



PUBLIC PROTECTION CABINET

Andy Beshear
GOVERNOR
Jacqueline Coleman
LIEUTENANT GOVERNOR

Kentucky Department of Insurance
500 Mero Street, 2SE11
Frankfort, KY 40601
Phone: (502) 564-3630

Ray A. Perry
SECRETARY
Sharon P. Clark
COMMISSIONER

Toll Free: (800) 595-6053

ADVISORY OPINION 2023-02

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance ("Department"), on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: INSURERS AUTHORIZED AND LICENSED BY THE KENTUCKY
DEPARTMENT OF INSURANCE TO TRANSACT INSURANCE BUSINESS
IN KENTUCKY

FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE

RE: MANAGEMENT'S REPORT OF INTERNAL CONTROL OVER FINANCIAL
REPORTING

DATE: January 3, 2023

Effective Date

This advisory opinion is effective immediately.

Purpose

This advisory opinion is intended to explain the reporting of Management's Report of Internal Controls to the Commonwealth of Kentucky Department of Insurance ("Department"), pursuant to the filing requirements of Kentucky Revised Statutes ("KRS") 304.3-240, and Kentucky Administrative Regulation ("KAR") 806 KAR 3:170 Section 16 (1)(a).

Interpretation

In accordance with KRS 304.3-240 and 806 KAR 3:170 §16(1)(a), insurers are required to file the report of internal control over financial reporting by August 1st of the current year¹ when they exceeded the \$500,000,000 threshold in the previous year, subject to the grace period outlined below.

806 KAR 3:170 Section 16 (1)(a) establishes the requirement for the report of internal control over financial reporting:

Except as established in subsection (2) of this section, every insurer required to file an audited financial report pursuant to this administrative regulation that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and National Flood Insurance Program, of \$500,000,000 or more shall prepare a report of the insurer's or group of insurers' internal control over financial reporting.

The language of 806 KAR 3:170 Section 16(5)(b) establishes a grace period for entities that previously fell below the threshold, but that subsequently become subject to additional regulatory requirements due to changes in premium:

The following shall have one (1) year following the year the threshold is exceeded to comply with the independence requirements in Section 6 of this administrative regulation, but not earlier than January 1, 2010. An insurer or group of insurers that, pursuant to Section 13 of this administrative regulation:

1. Is not required to have independent audit committee members or is required to have only a majority of independent audit committee members because the total written and assumed premiums is below the threshold; and
2. Subsequently becomes subject to one (1) of the independence requirements due to changes in premium.

The Department interprets 806 KAR 3:170 §16(1)(a) to generally require an insurer to file the report of internal control over financial reporting by August 1st of the current year, at the same time the CPA's report of internal control is also due, after exceeding the \$500,000,000 or more in premium threshold or other independence requirement in the previous year. However, when read in conjunction with 806 KAR 3:170 §16(5)(b), it interprets the one (1) year grace period to apply for the purposes of both the independence requirements and the management report of internal control over financial reporting for entities that were previously below the threshold but subsequently exceed it.

Licenses and registered entities are charged with notifying any relevant representatives, including but not limited to their agents and employees, of the Department's interpretation and all provisions established in compliance with the internal control over financial reporting requirements per KRS 304.3-240 and 806 KAR 3:170 §16(1)(a). The Department does not provide legal advice to insurers or entities. This advisory opinion is not new law but is the Department's interpretation of

¹ Sixty (60) days following the audited financial report due on June 1. See 806 KAR 3:170 Sections 3(1), 10(1)(b), and 16(1)(b).

existing law. The information provided herein has been offered to clarify the Department's statutory and regulatory authority pursuant to KRS 304.3-240 and 806 KAR 3:170 §16(1)(a).

Questions regarding this advisory opinion should be directed to the Financial Standards Division, Phone (502) 564-6082; TTY (800) 648-6056; Fax: (502) 564-4604; or Email: DOI.FinancialStandardsMail@ky.gov.



Sharon P. Clark, Commissioner
Kentucky Department of Insurance
On this 3rd day of January 2023