. All of the initial shares of the capital stock of the reorganized insurer shall be issued to the mutual insurance holding company. The mutual insurance holding company shall, directly or indirectly, own at all times a majority of the voting securities of the capital stock of the reorganized insurer. The membership interests of policyholders of the reorganized insurer shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurer shall be members of the mutual insurance holding company in accordance with the charter, articles of association or bylaws of the mutual insurance holding company.

B. Pursuant to 8 V.S.A. §3442, a domestic or foreign mutual insurance company may, in accordance with the application process and other provisions of this regulation, reorganize by merging its policyholders’ membership interests into a mutual insurance holding company and continue the corporate existence of the reorganizing insurance company as a domestic stock insurance company subsidiary of the mutual insurance holding company or as a domestic stock insurance company subsidiary of an intermediate stock insurance holding company which is subsidiary to the mutual insurance holding company.

C. A non-profit domestic mutual insurance company may form a non-profit mutual insurance holding company in accordance with the application process and provisions of this regulation.

D. A stock insurance company subsidiary or intermediate stock insurance holding company subsidiary of a mutual insurance holding company created by a plan of reorganization pursuant to this section may not engage in a stock offering without the prior approval of the Commissioner.

E. Title 8 §3422 and §3423 are not applicable to a reorganization or merger pursuant to this regulation.

F. Title 8 §3422 and §3423 are applicable to the demutualization of a mutual insurance holding company formed pursuant to Title 8, Chapter 101, subchapter 3A and this regulation.

#### §5. Application contents

A. Following the adoption of a plan of reorganization by the board of directors of the applicant, an application for the formation of or merger into a mutual insurance holding company or for the formation of a stock insurance holding company shall be filed with the Division in triplicate and contain the following information:

1. The plan of reorganization adopted by the vote of not less than two-thirds of the board of directors of the domestic or foreign mutual insurance company and, in the case of the formation of an intermediate stock insurance holding company or reorganization of a mutual insurance company into an existing mutual insurance holding company that is not concurrent with the formation of the mutual insurance holding company, by the board of directors of the mutual insurance holding company and certified copies of the approval of its plan of reorganization by not less than two-thirds of the applicant's board of directors;
2. The proposed charter, articles of association and bylaws for the mutual insurance holding company specifying all membership rights;
3. The proposed charter, articles of association and bylaws for any insurance company subsidiary and for any intermediate stock insurance holding company subsidiary;
4. Information sufficient to demonstrate that the formation of a mutual insurance holding company or merger thereinto shall not involve practices that will cause financial impairment to the reorganizing insurer;
5. Information sufficient to demonstrate that the financial and management resources of the mutual insurance company are sufficient to accomplish the plan of reorganization successfully and that the financial condition of the applicant will not be diminished upon reorganization or merger;
6. Information sufficient to demonstrate that the reorganization or merger is not contrary to the financial interests of the policyholders;

7. Information sufficient to demonstrate that the reorganization or merger would not be unfair to policyholders;
8. A plan to obtain the approval of policyholders in accordance with the applicant's charter, articles of association or bylaws and this regulation;
9. The information required by Regulation 71-2, Form A, item 3 for all corporate officers and members of the initial board of directors of the mutual insurance holding company and of each of the subsidiaries to be created under the plan of reorganization;
10. Information sufficient to demonstrate compliance with the requirements of §5.B.11 of this regulation;
11. Information sufficient to demonstrate that policyholders' interests are protected from unfair subordination to debt holders of the reorganized insurer or any affiliate;
12. The form of notice to be sent to policyholders informing them of their right to vote on and to dissent from the plan of reorganization at a regular or special meeting of the applicant;
13. The form of proxy to be sent to policyholders for voting on the plan of reorganization; and
14. Any other information the Commissioner may request at any time during the application review process.

B. The plan of reorganization shall include the following:

1. The information and provisions required by §7.B. and C. of this regulation, if the plan of reorganization provides for a stock offering;
2. A plan to ensure immediate membership in the mutual insurance holding company of all those who are existing policyholders of the reorganizing insurer as of the adoption date and a description of the membership interest of such members. Such plan shall include a comparison of the current membership interests in the mutual insurance company and future membership interests in the proposed mutual insurance holding company;
3. A plan providing for membership interests of future policyholders;
4. A description of the nature and contents of any report and financial statement to be sent

to each member annually;

5. A plan to establish a closed block for policyholder dividend purposes, if the reorganizing insurer is a mutual life insurance company, consisting of all the participating policies of the reorganizing insurer in force on the adoption date and for which the reorganizing insurer had an experience-based dividend scale payable in the year in which the plan of reorganization was adopted. On or before the effective date, the reorganizing insurer shall allocate assets in an amount that produces cash flows, together with anticipated revenues from the closed block business, expected to be sufficient to support the closed block business including provision for payment of claims and those expenses and taxes specified in the plan. The plan shall provide for continuation of dividend scales in effect on the adoption date if the experience underlying such scales continues. No policies entering into force after the adoption date will be included in the closed block. A plan to provide for participating policies of the reorganizing insurer in a manner other than the establishment of a closed block on the effective date of the plan of reorganization may be provided if such plan is acceptable to the Commissioner and is not unfair to or contrary to the financial interests of the policyholders;
6. A plan to provide for the periodic distribution of accumulated mutual insurance holding company earnings to members or for the reinvestment or other treatment of such earnings. Such plan shall provide that the distribution, reinvestment or other treatment of such earnings shall inure to the exclusive benefit of the members of the mutual insurance holding company. The plan shall also require the Commissioner's prior approval of any distribution of earnings or other payments on account of any membership interest. Any proposed changes to the plan for treatment of mutual insurance holding company earnings subsequent to the approval of the plan of reorganization as provided for by §6 of this regulation require the prior approval of the Commissioner and the members of the mutual insurance holding company;
7. An undertaking that the mutual insurance holding company shall not dissolve or liquidate without the prior approval of the Commissioner unless required by judicial order;
8. The proposed effective date of the reorganization;
9. A description of any fee, commission or other valuable consideration whatsoever, other than their regular salaries and compensation, that a director, officer, agent or employee of the mutual insurance holding company, its subsidiaries or affiliates may be entitled to receive, for in any manner aiding, promoting, or assisting in a reorganization or the structuring or placement of a stock offering. The Commissioner may disallow any fee, commission or other valuable consideration deemed to be unreasonable. The payment of reasonable fees and compensation to attorneys at law, accountants, and actuaries for services performed in the independent practice of their professions, even though the providers of such services are also directors of the mutual insurance holding company, its subsidiaries or affiliates, shall be permitted;

10. A requirement that the mutual insurance holding company adopt articles of incorporation prohibiting any waiver of dividends from stock subsidiaries except under conditions specified in its articles of incorporation and after approval of the waiver by the board of directors and the Commissioner; and

11. A requirement that independent directors form a majority of the board of directors of the mutual insurance holding company and that the boards of directors of the reorganized insurer, each affiliate created by the plan of reorganization and any stock insurance holding company include at least three independent directors.

#### §6. Application Process

A. The Commissioner may require, as a condition of approval of the application, such modifications as the Commissioner deems necessary. The applicant shall accept such required modifications by filing appropriate amendments to the application within 30 days of the date of notice from the Commissioner requiring such modifications or such longer time as the Commissioner may allow. If the applicant does not accept such required modifications by failing to file the required amendments to the application within 30 days or such longer period as allowed by the Commissioner, the application shall be deemed denied.

B. The Commissioner may, in the Commissioner's sole discretion, hold a single public hearing as provided by 8 V.S.A. §3305 to consider an application for the formation of a mutual insurance holding company, intermediate stock insurance holding company and stock insurance company. The public hearing may be adjourned from time to time until all persons with an interest in the application have had an opportunity to be heard. If a hearing is held, the Commissioner shall provide the applicant with reasonable notice of the hearing and the applicant shall provide its policyholders with at least 30 days notice of the hearing by regular mail. The Commissioner shall review additional available and appropriate methods for disseminating Commissioner-approved information to policyholders and require the applicant to utilize those methods designated by the Commissioner. The form of notice to policyholders shall contain such information as required by the Commissioner.

C. Upon receipt by the Division of a completed application including all amendments requested by the Commissioner, the board of directors of the applicant shall approve the final proposed plan of reorganization by vote of not less than two-thirds of the applicant's directors. The Commissioner shall, within 90 days, approve such application unless the Commissioner finds:

1. Disapproval is necessary to prevent practices that will cause financial impairment to the mutual insurance company;

2. The financial or management resources of the mutual insurance company warrant



disapproval;

3. The mutual insurance company fails to furnish the information required by 8 V.S.A. §3441 and this regulation;

4. The mutual insurance company fails to provide certified copies of its final approval of the plan of reorganization by no less than two-thirds of its board of directors;

5. The proposed reorganization would be unfair to policyholders;

6. The proposed reorganization is contrary to the financial interests of the policyholders;  
or

7. The proposed mutual insurance holding company will not promote the general good of the state.

D. Approval of an application shall expire if the reorganization is not accomplished within 180 days of the date of the Commissioner's approval, unless such period is extended by the Commissioner upon a showing of good cause.

E. After approval of the application by the Commissioner and after at least 45 days notice to policyholders, a special or regular meeting of the applicant shall be held to allow policyholders to vote, in person or by proxy, upon the proposed plan of reorganization.

1. Each eligible policyholder shall be entitled to one vote, regardless of the number of policies held, unless the charter, articles of association or bylaws of the applicant provide otherwise. The entity to which any group insurance policy is issued, and not any person covered under the group insurance policy, shall be considered the policyholder for purposes of voting. Policyholders eligible to vote shall be those with a policy in force as of the adoption date.

2. Notice of the pendency of the proposed reorganization and of the effect thereof shall be given by the applicant, in a manner satisfactory to the Commissioner, to all persons to whom the applicant delivers policies or contracts which are issued after the adoption date and prior to the effective date of the plan of reorganization. Except as otherwise provided in this section, such persons shall have the right, unless the laws of their state of domicile provide for other rights, to rescind such policies or contracts and to be refunded any amounts paid with respect thereto, by written notice to such applicant or its agent given within ten days of their receipt of the aforesaid notice given by such applicant. Neither the receipt of such policy or contract nor the right to receive such notice shall entitle such persons to vote on the plan of reorganization. Unless the law of the state of domicile of such persons provides otherwise, such persons shall not have the rights of rescission and refund if, prior to the issuance of a policy or contract, the applicant provides such persons

with notice of the pendency of the proposed plan of reorganization and of the effect thereof, which notice has been approved for such purpose by the Commissioner.

3. The applicant shall give notice of the regular or special meeting by first-class mail to the last known address of each policyholder eligible to vote at such meeting. Notice shall include a copy of the plan of reorganization as approved by the Commissioner. Policyholders may not receive copies of the plan of reorganization prior to its approval by the Commissioner. The applicant may also provide policyholders with a summary of the approved plan, if such summary has the prior approval of the Commissioner. If the meeting of the policyholders to vote upon the plan of reorganization is held coincident with the applicant's annual meeting of the policyholders, only one combined notice of meeting is required.

4. If an applicant complies substantially and in good faith with the notice requirements of this section, the failure of any policyholder to receive any required notice does not impair the validity of any action taken under this section.

5. The applicant shall file with the Commissioner within 30 days of the policyholders' meeting the minutes of the meeting and a certificate setting forth the vote and certifying that the plan of reorganization was approved by not less than two-thirds of the policyholders voting in person or by proxy on the plan of reorganization.

6. Dissenting members or policyholders may petition the Commissioner in accordance with 8 V.S.A. §3429, except the request for a hearing must be filed within 30 days after the regular or special meeting of the policyholders at which the plan of reorganization was approved.

F. At any time before the effective date, the applicant may, by resolution of not less than two-thirds of its board of directors, amend the plan of reorganization or withdraw the plan of reorganization. No material amendments to the plan of reorganization shall be allowed after its approval by the eligible policyholders unless such amended plan of reorganization is submitted to the eligible policyholders for reconsideration as provided by §6.E. No amendment shall be permitted which changes the adoption date of the plan of reorganization.

G. Upon completion of all elements of a plan of reorganization, the applicant shall provide a notice of completion to the Commissioner. If satisfied that the plan, including all required amendments, has been fully completed, the Commissioner shall issue an amended certificate of authority in the name of the reorganized insurer. Duplicate originals of amended and restated charters of the mutual insurance holding company and the reorganized insurer shall be filed in the office of the secretary of state, and shall take effect as of the date of the filing of such originals in such office.

## §7. Stock Offerings

A. A stock offering by an entity created by a plan of reorganization shall not occur without the prior approval of the Commissioner. Approval may only be obtained as provided for in this section.

B. An application for approval of a stock offering shall be filed with the Division and include the following information:

1. A description of the stock intended to be offered by the applicant, including a description of all shareholder rights;
2. The total number of shares authorized to be issued, the estimated number the applicant requests permission to offer and the intended date or range of dates for the offer;
3. A justification for a uniform planned offering price or a justification of the method by which the offering price will be determined;
4. The name or names of any underwriter or syndicate member or placement agent involved and, if known, the name or names of each entity, person or group of persons to whom the stock offering is to be made who will control 5 percent or more of the total outstanding class of shares and the manner in which the offer is to be tendered. If any such entity or person is a corporation or business organization, the name of each member of its board of directors or equivalent management team shall be provided along with the name of each member of the board of directors of the offeror. Copies of any filings with the Securities and Exchange Commission disclosing intended acquisition of the stock shall be included in the application;
5. A description of any stock subscription rights to be afforded members of the mutual insurance holding company in conjunction with the stock offering;
6. A detailed description of all expenses projected to be incurred in connection with the stock offering;
7. An explanation of how funds raised by the stock offering are to be used;
8. A description of any fee, commission or other valuable consideration whatsoever, other than their regular salaries and compensation, that a director, officer, agent or employee of the mutual insurance holding company, its subsidiaries or affiliates may be entitled to receive, for in any manner aiding, promoting, or assisting in the structuring or placement of a stock offering. The Commissioner may disallow any fee, commission or other valuable consideration deemed to be unreasonable. The payment of reasonable fees and compensation to attorneys at law, accountants, and actuaries for services performed in the independent practice of their professions, even though the providers of such services are also directors of the mutual insurance holding company, its subsidiaries or affiliates shall be permitted;

9. A demonstration that, after completion of the stock offering, the mutual insurance holding company shall retain ownership of a majority of the voting shares of the capital stock of the subsidiary stock insurance company as required by 8 V.S.A. §3441(b);

10. A description of any employee stock option or other employee benefit plan of the mutual insurance holding company and any entity created under a plan of reorganization; and

11. Any other information requested by the Commissioner.

C. Any plan for a stock offering shall include the following provisions:

1. A restriction prohibiting officers, directors, employees and interested persons of the mutual insurance holding company and its subsidiaries and affiliates from purchase or ownership of shares of the stock offering or issuance of stock options to or for the benefit of such officers, directors, employees and interested persons, for a period of 6 months following the first date the offering was publicly and regularly traded. The underwriter of an initial public offering shall not reserve any stock for purchase by officers, directors, employees and interested persons of the mutual insurance holding company and its subsidiaries and affiliates at the initial offering price. These restrictions shall not limit the rights of such officers, directors, employees and interested persons from purchasing the stock on the open market consistent with state and federal securities laws or from exercising subscription rights generally accorded members of the mutual insurance holding company, except that pursuant to such subscription rights, the officers, directors, employees and interested persons of the mutual insurance holding company and its subsidiaries and affiliates may not purchase or own in the aggregate more than 5 percent of the stock offering for a period of 6 months following the first date the offering was publicly and regularly traded; and

2. A requirement that, within the board of directors of the corporation offering stock, a pricing committee consisting exclusively of independent directors will have the responsibility to evaluate and approve the price of any stock offering.

D. An entity created under a plan of reorganization may issue more than one class of stock provided, however, that at all times a majority of the voting securities of the capital stock of the reorganized insurer is held, directly or indirectly, by the mutual insurance holding company and, provided further, that no class of common stock may possess greater dividend or other rights than the class held, directly or indirectly, by the mutual insurance holding company.

E. The Commissioner may hold a single public hearing to consider an application for a stock offering. The public hearing may be adjourned from time to time until all interested persons have had an opportunity to be heard. If a hearing is held, the Commissioner shall make an order for the publication of the substance of the petition and the time and place of the hearing three weeks successively in at least

one newspaper of general circulation and provide the applicant with reasonable notice of the hearing. The applicant shall provide its policyholders with at least 20 days notice of the hearing by regular mail which notice has the prior approval of the Commissioner.

F. The Commissioner shall approve the stock offering if :

1. The offering complies with this regulation and other provisions of law;
2. The method for establishing the price of a stock offering is consistent with generally accepted market or industry practices for establishing stock offering prices in similar transactions; and
3. The plan and offering will not be unfair to or contrary to the financial interests of the members of the mutual insurance holding company. In determining whether the plan and offering will not be unfair to or contrary to the financial interests of the members of the mutual insurance holding company, the Commissioner may consider the following factors:
  - a. Whether the offering will dilute current policyholders' interests;
  - b. Whether the plan provides a method either for accumulated earnings, cash or other non-operating assets held by the mutual insurance holding company to be distributed to policyholders or for such earnings, cash or assets to inure to the fair and equitable benefit of the policyholders;
  - c. Whether the offering will introduce shareholders who have interests opposed to those of the policyholders;
  - d. Whether the plan and offering require policyholders to pay additional funds to keep their membership interest; and
  - e. Whether the plan and offering create an opportunity for the officers or directors of the mutual insurance holding company, its subsidiaries and affiliates to enrich themselves at the expense of policyholders.

G. None of the foregoing shall be deemed to prohibit the filing of a registration statement with the Securities and Exchange Commission prior to or concurrently with the giving of notice to policyholders.

H. Notwithstanding the provisions of §7.A. through F., stock offerings which are not an initial stock offering and which offer stock regularly traded on an exchange approved by the Commissioner pursuant to 9 V.S.A. §4203a(6) may be made in accordance with the following procedure:

1. If an entity created by a plan of reorganization intends to make a stock offering that would be governed by the provisions of this regulation, that entity shall deliver to the Commissioner, not less than 30 days prior to the offering, a notice of the planned stock offering and information regarding:

- a. The total number of shares intended to be offered;
- b. The intended date of sale;
- c. Evidence that the stock is regularly traded on one of the public exchanges defined under 9 V.S.A. §4203a(6);
- d. A record of the trading price and volume of the stock during the prior 52 weeks;
- e. A demonstration that, after the completion of the stock offering, the mutual insurance holding company shall retain ownership of a majority of the voting shares of the capital stock of the subsidiary stock insurance company as required by 8 V.S.A. §3441(b); and
- f. Any other information the Commissioner may request.

2. The Commissioner shall be deemed to have approved the sale unless, within 30 days following receipt of such notice, the Commissioner issues an objection to the sale. If the Commissioner issues an objection to the sale, the procedures set forth in §7.A through F. shall be followed to determine whether the Commissioner approves the proposed sale.

I. Approval of a stock offering granted under §7 of this regulation shall expire 180 days following the date of the approval by the Commissioner if the offering has not commenced within that time, except as otherwise provided by order of the Commissioner.

#### §8. Regulation of mutual insurance holding companies and subsidiaries.

A. In order to protect the interests of policyholders of the reorganized insurer as policyholders and as members of the mutual insurance holding company, the Commissioner may issue orders to the mutual insurance holding company, reorganized insurer or affiliate relating to Title 8, an approved plan of reorganization, an approved stock offering plan or this regulation. The Commissioner shall retain continuing jurisdiction over a mutual insurance holding company, stock insurance holding company, reorganized insurer or affiliate to the fullest extent permitted under Title 8 V.S.A. and 15 U.S.C. § 1011, et seq. for the protection of policyholders as policyholders and the interests of policyholders as members of the mutual insurance holding company as provided in Title 8, chapter 101, subchapter 3A

and this regulation. Continuing jurisdiction in the Commissioner to the fullest extent permitted under law provides for the direct and indirect protection and regulation of the relationship between the reorganized insurer and policyholder. The relationships created by a mutual insurance holding company reorganization form an integral part of the policy relationship.

B. A mutual insurance holding company shall make an annual filing with the Division on March 15 which shall include a balance sheet, income statement, cash flow statement, complete information on the status of any provisions for policies in effect as of the adoption date pursuant to the plan of reorganization if applicable and investment plans and policies covering all assets.

C. The majority of the voting securities of the capital stock of the reorganized insurer, which is required by 8 V.S.A. §3441(b) to be owned directly or indirectly at all times by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subjected to a security interest or lien, encumbered or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate stock holding company. Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance or hypothecation or alienation of, in or on the majority of the voting securities of the reorganized insurer, which is required by 8 V.S.A. §3441(b) to be at all times owned directly or indirectly by a mutual insurance holding company, shall be void in inverse chronological order of the date of such conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, hypothecation or alienation, as to the shares necessary to constitute a majority of such voting securities.

D. No person shall borrow funds from a mutual insurance holding company or its subsidiaries and affiliates to finance the purchase of any portion of a stock offering.

E. A mutual insurance holding company, its subsidiaries and affiliates shall file with the Division copies of Form 3, Form 4 and Schedule 13D, or any equivalent filings, within 15 days of filing under the Securities Exchange Act of 1934, as amended.

F. No officer, director, employee, employee benefit plan or interested person of a mutual insurance holding company, its subsidiaries and affiliates shall own greater than 10% of the voting securities of the reorganized insurer or any stock insurance holding company. For the purposes of this subdivision, interested person shall not include affiliated persons of the company.

G. All options for securities offered pursuant to a stock offering by an entity created by a plan of reorganization and issued to officers, directors, employees and interested persons of the mutual insurance holding company, its subsidiaries or affiliates shall be issued at the market price of the underlying security on the date of the granting of the option.

H. The Commissioner may retain, at the expense of the applicant, any consultant or expert as may be reasonably necessary to assist the Commissioner in reviewing any application submitted to the Division under the provisions of this regulation.

§9. Severability

If any provision of this regulation, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

§10. Effective Date

This rule is effective on January 1, 2004.