

12<sup>th</sup> April

2011

**MEMORANDUM  
OF  
UNDERSTANDING**

Between

NEW JERSEY  
DEPARTMENT OF  
BANKING AND  
INSURANCE  
("NJDOBI")

and

FINANCIAL SERVICES  
AUTHORITY of the  
UNITED KINGDOM  
("FSA")

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# **Memorandum of Understanding Concerning Cooperation, Coordination, Consultation and Exchange of Information Related to Persons or Entities Engaged in the Business of Insurance**

## **Overview**

In light of the growing globalization of insurance markets, the New Jersey Department of Banking and Insurance (“NJDOBI”) and the United Kingdom Financial Services Authority (“FSA”) (collectively, the “Authorities”) hereby enter into this Memorandum of Understanding (“MoU”) to provide a formal basis for cooperation and coordination, including for the exchange, handling, protection and return of information in their possession and, where appropriate, investigative assistance with respect to companies and persons engaged in the business of insurance. The NJDOBI and the FSA express, through this MoU, their willingness to cooperate with each other in the interest of fulfilling their respective regulatory mandates and functions.

**The NJDOBI** regulates all insurance business transacted in the State of New Jersey and is the primary regulator for insurance entities domiciled therein. In its capacity as regulator, the NJDOBI administers, interprets and enforces the provisions of New Jersey’s insurance laws and regulations, and is vested and charged with all rights, powers and duties as expressed or reasonably implied by the New Jersey Statutes and the New Jersey Administrative Code.

**The FSA** regulates insurance business transacted in the United Kingdom pursuant to its mandate to administer and enforce the Financial Services and Markets Act 2000 (“FSMA”) which provides, amongst other things, that no person may carry on a regulated activity in the United Kingdom unless authorized or exempt. Insurance was designated a regulated activity by Her Majesty’s Treasury under the Financial Services and Markets Act 2000 (Regulated Activities) Order.

## **Definitions**

1. For purposes of this MoU, unless the context states otherwise:
  - (a) “Administering” an applicable law, regulation or requirement includes enforcing the same.
  - (b) “Applicable laws, regulations and requirements” means any law, regulation or requirement applicable in the State of New Jersey and/or in the United Kingdom, and where the context permits, includes:
    - (i) Relevant European legislation that has not yet been transposed into the United Kingdom’s domestic law;
    - (ii) Any rule, direction, requirement, guidance or policy made or given by, or to be taken into account by an Authority.

- (c) "Authority" or "Authorities" means the NJDOBI and/or the FSA.
- (d) "Confidential Information" means:
  - (i) Any documents or records deemed confidential by New Jersey law, regulation or privilege, including, but not limited to, draft examination reports; examination work papers; analyses of financial condition; reports of fraudulent activity; records regarding holding company transactions; and trade secrets or records maintained for the regulation of commercial enterprise, which if disclosed would cause substantial injury to the competitive position of the subject enterprise. Confidential information also includes records the disclosure of which would constitute unwarranted invasion of personal privacy, would impair present or imminent contract awards or collective bargaining negotiations, or would endanger the life or safety of any person; records compiled for law enforcement purposes; certain inter-agency or intra-agency correspondence; computer access codes; and examination questions or answers requested prior to the final administration of such questions.
  - (ii) Any documents or records deemed confidential by United Kingdom law, regulation or privilege including, but not limited to information which relates to the business or other affairs of any person, received by the FSA for the purpose of, or in the discharge of, any functions of the FSA and which is not otherwise prevented from being confidential information.
- (e) "Emergency Situation" means any situation or event that could materially affect or impair the financial or operational condition of a Regulated Entity or Person or substantially affect the public interest of the jurisdiction of either Authority and that, accordingly, must be handled in an expedited manner.
- (f) "FSA" means the Financial Services Authority.
- (g) "Host Authority" means the Authority in whose jurisdiction the On-Site Inspection will be performed.
- (h) "Inspecting Authority" means the Authority performing the On-Site Inspection.
- (i) "NJDOBI" means the New Jersey Department of Banking and Insurance.
- (j) "On-Site Inspection" means any routine or regulatory inspection or examination of the books, records or premises of a Regulated or Related Entity or Person.
- (k) "Person" means a natural person, legal entity, partnership or unincorporated association.
- (l) "Regulated Entity" or "Regulated Person" means a company or person engaged in insurance activities subject to the supervision of the NJDOBI and/or the FSA.

- (m) "Related Entity or Person" means legal entities or sub-groups of a Regulated Entity or Person, including affiliates, branches or subsidiaries, regulated by one or both Authorities.
- (n) "Requesting Authority" means the Authority seeking assistance/information.
- (o) "Responding Authority" means the Authority responding to a request for assistance/information.

## **Purpose and Objective of MoU**

2. The purpose of this MoU is to establish a formal basis for consultation, cooperation and coordination between the FSA and the NJDOBI, and to provide for the exchange of information relevant to each Authority's regulatory responsibilities.

## **Requests for Assistance**

3. Requests for assistance include, among other things, (a) requests to confirm or verify information; (b) requests to obtain information about a specified person or entity; (c) requests for discussion of issues of mutual interest between the Authorities; (d) requests to participate in questioning or taking testimony of persons designated by the Requesting Authority (subject to Paragraphs 20-27 inclusive); (e) requests to conduct inspections or examinations of Regulated/Related Entities or Persons; and (f) requests to permit representatives of the Requesting Authority to participate in the conduct of enquiries made by or on behalf of the Responding Authority pursuant to (d) – (e) above. Requests for assistance that include requests for Confidential Information shall follow the procedure set forth in this MoU. If a request for assistance is made under this agreement, each Authority shall use reasonable efforts to assist the other, subject to its laws and overall policy.
4. This MoU sets forth a statement of intent and accordingly does not create any legally binding obligations, confer any rights, modify, or supersede any domestic laws or regulatory requirements in force in, or applying to, the State of New Jersey or United Kingdom. This MoU does not confer upon any person the right or ability, directly or indirectly, to obtain, suppress or exclude any information or to challenge the execution of a request for assistance under this MoU. This MoU is not intended to affect any arrangements under any other MoUs in existence to which either of the Authorities is a party.
5. The Authorities acknowledge that they may only provide information under this MoU if permitted or not prevented under applicable laws, regulations and requirements.
6. Subject to paragraphs 8 and 9 below, the Authorities shall consider and promptly respond to all requests for assistance regarding: (a) the safety, soundness, or financial condition of a Regulated Entity or Person, or (b) the insurance activities of a Regulated Entity or Person. Where Confidential Information is involved, the decision to share this information is at the sole discretion of the Responding Authority; however, the Responding Authority shall use reasonable efforts to obtain and share such information.

## Procedure for Making/Responding to Requests for Assistance

7. To the extent possible, all requests for assistance shall be in writing and, if made orally, the provisions of Paragraph 13 below must be followed. Requests for assistance must be directed to the appropriate appointed contact person(s) identified in Exhibit A hereto, and should include the following:
  - (a) A description of the information, confirmation or verification sought by the Requesting Authority.
  - (b) A general description of the matter that is the subject of the request and the purpose for which the information is sought.
  - (c) The desired time period for reply, and where appropriate, an explanation of the urgency thereof. It is a condition of information provided by the FSA that it may only be used for the purpose of enabling or assisting the Requesting Authority to discharge its functions as a regulatory authority.
  - (d) A description of other persons or entities, if any, to whom further disclosure of information provided to the Requesting Authority would be necessary, and the purpose such disclosure would serve. It is a condition of information provided by the FSA that it may only be used for the purpose of enabling or assisting the Requesting Authority to discharge its functions as a regulatory authority.
  - (e) If the request for assistance is for the purpose of actual or possible enforcement action, see Paragraphs 20-27 inclusive.
  - (f) Any other matters specified by the Responding Authority and by the applicable laws, regulations and requirements in relation to the Responding Authority.
8. Each Responding Authority shall use reasonable efforts to assess, on a case-by-case basis, whether any information or assistance that has been requested can be provided under the terms of this MoU and applicable laws. Where the request cannot be fulfilled in whole or in part, the Responding Authority shall consider whether it, or any other regulatory authority in its jurisdiction, has the ability to render assistance to the Requesting Authority and, to the extent possible, shall use reasonable efforts to facilitate such assistance.
9. In deciding whether and to what extent to fulfill a request, the Responding Authority may take into account:
  - (a) Whether the request for assistance conforms with this MoU;
  - (b) Whether the request for assistance involves the administration of a law, regulation or requirement that has no close parallel in the jurisdiction of the Responding Authority;

(c) Whether compliance with the request for assistance would be so burdensome as to disrupt the proper performance of the Responding Authority's regulatory functions or otherwise prejudicial to the performance of such functions;

(d) Whether it would be detrimental or otherwise contrary to the public interest or the essential national interest of the Responding Authority's jurisdiction to provide the information requested;

(e) Whether the request for assistance is for the purpose of actual or possible enforcement action, see Paragraphs 20-27 inclusive; and

(f) Any other matters specified by the laws, regulations and requirements of the Responding Authority's jurisdiction (in particular those relating to confidentiality, professional secrecy, data protection, privacy and procedural fairness).

## **Confidentiality**

10. The Authorities may voluntarily and in their sole discretion provide information, including Confidential Information, without having received a request for assistance.
11. In responding to any request for assistance, the Responding Authority shall identify any information that is provided pursuant to this MoU that constitutes Confidential Information.
12. The Authorities agree to request Confidential Information only in relation to the performance of their functions and shall use the Confidential Information they receive under this MoU only for those purposes.
13. To the extent possible, all requests for Confidential Information shall be made in writing and addressed to the appropriate appointed contact person(s) identified in Exhibit A. Where, due to an Emergency Situation or exceptional circumstances, an oral request is necessary, such request shall thereafter be confirmed by the Requesting Authority in writing within ten (10) business days. Requests for Confidential Information made at in-person meetings between the Authorities do not require a subsequent written confirmation if such oral requests will be adequately noted in the agreed minutes of the meetings between the Authorities.
14. The NJDOBI states that pursuant to New Jersey Administrative Code, 11:1-1.2, it has the legal authority necessary to enter into this MoU and undertakes to protect from disclosure, and otherwise preserve, the confidential or privileged nature of any Confidential Information that it requests and receives pursuant to this MoU and to disclose such information only if permitted under all applicable laws, regulations and requirements.
15. The FSA states that, pursuant to ss348 and 349 of FSMA and regulations made thereunder, it has the legal authority to enter into this MoU and the obligation not to disclose confidential information as defined in that Act, unless disclosure is permitted by that Act and the regulations made under it.



16. All Responding Authority Confidential Information belongs to, and shall remain the property of, the Responding Authority. The Requesting Authority shall, in accordance with applicable laws, regulations and pursuant to the terms of this MoU take all actions reasonably necessary to preserve, protect, and maintain the confidentiality of such Confidential Information and any privileges associated therewith.
17. The Requesting Authority shall ensure that all persons (including all auditors, experts and agents) who work for it or are instructed by it, are bound by a confidentiality obligation at least equivalent to that which the Requesting Authority is subject to. To the extent that the Requesting Authority's regime does not explicitly bind former employees, the Requesting Authority shall, where appropriate, consider legal action under relevant law for breach of fiduciary duty against any former employee who divulges confidential information obtained during his or her term of employment.
18. The Requesting Authority may provide Confidential Information received under this MoU to other state, federal or international regulatory or law enforcement officials who have authority over the Regulated Entity that is the subject of the Confidential Information, provided that (a) information is provided solely to assist the Requesting Authority in the exercise of its own functions; (b) such disclosure is made in accordance with all applicable laws, regulations and requirements; (c) the Requesting Authority obtains the consent of the Responding Authority prior to such disclosure; (d) the Requesting Authority discloses to the Responding Authority the identity of each recipient with whom the Confidential Information will be shared; and (e) confirms that each recipient agrees to, and has the legal authority to, maintain a level of confidentiality at least equivalent to that which the Requesting Authority is subject to (including, where relevant, limitations imposed upon it by the Responding Authority).
19. Where there is a subpoena or other legally enforceable demand for information supplied under this MoU, the Requesting Authority shall notify the Responding Authority. The Requesting Authority shall use all reasonable legal means to resist such a demand, including asserting such appropriate legal exemptions or privileges with respect to that information as may be available, and shall afford the Responding Authority the opportunity to take whatever action it deems appropriate to preserve, protect and maintain the confidential nature of the information provided, including consenting to any application by the Responding Authority to intervene in any action to preserve the confidentiality of Responding Authority Confidential Information.

## **Procedures for Enforcement Matters**

### Details to be contained in Requests for Assistance

20. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further details will be contained in the request:
  - (a) a description of the conduct or suspected conduct which gives rise to the request;
  - (b) details of the applicable law, regulation or requirement to the administration of which the request is relevant;



- (c) the link between the specified law, regulation or requirement, and the regulatory functions of the Requesting Authority;
- (d) the relevance of the requested assistance to the specified law, regulation or requirement; and
- (e) whether it is desired that, to the extent permitted by the laws applying to the Responding Authority, any persons from the country of the Requesting Authority should be present during interviews which form part of an investigation, and whether it is desired that such persons should be permitted to participate in the questioning (as to which see para 22 below).

### Possible Ground for Denial of Request for Assistance

- 21. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further matter may be taken into account by the Responding Authority in determining whether it would be reasonable to fulfil the request in whole or in part, that is, whether the request would lead to the prosecution of, or the taking of disciplinary or other enforcement action against, a person who in the reasonable opinion of the Responding Authority has already been the subject of appropriate and relevant disciplinary or other enforcement action or has otherwise has been appropriately dealt with.

### Requests to Sit in

- 22. If, following a request for assistance from the Requesting Authority, the Responding Authority conducts an interview of any Entity or Person, the Responding Authority may permit a representative of the Requesting Authority to attend such an interview and to ask questions. Such requests will be in accordance with the applicable laws, regulations and requirements of the Responding Authority. Requests for such assistance should conform to any published guidance for the making of such requests issued by the Responding Authority.

### Joint Investigations

- 23. The Authorities acknowledge that, subject to secrecy and confidentiality issues, an investigation, where it concerns suspected breaches of the law of both jurisdictions, may be conducted more effectively by the establishment of a joint investigation involving members from both Authorities.
- 24. The Authority suggesting the joint investigation will advise the other Authority of the background to the request for a joint investigation, and liaise with the other Authority to determine the likely objectives of the joint investigation, the expected resources required and the approximate duration of the proposed joint investigation. Each Authority will advise the other as soon as possible as to whether it will agree to such joint investigation.
- 25. If the Authorities agree to take part in a joint investigation, an agreed initial action plan will be prepared setting forth, among other things, the objectives, expected duration, funding, publicity and accountability arrangements, management of the joint investigation, and allocation of responsibilities.

26. Suggestions to NJDOBI for a joint investigation should be made, through the Assistant Commissioner Office of Solvency Regulation at NJDOBI. Suggestions to the FSA should be made to the Director, Enforcement.

### **Rights of Persons Preserved**

27. Any person or entity providing testimony, information or documents as a result of a request for assistance made under this MoU will be entitled to all applicable rights and protections of the laws of the jurisdiction of the Responding Authority. Where such entity or person asserts other rights and privileges arising exclusively pursuant to the laws of the jurisdiction of the Requesting Authority, the Authorities will consult with each other to determine the most appropriate way to proceed.

### **On-Site Inspections**

28. The NJDOBI and the FSA recognize that cooperation is particularly useful in assisting each other in carrying out On-Site Inspections of any Entities and Persons in both jurisdictions where that would be necessary for either the NJDOBI or the FSA (as the case may be) to carry out their relevant functions. To that end, the Authorities agree to comply with the following procedures prior to conducting On-Site Inspections:
  - (a) The Inspecting Authority shall notify the Host Authority of the Inspecting Authority's intent to conduct an On-Site Inspection, by itself or by an authorized third party; the time frame for the inspection; and the scope of such inspection. Where practicable, the Inspecting Authority shall notify the Host Authority of the inspection at least one week prior to informing the Entity or Person that it will be the subject of the On-Site Inspection.
  - (b) The Host Authority may, in its discretion, accompany the Inspecting Authority to, and assist the Inspecting Authority with, any On-Site Inspections.
  - (c) If the On-Site Inspection is for the purpose of actual or possible enforcement action, the matters set out in paragraphs 20 – 27 inclusive apply.

### **Costs**

29. Where the cost of fulfilling a request is deemed substantial, the Responding Authority may, on a case-by-case basis and as a condition of agreeing to give assistance under this MoU, require the Requesting Authority to bear some or all of such costs.

### **Consultation between the Authorities**

30. The Authorities shall keep the operation of this MoU under review and shall consult with each other as necessary with a view to improving its operation and resolving any concerns that have arisen out of its operation.
31. Where a specific conduct outlined in a request for assistance constitutes a breach of a law, regulation or requirement in the jurisdiction of both Authorities, the Authorities

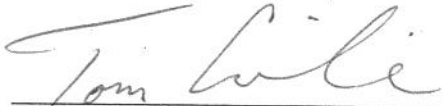
shall consult with each other to determine the most appropriate means for each Authority to provide the assistance requested.

### **Commencement and Termination of the MoU**

32. This MoU shall take effect when both Authorities have signed it and shall continue to have effect until terminated by either Authority upon thirty (30) days written notice. Termination shall not in any way affect the rights or obligations of either Authority with respect to information previously provided under this MoU.
33. This MoU supersedes and replaces all other existing agreements or representations, either oral or written, between the parties to this MoU regarding the sharing of information. No waiver, alteration or modification of the provisions of this MoU shall have effect unless subsequently made in writing and signed by duly authorized representatives of the Authorities.

### **Executed by the Parties:**

**For the New Jersey Department  
of Banking and Insurance**

  
\_\_\_\_\_  
Thomas Considine  
Commissioner  
New Jersey Department of Banking and  
Insurance  
Date: 4/12/11

**For the United Kingdom  
Financial Services Authority**


  
\_\_\_\_\_  
Ken Hogg  
Director, Insurance Sector  
Date: 29/3/11

EXHIBIT A

Contact Persons

New Jersey Department of Banking and Insurance

Address:

Name: Robert B. Kasinow  
Title: Assistant Commissioner  
Telephone Number: (609) 292-5350  
Fax Number: (609) 292-6765  
Email: robert.kasinow@dobi.state.nj.us

OR

Name: Maryann Kralik  
Title: Manager, Office of Solvency Regulation  
Telephone Number: (609) 292-5350  
Fax Number: (609) 292-6765  
Email: maryann.kralik@dobi.state.nj.us

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United Kingdom Financial Services Authority

25 The North Colonnade  
Canary Wharf  
London E14 5HS

Name: Justin Jacobs  
Title: International Policy  
Telephone Number: 0207 066 6528  
Fax Number: 0207 066 6529  
E-Mail: Justin.jacobs@fsa.gov.uk

OR

Name: Gareth Reed  
Title: Legal Adviser  
Telephone Number: 0207 066 0342  
Fax Number: 0207 066 0343  
E-Mail: gareth.reed@fsa.gov.uk

## Exhibit B

### Confidentiality Provisions applying to the FSA - Provisions from the Financial Services and Markets Act 2000

#### S 348

- (1) Confidential information must not be disclosed by a primary recipient, or by any person obtaining the information directly or indirectly from a primary recipient, without the consent of –
  - (a) the person from whom the primary recipient obtained the information; and
  - (b) if different, the person to whom it relates.
- (2) In this Part “confidential information” means information which –
  - (a) relates to the business or other affairs of any person;
  - (b) was received by the primary recipient for the purposes of, or in the discharge of, any functions of the Authority, the competent authority for the purposes of Part VI or the Secretary of State under any provision made by or under this Act; and
  - (c) is not prevented from being confidential information by subsection (4).
- (3) It is immaterial for the purposes of subsection (2) whether or not the information was received –
  - (a) by virtue of a requirement to provide it imposed by or under this Act;
  - (b) for other purposes as well as purposes mentioned in that subsection.
- (4) Information is not confidential information if-
  - (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by this section; or
  - (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.
- (5) Each of the following is a primary recipient for the purposes of this Part –
  - (a) the Authority;
  - (b) any person exercising functions conferred by Part VI on the competent authority;
  - (c) the Secretary of State;
  - (d) a person appointed to make a report under section 166;

- (e) any person who is or has been employed by a person mentioned in paragraphs (a) to (c);
  - (f) any auditor or expert instructed by a person mentioned in those paragraphs.
- (6) In subsection (5)(f) “expert” includes –
- (a) a competent person appointed by the competent authority under section 97;
  - (b) a competent person appointed by the Authority or the Secretary of State to conduct an investigation under Part XI;
  - (c) any body or person appointed under paragraph 6 of Schedule 1 to perform a function on behalf of the Authority.

### S 349

- (1) Section 348 does not prevent a disclosure of confidential information which is-
- (a) made for the purpose of facilitating the carrying out of a public function; and
  - (b) permitted by regulations made by the Treasury under this section.
- (2) The regulations may, in particular, make provision permitting the disclosure of confidential information or of confidential information of a prescribed kind –
- (a) by prescribed recipients, or recipients of a prescribed description, to any person for the purpose of enabling or assisting the recipient to discharge prescribed public functions;
  - (b) by prescribed recipients, or recipients of a prescribed description, to prescribed persons, or persons of prescribed descriptions, for the purpose of enabling or assisting those persons to discharge prescribed public functions;
  - (c) by the Authority to the Treasury or the Secretary of State for any purpose;
  - (d) by any recipient if the disclosure is with a view to or in connection with prescribed proceedings.
- (3) The regulations may also include provision-
- (a) making any permission to disclose confidential information subject to conditions (which may relate to the obtaining of consents or any other matter);
  - (b) restricting the uses to which confidential information disclosed under the regulations may be put.
- (4) In relation to confidential information, each of the following is a “recipient” –



- (a) a primary recipient;
  - (b) a person obtaining the information directly or indirectly from a primary recipient.
- (5) "Public functions" includes –
- (a) functions conferred by or in accordance with any provision contained in any enactment or subordinate legislation;
  - (b) functions conferred by or in accordance with any provision contained in the Community Treaties or any Community instrument; Financial Services Authority 7 of 8
  - (c) similar functions conferred on persons by or under provisions having effect as part of the law of a country or territory outside the United Kingdom;
  - (d) functions exercisable in relation to prescribed disciplinary proceedings.
- (6) "Enactment" includes –
- (a) an Act of the Scottish Parliament;
  - (b) Northern Ireland legislation.
- (7) "Subordinate legislation" has the meaning given in the Interpretation Act 1978 and also includes an instrument made under an Act of the Scottish Parliament or under Northern Ireland legislation.

## **S 352**

- (1) A person who discloses information in contravention of section 348 or 350(5) is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable –
  - (a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (3) A person is guilty of an offence if, in contravention of any provision of regulations made under section 349, he uses information which has been disclosed to him in accordance with the regulations.
- (4) A person is guilty of an offence if, in contravention of subsection (4) of section 350, he uses information which has been disclosed to him in accordance with that section.

- (5) A person guilty of an offence under subsection (3) or (4) is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both.
- (6) In proceedings for an offence under this section it is a defence for the accused to prove
  - (a) that he did not know and had no reason to suspect that the information was confidential information or that it had been disclosed in accordance with section 350;
  - (b) that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

## New Jersey:

### Statutes/Regulations ...

#### Section 17

##### 17:23-1. Statements; format; preparation

17:23-1. ....every insurance company shall file quarterly statements in the format adopted by the National Association of Insurance Commissioners covering the periods ending on March 31, June 30, and September 30, which shall be filed within 45 days after each such date. Quarterly statements shall be **confidential** and shall not be subject to public inspection or copying pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). All statements shall be submitted in the form and contain any additional matter the commissioner prescribes. The commissioner may also address any inquiries to the company of its officers in relation to its condition of affairs, or any matter connected with its transactions, and the officers of the company shall promptly reply in writing to all the inquiries. The commissioner may, for good cause, extend the time within which the statement or any part thereof may be filed. The annual and quarterly statements of a company of a foreign country shall embrace only its business and condition in the United States, and shall be subscribed and sworn to by its resident manager or principal representative in charge of its American business.

##### 17:23-20. Purpose of act

1. The purpose of this act is to provide an effective and efficient system for examining the activities, operations, financial condition and affairs of all persons transacting the business of insurance in this State and all persons otherwise subject to the jurisdiction of the commissioner.

##### 17:23-24. Examination reports

5. a. All examination reports shall be comprised of only facts appearing upon the books, records, or other documents of the company, its officers, directors, employees or agents or other persons examined, or as ascertained from the testimony of its officers, directors, employees, agents or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find reasonable warranted from the facts.

b. No later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon

receipt of the verified report, the department shall transmit a copy of the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.

c. Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals, and any relevant portions of the examiner's workpapers and either:

(1) Adopt the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violation; or

(2) Reject the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refile pursuant to subsection a. of this section; or

(3) Call for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional documentation, data, information and testimony.

d. (1) All determinations made pursuant to paragraph (1) of subsection c. of this section shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers and any written submissions or rebuttals. Any such determination shall be served upon the company, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(2) Any hearing conducted under paragraph (3) of subsection c. of this section by the commissioner or an authorized representative of the commissioner, shall be conducted as a nonadversarial **confidential** investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of any such hearing, the commissioner shall make a determination pursuant to paragraph (1) of subsection c. of this section.

(a) The hearing shall proceed expeditiously with discovery by the company limited to the examiner's workpapers which tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or his representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation whether under the control of the department, the company or other persons. Nothing contained in this section shall require the department to disclose any information or records which would indicate or show the existence or content of any investigation or activity of a criminal justice agency.

(b) The hearing shall proceed with the commissioner or his representative posing questions to the persons subpoenaed. Thereafter the company and the department may present testimony relevant to the investigation. Cross-examination shall be conducted only by the commissioner or his representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.

e. (1) Upon the adoption of the examination report under paragraph (1) of subsection c. of this section, the commissioner may continue to hold the content of the examination report as private and **confidential** information for a period of 90 days except to the extent provided in subsection b. of this section

(2) Nothing contained in this act shall prevent or be construed as prohibiting the

commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department or other regulatory authority of this or any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as such agency or office receiving the report or matters relating thereto agrees in writing to hold it **confidential** and in a manner consistent with this act.

(3) In the event the commissioner determines that regulatory action is appropriate as a result of any examination, he may initiate any proceedings or actions as provided by law.

f. All working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this act shall be given **confidential** treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in subsection e. of this section. Access may also be granted to the National Association of Insurance Commissioners. Such parties shall agree in writing prior to receiving the information to provide to it the same **confidential** treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

#### 17:23B-4. Confidentiality

4. All financial analysis ratios and examination synopses concerning insurers that are submitted to the department by the NAIC Insurance Regulatory Information System are **confidential** and may not be disclosed by the department.

#### 17:27A-3. Registration of insurers

3. Registration of insurers.

#### 17:27A-4. Standards.

4. Standards. a. Transactions with affiliates.

#### 17:27A-5. Examination

5. Examination.

#### 17:27A-6. Confidential treatment

6. **Confidential** treatment. All information, documents and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 5 of P.L.1970, c.22 (C.17:27A-5) and all information reported pursuant to section 3 and section 4 of P.L.1970, c.22 (C.17:27A-3 and 17:27A-4) shall be given **confidential** treatment and shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer, and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate.

#### 17B:21-1. Annual statement; forms

..... Every insurer shall file quarterly statements in the format adopted by the National Association of Insurance Commissioners covering the periods ending on March 31, June 30 and September 30, which shall be filed within 45 days after each such date. Quarterly statements shall be **confidential** and shall not be subject to public inspection or copying pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). All statements shall be submitted in the form and contain any additional matters the commissioner prescribes.

§ 11:1-1.2 Sharing of information with other officials and agencies

(a) The Commissioner may share any information regarding the financial condition of insurers, including information that is not subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., with the National Association of Insurance Commissioners or any regulatory official of any state or U.S. territory, Federal agency or foreign country, provided that such official or agency is authorized and irrevocably agrees to hold such information confidential to the same extent as is provided under the laws of this State.

(b) The Commissioner may enter into an agreement with the National Association of Insurance Commissioners or any insurance regulator of any state or U.S. territory, Federal agency or foreign country, by which the Commissioner shall hold any information received from such official or agency as confidential and not subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., to the same extent such information is required to be held confidential pursuant to that agency's laws or other requirements.