Wyoming Department of Insurance

Wyoming Insurance Code – Proposed Updates to Chapter 7, Investments

The proposed changes to the statutes are noted in red below.

26-7-102. Definitions of terms used in chapter; determination of net earnings.

(a) As used in this chapter:
(i) "Fixed charges" means interest on funded and unfunded debt amortization of debt discount and rentals for leased properties;
(ii) "Institution" means corporations, joint-stock associations and business trusts;
(iii) "Net earnings available for fixed charges" means net income after deducting operating and maintenance expenses, taxes, other than federal and state income taxes, depreciation and depletion, but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of the institutions involved;
(iv) "Obligations" means bonds, debentures, notes or other evidences of indebtedness.

(v) "Domestic jurisdiction" means the United States, any state, Canada, any province of Canada, or any political subdivision of any of the foregoing.

(vi) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.

(vii) "Foreign investment" means an investment in a foreign jurisdiction, or an investment in a person, real estate or asset domiciled in a foreign jurisdiction. An investment shall not be deemed to be foreign if the issuing person, qualified primary credit source or qualified guarantor is a domestic jurisdiction or a person domiciled in a domestic jurisdiction, unless:

(A) The issuing person is a shell business entity; and

(B) The investment is not assumed, accepted, guaranteed or insured or otherwise backed by a domestic jurisdiction or a person, that is not a shell business entity, domiciled in a domestic jurisdiction.

(C) For purposes of this definition:

(I)"Shell business entity" means a business entity having no economic substance, except as a vehicle for owning interests in assets issued, owned or previously owned by a person domiciled in a foreign jurisdiction;

(II)"Qualified guarantor" means a guarantor against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction; and

(III)"Qualified primary credit source" means the credit source to which an insurer looks for payment as to an investment and against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(viii) "High grade investment" means a credit instrument rated 1 or 2 by the Securities Valuation Office (SVO).

(ix) Securities Valuation Office ("SVO") means the Securities Valuation Office of the NAIC, or any successor office established by the NAIC.

26-7-106. Diversification of and limits on investments.

(a) An insurer shall invest in or hold as admitted assets only categories of investments within applicable limits as follows:

(i) No insurer shall have at any time any combination of investments in or loans upon the security of the obligations, property or securities of any one (1) person, institution, corporation or municipal corporation aggregating an amount exceeding five percent (5%) of the insurer's admitted assets, except this does not apply to general obligations of the United States of America or of any state ~~or~~ and shall not include policy loans made under W.S. 26-7-108 or mutual funds that are registered with the federal securities and exchange commission and are diversified within the meaning of the Investment Company Act of 1940 as from time to time amended. Investments in diversified mutual funds shall be limited to ten percent (10%) of the insurer's admitted assets per fund.

26-7-107. Authorized investments.
(a) An insurer may invest in:

(xv) Nonassessable common stocks, other than insurance stocks, of any solvent corporation organized and existing under the laws of any foreign jurisdiction ~~country~~, any such investment to be subject to the limitations of W.S. 26-7-106. ~~At any one time, the aggregate amount of foreign investments shall not exceed twenty percent (20%) of the insurer's admitted assets.~~

(xvii) Obligations issued by any solvent corporation in a foreign jurisdiction, other than an insurance company, which are traded in the United States on U.S. exchanges and denominated in U.S. dollars and subject to U.S. securities laws. The obligations must be high grade investments and are subject to the five percent (5%) limitation in W.S. 26-7-106(a)(i).

(xviii) Interests in a partnership or limited liability company, if the insurer has one hundred million ($100,000,000) or more in surplus and a total adjusted capital that is at least five (5) times its authorized control level RBC. An insurer's investment in any one partnership or limited liability company shall not exceed five percent (5%) of the insurer's admitted assets. The aggregate of all investments in partnerships and limited liability companies shall not exceed ten percent (10%) of the insurer's admitted assets.

(xix) Securities issued by an exchange traded fund as defined in 17 CFR Section 270.6c-11(a) provided the following conditions are met:

(A) The exchange traded fund is registered under the Investment Company Act of 1940 as from time to time amended;
(B) Shares of the exchange traded fund are registered under the Securities Act of 1933, as from time to time amended;
(C) The exchange traded fund is solvent and reported at least one hundred million ($100,000,000) of net assets in the fund's most recent annual report or more recent audited financial statement; and
(D) Shares of the exchange traded fund are listed and traded on a national securities exchange.

(xx) At any one time, the aggregate amount of foreign investments shall not exceed twenty percent (20%) of the insurer's admitted assets.

26-7-110. Miscellaneous loans and investments.

(a) An insurer may make loans or investments not otherwise expressly permitted under this chapter, in aggregate amounts not over five percent (5%) of the insurer's assets and not over one percent (1%) of those assets as to any one loan or investment, if the loan or investment fulfills the requirements of W.S. 26-7-103 and otherwise qualifies as a sound investment. An insurer with one hundred million ($100,000,000) or more in surplus and a total adjusted capital that is at least five (5) times its authorized control level RBC may make loans or investments not otherwise expressly permitted under this chapter, in aggregate amounts not over ten percent (10%) of the insurer's assets and not over two percent (2%) of those assets as to any one loan or investment, if the loan or investment fulfills the requirements of W.S. 26-7-103 and otherwise qualifies as a sound investment. For all insurers, ~~N~~no such loan or investment shall be represented by:

26-24-129. Home office records and assets; penalty for removal; out-of-state branch operations.

(e) An insurer may request an exemption, in writing, from holding its invested assets at a financial institution that has a physical location in this state if the insurer provides sufficient documentation that the financial institutions in this state do not have adequate technology to support the insurer's required financial reporting requirements and the financial institutions' fees are cost prohibitive for the insurer. The commissioner shall issue an order approving or denying the exemption request within 30 days after all supporting documentation for the request has been received. The commissioner may vacate any previous order upon the determination that there are financial institutions with physical locations in this state that provide adequate technology and competitive fee structures or if the insurer is experiencing material financial solvency concerns. The commissioner shall provide any insurer that has received approval to use an out of state financial institution at least 30 days to return its invested assets to this state. Before moving any of its invested assets, the insurer shall execute a custodial agreement with the financial institution that has been approved by the commissioner.