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BULLETIN NO. 2020-01

TO: All Insurers Authorized in Alabama

FROM: Jim L. Ridling
Commissioner of Insurance *JLR*

DATE: February 28, 2020

RE: Corporate Governance Annual Disclosure

EFFECTIVE: Immediate

Notice is hereby given of the requirements of Chapter 29B of the Alabama Insurance Code, beginning with Ala. Code § 27-29B-1, known as the Corporate Governance Annual Disclosure (CGAD) law. Please be advised that in accordance with Section 27-29B-3 the initial CGAD is to be filed with this department on or before June 1, 2020, containing the information described in Section 27-29B-5.

Please be advised a regulation hearing will be conducted on or about the 6th day of May, 2020, for the purpose of considering the adoption of a regulation substantially similar to the Corporate Governance Annual Disclosure Model Regulation developed by the National Association of Insurance Commissioners. An advance copy of the regulation that will be the subject of the May hearing is attached hereto as Exhibit "A". Although this draft regulation is not yet officially adopted by this office, it is expected to be adopted and effective prior to the initial filing date of June 1, 2020; therefore, all insurers are expected to comply with the filing procedures indicated in draft proposed Rule 482-1-166-.04 and the contents requirements indicated in draft proposed Rule 482-1-166-.05.

For additional information, please contact Sheila Travis, Insurance Examinations Supervisor, at (334) 241-4162 or via email at Sheila.Travis@insurance.alabama.gov.

JLR/RN/ct

**ALABAMA DEPARTMENT OF INSURANCE
INSURANCE REGULATION**

CHAPTER 482-1-166

CORPORATE GOVERNANCE ANNUAL DISCLOSURE

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1 **Rule 482-1-166-.01 Authority and Effective Date.**

2 (1) This chapter is adopted pursuant to Section 27-29B-4,
3 Code of Alabama 1975, as enacted in Alabama Act No. 2019-097.

4 (2) This chapter shall become effective upon its approval
5 by the Commissioner of Insurance and upon its having been on
6 file as a public document in the office of the Secretary of
7 State for ten days.

8 **Author:** Commissioner of Insurance

9 **Statutory Authority:** Ala. Code §§ 27-2-17 & 27-29B-4

10 **History:** New May __, 2020, Effective May __, 2020

11 **Rule 482-1-166-.02 Purpose.** The purpose of this chapter is
12 to set forth the procedures for filing and the required
13 contents of the Corporate Governance Annual Disclosure (CGAD),
14 deemed necessary by the Commissioner to carry out the
15 provisions of Chapter 29B of the Alabama Insurance Code,
16 beginning with Section 27-29B-1, Code of Alabama 1975.

17 **Author:** Commissioner of Insurance

18 **Statutory Authority:** Ala. Code §§ 27-2-17 & 27-29B-4

19 **History:** New May __, 2020, Effective May __, 2020

20 **Rule 482-1-166-.03 Definitions.** The following definitions
21 shall apply for purposes of this chapter:

- 1 a. CGAD. The Corporate Governance Annual Disclosure.
- 2 b. COMMISSIONER. The Alabama Commissioner of Insurance.
- 3 c. INSURANCE GROUP. Those insurers and affiliates
- 4 included within an insurance holding company system as defined
- 5 in Chapter 29 of the Alabama Insurance Code, beginning with
- 6 Section 27-1-29, Code of Alabama 1975.
- 7 d. INSURER. As defined in Section 27-29B-2.
- 8 e. NAIC. The National Association of Insurance
- 9 Commissioners.
- 10 f. SENIOR MANAGEMENT. Any corporate officer responsible
- 11 for reporting information to the board of directors at regular
- 12 intervals or providing this information to shareholders or
- 13 regulators and shall include, for example and without
- 14 limitation, the Chief Executive Officer ("CEO"), Chief
- 15 Financial Officer ("CFO"), Chief Operations Officer ("COO"),
- 16 Chief Procurement Officer ("CPO"), Chief Legal Officer
- 17 ("CLO"), Chief Information Officer ("CIO"), Chief Technology
- 18 Officer ("CTO"), Chief Revenue Officer ("CRO"), Chief
- 19 Visionary Officer ("CVO"), or any other "C" level executive.

20 **Author:** Commissioner of Insurance

21 **Statutory Authority:** Ala. Code §§ 27-2-17 & 27-29B-4

22 **History:** New May __, 2020, Effective May __, 2020

1 **Rule 482-1-166-.04 Filing Procedures.**

2 (1) An insurer, or the insurance group of which the
3 insurer is a member, required to file a CGAD by Chapter 29B of
4 the Alabama Insurance Code, beginning with Section 27-29B-1,
5 shall, no later than June 1 of each calendar year, submit to
6 the Commissioner a CGAD that contains the information
7 described in Rule 482-1-166-.05.

8 (2) The CGAD must include a signature of the insurer's or
9 insurance group's chief executive officer or corporate
10 secretary attesting to the best of that individual's belief
11 and knowledge that the insurer or insurance group has
12 implemented the corporate governance practices and that a copy
13 of the CGAD has been provided to the insurer's or insurance
14 group's Board of Directors (hereafter "Board") or the
15 appropriate committee thereof.

16 (3) The insurer or insurance group shall have discretion
17 regarding the appropriate format for providing the information
18 required by these regulations and is permitted to customize
19 the CGAD to provide the most relevant information necessary to
20 permit the Commissioner to gain an understanding of the
21 corporate governance structure, policies and practices
22 utilized by the insurer or insurance group.

23 (4) For purposes of completing the CGAD, the insurer or

1 insurance group may choose to provide information on
2 governance activities that occur at the ultimate controlling
3 parent level, an intermediate holding company level and/or the
4 individual legal entity level, depending upon how the insurer
5 or insurance group has structured its system of corporate
6 governance. The insurer or insurance group is encouraged to
7 make the CGAD disclosures at the level at which the insurer's
8 or insurance group's risk appetite is determined, or at which
9 the earnings, capital, liquidity, operations, and reputation
10 of the insurer are overseen collectively and at which the
11 supervision of those factors are coordinated and exercised, or
12 the level at which legal liability for failure of general
13 corporate governance duties would be placed. If the insurer
14 or insurance group determines the level of reporting based on
15 these criteria, it shall indicate which of the three criteria
16 was used to determine the level of reporting and explain any
17 subsequent changes in level of reporting.

18 (5) Notwithstanding paragraph (1), and as outlined in
19 Section 27-29B-3, if the CGAD is completed at the insurance
20 group level, then it must be filed with the lead state of the
21 group as determined by the procedures outlined in the most
22 recent Financial Analysis Handbook adopted by the NAIC. In
23 these instances, a copy of the CGAD must also be provided to

1 the chief regulatory official of any state in which the
2 insurance group has a domestic insurer, upon request.

3 (6) An insurer or insurance group may comply with this
4 rule by referencing other existing documents (e.g., ORSA
5 Summary Report, Holding Company Form B or F Filings,
6 Securities and Exchange Commission (SEC) Proxy Statements,
7 foreign regulatory reporting requirements, etc.) if the
8 documents provide information that is comparable to the
9 information described in Rule 482-1-166-.05. The insurer or
10 insurance group shall clearly reference the location of the
11 relevant information within the CGAD and attach the referenced
12 document if it is not already filed or available to the
13 regulator.

14 (7) Each year following the initial filing of the CGAD,
15 the insurer or insurance group shall file an amended version
16 of the previously filed CGAD indicating where changes have
17 been made. If no changes were made in the information or
18 activities reported by the insurer or insurance group, the
19 filing should so state.

20 **Author:** Commissioner of Insurance

21 **Statutory Authority:** Ala. Code §§ 27-2-17 & 27-29B-4

22 **History:** New May __, 2020, Effective May __, 2020

1 **Rule 482-1-166-.05 Contents of Corporate Governance Annual**
2 **Disclosure.**

3 (1) The insurer or insurance group shall be as
4 descriptive as possible in completing the CGAD, with inclusion
5 of attachments or example documents that are used in the
6 governance process, since these may provide a means to
7 demonstrate the strengths of their governance framework and
8 practices.

9 (2) The CGAD shall describe the insurer's or insurance
10 group's corporate governance framework and structure including
11 consideration of the following.

12 (a) The Board and various committees thereof ultimately
13 responsible for overseeing the insurer or insurance group and
14 the level(s) at which that oversight occurs (e.g., ultimate
15 control level, intermediate holding company, legal entity,
16 etc.). The insurer or insurance group shall describe and
17 discuss the rationale for the current Board size and
18 structure.

19 (b) The duties of the Board and each of its significant
20 committees and how they are governed (e.g., bylaws, charters,
21 informal mandates, etc.), as well as how the Board's
22 leadership is structured, including a discussion of the roles

1 of Chief Executive Officer (CEO) and Chairman of the Board
2 within the organization.

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

7 (a) How the qualifications, expertise and experience of
8 each Board member meet the needs of the insurer or insurance
9 group.

10 (b) How an appropriate amount of independence is
11 maintained on the Board and its significant committees.

12 (c) The number of meetings held by the Board and its
13 significant committees over the past year as well as
14 information on director attendance.

15 (d) How the insurer or insurance group identifies,
16 nominates and elects members to the Board and its committees.
17 The discussion should include, for example:

18 1. Whether a nomination committee is in place to
19 identify and select individuals for consideration.

20 2. Whether term limits are placed on directors.

21 3. How the election and re-election processes function.

22 4. Whether a Board diversity policy is in place and if
23 so, how it functions.

1 (e) The processes in place for the Board to evaluate its
2 performance and the performance of its committees, as well as
3 any recent measures taken to improve performance (including
4 any Board or committee training programs that have been put in
5 place).

6 (4) The insurer or insurance group shall describe the
7 policies and practices for directing Senior Management,
8 including a description of the following factors:

9 (a) Any processes or practices (i.e., suitability
10 standards) to determine whether officers and key persons in
11 control functions have the appropriate background, experience
12 and integrity to fulfill their prospective roles, including:

13 1. Identification of the specific positions for which
14 suitability standards have been developed and a description of
15 the standards employed.

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

19 (b) The insurer's or insurance group's code of business
20 conduct and ethics, the discussion of which considers, for
21 example:

22 1. Compliance with laws, rules, and regulations.

1 2. Proactive reporting of any illegal or unethical
2 behavior.

3 (c) The insurer's or insurance group's processes for
4 performance evaluation, compensation and corrective action to
5 ensure effective senior management throughout the
6 organization, including a description of the general
7 objectives of significant compensation programs and what the
8 programs are designed to reward. The description shall
9 include sufficient detail to allow the Commissioner to
10 understand how the organization ensures that compensation
11 programs do not encourage and/or reward excessive risk taking.
12 Elements to be discussed may include, for example:

13 1. The Board's role in overseeing management
14 compensation programs and practices.

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

19 3. How compensation programs are related to both company
20 and individual performance over time.

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

1 5. Any clawback provisions built into the programs to
2 recover awards or payments if the performance measures upon
3 which they are based are restated or otherwise adjusted.

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

8 (d) The insurer's or insurance group's plans for CEO and
9 Senior Management succession.

10 (5) The insurer or insurance group shall describe the
11 processes by which the Board, its committees and Senior
12 Management ensure an appropriate amount of oversight to the
13 critical risk areas impacting the insurer's business
14 activities, including a discussion of all the following:

15 (a) How oversight and management responsibilities are
16 delegated between the Board, its committees and Senior
17 Management.

18 (b) How the Board is kept informed of the insurer's
19 strategic plans, the associated risks, and steps that Senior
20 Management is taking to monitor and manage those risks.

21 (c) How reporting responsibilities are organized for each
22 critical risk area. The description should allow the
23 Commissioner to understand the frequency at which information

1 on each critical risk area is reported to and reviewed by
2 Senior Management and the Board. This description may
3 include, for example, the following critical risk areas of the
4 insurer:

- 5 1. Risk management processes (An ORSA Summary Report
6 filer may refer to its ORSA Summary Report pursuant to the
7 Risk Management and Own Risk and Solvency Assessment Model
8 Act).
- 9 2. Actuarial function.
- 10 3. Investment decision-making processes.
- 11 4. Reinsurance decision-making processes.
- 12 5. Business strategy/finance decision-making processes.
- 13 6. Compliance function.
- 14 7. Financial reporting/internal auditing.
- 15 8. Market conduct decision-making processes.

16 **Author:** Commissioner of Insurance

17 **Statutory Authority:** Ala. Code §§ 27-2-17 & 27-29B-4

18 **History:** New May __, 2020, Effective May __, 2020

19 **Rule 482-1-166-.06 Severability.** If any provision of this
20 chapter, or the application thereof to any person or
21 circumstance, is held invalid, such determination shall not
22 affect other provisions or applications of this chapter which
23 can be given effect without the invalid provision or

1 application, and to that end the provisions of this chapter
2 are severable.

3 **Author:** Commissioner of Insurance

4 **Statutory Authority:** Ala. Code §§ 27-2-17 & 27-29B-4

5 **History:** New May __, 2020, Effective May __, 2020