

CHAPTER 111
CORPORATE GOVERNANCE ANNUAL DISCLOSURE

191—111.1(521H) Purpose. The purpose of this chapter is to implement 2016 Iowa Code chapter 521H and set forth the procedures for filing and the required contents of the corporate governance annual disclosure.

[ARC 2377C, IAB 2/3/16, effective 3/9/16]

191—111.2(521H) Authority. This chapter is promulgated pursuant to the authority vested in the commissioner under 2016 Iowa Code section 521H.4 in accordance with the procedures set forth in Iowa Code chapter 17A.

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191—111.3(521H) Definitions. For the purpose of these rules, the terms “commissioner,” “corporate governance annual disclosure,” “disclosure,” “insurance group,” “insurance holding company system,” and “insurer” shall have the meanings set forth in 2016 Iowa Code section 521H.2. In addition, the following definition shall apply:

“*Senior management*” means any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and includes, but is not limited to, the chief executive officer, chief financial officer, chief operations officer, chief procurement officer, chief legal officer, chief information officer, chief technology officer, chief revenue officer, chief visionary officer, or any other senior level executive.

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191—111.4(521H) Filing procedures.

111.4(1) An insurer, or the insurance group of which the insurer is a member, required to file a corporate governance annual disclosure by 2016 Iowa Code section 521H.3 shall no later than June 1 of each calendar year submit to the commissioner a corporate governance annual disclosure that contains the information described in rule 191—111.5(521H).

111.4(2) The corporate governance annual disclosure must include a signature of the insurer’s or insurance group’s chief executive officer or corporate secretary attesting to the best of that individual’s belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the corporate governance annual disclosure has been provided to the insurer’s or insurance group’s board of directors or the appropriate committee thereof.

111.4(3) The insurer or insurance group shall have discretion regarding the appropriate format for providing the information required by these rules and is permitted to customize the corporate governance annual disclosure to provide the most relevant information necessary to permit the commissioner to gain an understanding of the corporate governance structure and of the policies and practices utilized by the insurer or insurance group.

111.4(4) For purposes of completing the corporate governance annual disclosure, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the corporate governance annual disclosure at the level at which the insurer’s or insurance group’s risk appetite is determined, or the level at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which one of the three criteria was used to determine the level of reporting and explain any subsequent changes in the level of reporting.

111.4(5) If the corporate governance annual disclosure is completed at the insurance group level, then it must be filed with the lead state of the group as determined by the procedures outlined in the most recent financial analysis handbook adopted by the National Association of Insurance Commissioners. In

this instance, a copy of the corporate governance annual disclosure must also, upon request, be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer.

111.4(6) An insurer or insurance group may comply with this rule by referencing the most recently filed version of other existing documents including, but not limited to, own risk and solvency assessment summary report, insurance holding company system annual registration report (Form B), enterprise risk report (Form F), Securities and Exchange Commission proxy statements, and foreign regulatory reporting requirements if the documents provide information that is comparable to the information described in rule 191—111.5(521H). The insurer or insurance group shall clearly reference within the corporate governance annual disclosure the location of the relevant information and attach the reference document if it is not already filed or available to the regulator.

111.4(7) Each year following the initial filing of the corporate governance annual disclosure, the insurer or insurance group shall file an amended version of the previously filed corporate governance annual disclosure indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing should so state.

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191—111.5(521H) Contents of corporate governance annual disclosure.

111.5(1) The insurer or insurance group shall be as descriptive as possible in completing the corporate governance annual disclosure, with inclusion of attachments or example documents that are used in the governance process since these may provide a means to demonstrate the strengths of the insurer's or insurance group's governance framework and practices.

111.5(2) The corporate governance annual disclosure shall describe the insurer's or insurance group's corporate governance framework and structure, including consideration of the following:

- a.* The board of directors and committees thereof ultimately responsible for overseeing the insurer or insurance group and the level or levels at which that oversight occurs. The insurer or insurance group shall describe and discuss the rationale for the current board of directors' size and structure; and
- b.* The duties of the board of directors and each of its significant committees and how they are governed, which may include bylaws, charters, or informal mandates as well as how the board of directors' leadership is structured and a discussion of the roles of the chief executive officer and chairperson of the board of directors within the organization.

111.5(3) The insurer or insurance group shall describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors:

- a.* How the qualifications, expertise and experience of each board of directors member meet the needs of the insurer or insurance group.
- b.* How an appropriate amount of independence is maintained on the board of directors and its significant committees.
- c.* The number of meetings held by the board of directors and its significant committees over the past year as well as information on director attendance.
- d.* How the insurer or insurance group identifies, nominates and elects members to the board of directors and its committees. The discussion should include, for example:
 - (1) Whether a nomination committee is in place to identify and select individuals for consideration.
 - (2) Whether term limits are placed on directors.
 - (3) How the election and reelection processes function.
 - (4) Whether a board of directors diversity policy is in place and, if so, how it functions.
- e.* The processes in place for the board of directors to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance, including any board of directors or committee training programs that have been put in place.

111.5(4) The insurer or insurance group shall describe the policies and practices for directing senior management, including a description of the following factors:

- a.* Any processes or practices such as suitability standards to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including:

(1) Identification of the specific positions for which suitability standards have been developed and a description of the standards employed.

(2) Any changes in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes.

b. The insurer's or insurance group's code of business conduct and ethics, the discussion of which should consider, for example:

(1) Compliance with laws, rules, and regulations; and

(2) Proactive reporting of any illegal or unethical behavior.

c. The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description shall include sufficient detail to allow the commissioner to understand how the organization ensures that compensation programs do not encourage or reward excessive risk taking. Elements to be discussed may include, but are not limited to, the following:

(1) The role of the board of directors in overseeing management compensation programs and practices.

(2) The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid.

(3) How compensation programs are related to both company and individual performance over time.

(4) Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels.

(5) Any clawback provisions built into the compensation programs to recover awards or payments if the performance measures upon which the clawback provisions are based are restated or otherwise adjusted.

(6) Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees.

d. The insurer's or insurance group's plans for chief executive officer and senior management succession.

111.5(5) The insurer or insurance group shall describe the processes by which the board of directors, its committees and senior management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's or insurance group's business activities, including a discussion of:

a. How oversight and management responsibilities are delegated among the board of directors, its committees and senior management.

b. How the board of directors is kept informed of the insurer's or insurance group's strategic plans, the associated risks, and steps that senior management is taking to monitor and manage those risks.

c. How reporting responsibilities are organized for each critical risk area. The description should allow the commissioner to understand the frequency at which information on each critical risk area is reported to and reviewed by senior management and the board of directors. This description may include, but is not limited to, the following critical risk areas of the insurer:

(1) Risk management processes (An own risk and solvency assessment summary report filer may refer to the filer's own risk and solvency assessment summary report prepared pursuant to Iowa Code chapter 522);

(2) Actuarial function;

(3) Investment decision-making processes;

(4) Reinsurance decision-making processes;

(5) Business strategy and finance decision-making processes;

(6) Compliance function;

(7) Financial reporting and internal auditing; and

(8) Market conduct decision-making processes.
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These rules are intended to implement 2016 Iowa Code chapter 521H.

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