

191—96.5 (505,508) Financial requirements and plan of operation. A contract may not be delivered or issued for delivery in this state unless the issuing insurer is licensed as a life insurance company in this state and is financially qualified under the provisions of subrule 96.5(1). In addition, a domestic insurer may not deliver or issue for delivery, either in this state or outside this state, a contract unless the insurer has satisfied the requirements of subrule 96.5(2) with respect to the class of contracts to which the contract belongs.

96.5(1) An insurer will be financially qualified under this rule if its most recent statutory financial statements reflect at least \$1 billion in admitted assets or \$100 million in capital and surplus, and its risk-based capital results do not place it at a regulatory level of action. In lieu of the requirements in the preceding sentence, the insurer may be required to satisfy such other financial qualification requirements set forth by the commissioner as having been deemed necessary or appropriate in a particular case to protect the insurer's policyholders and the public.

96.5(2) A domestic insurer will satisfy the requirements of this subrule with respect to a class of contracts if the insurer has filed with the commissioner a plan of operation pertaining to the class of contracts, together with copies of the forms of contract in the class, and the filing of the plan of operation has been approved or has not been disapproved within the 60-day period following the date of filing, in which event the plan of operation shall be deemed approved.

a. The plan of operation for a class of contracts shall describe the financial implications for the insurer of the issuance of contracts in the class and shall include at least the following:

(1) A statement that the plan of operation will be administered in accordance with the requirements prescribed by the commissioner pursuant to this chapter, along with a statement that the insurer will comply with the plan of operation in its administration of the contract;

(2) A statement describing the methods and procedures used to value statutory liabilities for purposes of rule 191—96.10(505,508);

(3) A description of the criteria used by the insurer in approving the investment manager for the segregated portfolio of assets associated with a contract in the class, if the investment manager is an entity other than the insurer or is controlling, controlled by or under common control with the insurer;

(4) A description of the insurer's requirement for reports concerning the assets in each segregated portfolio and transactions involving the assets and a description of how the insurer can use the information in a report to determine that the segregated portfolio is being managed in accordance with its investment guidelines. The insurer shall require that the report be prepared no less frequently than quarterly and include a complete statement of segregated portfolio holdings and their fair market value;

(5) A demonstration of financial results for one or more sample contracts from the class of contracts showing, at a minimum, the projected contract value records, the applicable fixed rate or rates of return, and the projected market value records and describing how the investments in the segregated portfolio reflect provision for benefits insured by the contract and how the contract value and market values and the rates of return may be affected by changes in the investment returns of the segregated portfolio and by reasonably anticipated deposits to and withdrawals from the segregated portfolio by the contract holder, and any advances made by the insurer to the contract holder. The sample contracts shall be chosen to reasonably represent the range of results that could be expected from possible combinations of contract provisions of all contracts within the class. The demonstration shall include at least three hypothetical return scenarios: level, increasing, and decreasing. For each of these scenarios, at least three withdrawal scenarios shall be modeled: zero, moderate, and high. The commissioner may require additional scenarios if deemed necessary to fully understand the risks under the class of contracts. The demonstration period shall be the greater of five years or the minimum period the insurer must underwrite the risk;

(6) A statement that all contracts in the class of contracts satisfy the requirement of rule 191—96.9(505,508) regarding unilateral contract terminations, together with a description of all termination events, discontinuation triggers and options, notice requirements, corrective action procedures, all other contract safeguards, and the procedures to be followed when a unilateral contract termination event occurs;

(7) A description of the allowable investment parameters (such as objectives, asset classes, quality, duration and diversification requirements applied to the assets held within the segregated portfolio) to be reflected in the investment guidelines applicable to each contract issued in the class to which the submitted plan of operation applies; and a description of the procedures that will be followed by the insurer in evaluating the appropriateness of any specific investment guidelines submitted by the contract holder. If the insurer chooses to operate a contract in accordance with investment guidelines that do not conform to the criteria established pursuant to this subparagraph, the nonconforming set of investment guidelines shall be filed with the commissioner in accordance with the filing requirements of this subrule;

(8) An unqualified opinion by a qualified actuary with expertise to evaluate the adequacy of the consideration charged by the insurer for the risks it has assumed with respect to the contracts in the class to which the plan of operation applies;

(9) A statement that the actuarial opinion and memorandum required by rule 191—96.10(505,508) shall include, with respect to the class of contracts to which the plan of operation applies:

1. If a payment has been made by the insurer in the prior reporting period under a contract in the class, the amount of aggregate risk charges (net of administrative expenses) for contracts in the class and the aggregate amount of any losses incurred; and

2. An inventory of all material unilateral contract termination events in the class that have not been cured within the time period specified and that have occurred during the prior reporting period for which the company decided not to terminate the contract.

b. Review of the plan of operation by the commissioner may necessitate requests for information to supplement that furnished pursuant to paragraph 96.5(2) “*a.*” Replies made in compliance with such requests for information should be made in sufficient detail that any follow-up correspondence can be held to a minimum.