

**NOTICE OF INTENT TO ACT UPON REGULATION
AND
HEARING AGENDA**

Notice of Hearing for the Adoption, Amendment or Repeal of Regulations of
The Department of Business and Industry, Division of Insurance

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), (775) 687-0700, will hold a public hearing at **11:00 a.m. on October 11, 2016**, in the 1st Floor Hearing Room at the Division’s offices located at 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous videoconference conducted in the 3rd floor conference room, at the Division’s offices located in the Bradley Building, 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of the regulation(s) that pertain(s) to **chapter(s) 680A** of the Nevada Administrative Code (“NAC”).

The following information is provided pursuant to the requirements of Nevada Revised Statute (“NRS”) 233B.0603 and the directives of the Governor:

LCB File No. R108-16. Internal Audit. (NAC 680A)

A REGULATION relating to insurance; requiring the establishment of an internal audit function for certain insurers and groups of insurers; revising provisions relating to auditing for insurers and groups of insurers; and providing other matters properly relating thereto.

- (1) Why is the regulation necessary and what is its purpose?

The proposed regulation is necessary in order to meet National Association of Insurance Commissioners (“NAIC”) Accreditation standards for internal audit requirements for large insurers. Most large insurers are publicly traded and, therefore, have to meet the Securities Exchange Commission (SEC) requirements for internal audit. The NAIC has determined that all large insurers need to have an internal audit, not just those that are publicly traded companies.

- (2) What are the terms or substance of the proposed regulation?

The proposed changes define what an internal audit program is and what the requirements are for large insurers.

- (3) What is the anticipated impact of the regulation on the problem(s)?

Most large insurers already have an internal audit and it is good business practice to have one. This requirement will ensure proper controls over financial reporting, which the Division uses to evaluate the financial solvency of insurers.

(4) Do other regulations address the same problem(s)?

No.

(5) Are alternate forms of regulation sufficient to address the problem(s)?

No. *This rulemaking is necessary to adopt the changes in the NAIC model regulation (#205).*

(6) What value does the regulation have to the public?

The regulation ensures that large insurers are practicing standard business practices of having an internal audit. Internal audits are designed to ultimately protect the insurer from any fraud, non-compliance, and/or any other matters that may harm the insurer and its financial solvency.

(7) What is the anticipated economic benefit of the regulation?

a. Public

1. Immediate: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

2. Long Term: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

b. Insurance Business

1. Immediate: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

2. Long Term: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

c. Small Businesses

1. Immediate: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

2. Long Term: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

d. Small Communities

1. Immediate: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

2. Long Term: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

e. Government Entities

1. Immediate: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

2. Long Term: *Keeps Nevada as an accredited state for financial solvency regulation of insurance companies.*

(8) What is the anticipated adverse impact, if any?

- a. Public
 - 1. Immediate: *None*.
 - 2. Long Term: *None*.
- b. Insurance Business
 - 1. Immediate: *None*.
 - 2. Long Term: *None*.
- c. Small Businesses
 - 1. Immediate: *None*.
 - 2. Long Term: *None*.
- d. Small Communities
 - 1. Immediate: *None*.
 - 2. Long Term: *None*.
- e. Government Entities
 - 1. Immediate: *None*.
 - 2. Long Term: *None*.

(9) What is the anticipated cost of the regulation, both direct and indirect?

- a. Enactment – *None*.
- b. Enforcement – *The Division has the staff and resources to enforce these regulations since they are similar to other standards the Division already enforces.*
- c. Compliance – *Not enacting this regulation will cause certain Nevada domiciled insurance businesses to leave Nevada, because Nevada would no longer be an NAIC accredited state. The cost to implement an internal audit process as described in the regulation is minimal compared to the adverse effect that a loss of accreditation would have on the relevant insurance businesses.*

(10) Does the regulation establish a new fee or increase an existing fee?

No.

(11) Provide a statement which identifies the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608.

A domiciled insurance company that writes less than \$500,000,000 in direct premiums is exempted from the requirement of this regulation. Data reviewed by Division staff shows that Nevada has never had, nor does Nevada currently have, a domiciled insurance company that has written over

\$500,000,000 in direct premiums. A review conducted by Division staff of insurers in the United States writing more than \$500,000,000 in direct premiums shows that these companies are not small businesses. The requirement in this regulation also does not apply to producers or administrators.

Based on the experience of the Division's insurance examiner staff in reviewing insurance company financial information and rates, the cost of such an internal audit process is not significant compared to the very large amount of direct premium taken in by companies writing \$500,000,000 or more in direct premiums. Any trickle-down of this cost to those who buy the insurance product would be de minimis. As a result, there is no direct, significant, or burdensome impact on Nevada small businesses due to this regulation. Therefore, the Division concluded that no solicitation outside of the workshop and hearing setting is required; nor is a small business impact statement needed.

(12) Provide a description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, state the name of the regulating federal agency.

No regulation overlaps with the audit regulation.

(13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

N/A

(14) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

N/A

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. **Written submissions must be received by the Division on or before September 14, 2016.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation will be on file at the State Library, 100 North Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation will be available at the offices of the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the

Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us/register/>. Copies of this notice and the proposed regulation will be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Notice of the hearing was provided via electronic means to all persons on the agency's e-mail list for administrative regulations, and this Notice of Intent to Act Upon Regulation was posted to the agency's Internet Web site at <http://doi.nv.gov/> and was provided to or posted at the following locations:

Department of Business and Industry
Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, Nevada 89104

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Grant Sawyer Building
555 East Washington Avenue
Las Vegas, Nevada 89101

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Capitol Building Main Floor
101 North Carson Street
Carson City, Nevada 89701

Nevada Department of Employment,
Training and Rehabilitation
2800 E. Saint Louis Ave.
Las Vegas, NV 89104

Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Carson City Library
900 North Roop Street
Carson City, Nevada 89701

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Douglas County Library
P.O. Box 337
Minden, Nevada 89423

Elko County Library
720 Court Street
Elko, Nevada 89801

Esmeralda County Library
P.O. Box 430
Goldfield, Nevada 89013

Eureka Branch Library
P.O. Box 293
Eureka, Nevada 89316

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Lander County Library
P.O. Box 141
Battle Mountain, Nevada 89820

Las Vegas-Clark County Library District
7060 W. Windmill Lane
Las Vegas, NV 89113

Lincoln County Library
P.O. Box 330
Pioche, Nevada 89043-0330

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Mineral County Public Library
P.O. Box 1390
Hawthorne, Nevada 89415

Pershing County Library
P.O. Box 781
Lovelock, Nevada 89419

Storey County Clerk
P.O. Drawer D
Virginia City, Nevada 89440

Tonopah Public Library
P.O. Box 449
Tonopah, Nevada 89049


Washoe County/Downtown Reno Library
P.O. Box 2151
Reno, Nevada 89505-2151

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who would like additional information about the proposed regulation may contact Omar Akel, Chief Insurance Examiner, at (775) 687-0743, or via e-mail to oakel@doi.nv.gov.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary, in writing, no later than five (5) working days before the meeting: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

DATED this 1st day of September, 2016.



BARBARA D. RICHARDSON
Commissioner of Insurance

HEARING AGENDA

The State of Nevada, Department of Business and Industry, Division of Insurance

October 11, 2016 • 11:00 a.m.

Location of Hearing:

Office of the Division of Insurance
1818 E. College Pkwy., 1st Floor Hearing Room
Carson City, NV 89706
(Division Offices located in Suite 103)

Available via Videoconference at:

Office of the Division of Insurance
2501 E. Sahara Ave., 3rd Floor Conference Room
Las Vegas, NV 89104
(Division Offices located in Suite 302)

1. **Call to Order: R108-16.**
2. **Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)**

LCB File No. R108-16. Internal Audit. (NAC 680A)

A REGULATION relating to insurance; requiring the establishment of an internal audit function for certain insurers and groups of insurers; revising provisions relating to auditing for insurers and groups of insurers; and providing other matters properly relating thereto.

3. **Public Comment.**
4. **Closure: R108-16.**
5. **Adjournment.**

Supporting public material for this meeting may be requested from Susan Bell, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, (775) 687-0704, or suebell@doi.nv.gov.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; and items may be pulled or removed from the agenda at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public Comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Commissioner's secretary, in writing, no later than five (5) working days before the meeting: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

NOTICES FOR THIS MEETING HAVE BEEN POSTED IN ACCORDANCE WITH NRS 241 AT THE FOLLOWING LOCATIONS:

Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706
Nevada Division of Insurance, 2501 E. Sahara Avenue, Suite 302, Las Vegas, Nevada 89104

Nevada State Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701
Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101
Blasdel State Office Building, 209 E. Musser Street, Carson City, Nevada 89701
Nevada State Capitol, 101 N. Carson Street, Carson City, Nevada 89701
Nevada Dept. of Employment, Training and Rehabilitation, 2800 E. Saint Louis Avenue, Las Vegas, Nevada 89104
The State of Nevada Website (www.nv.gov)
The Nevada State Legislature Website (www.leg.state.nv.us)
The Nevada Division of Insurance Website (www.doi.nv.gov)

STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE

Determination of Necessity of Small Business Impact Statement

LCB File No. R108-16

PROPOSED REGULATION CONCERNING INTERNAL AUDIT

EFFECTIVE DATE OF REGULATION:
Upon filing with the Nevada Secretary of State

1. BACKGROUND

The changes are needed to require insurers to have an internal audit function.

2. DESCRIPTION OF SOLICITATION

A domiciled insurance company that writes less than \$500,000,000 in direct premiums is exempted from the requirement of this regulation. Data reviewed by Division staff shows that Nevada has never had, nor does Nevada currently have, a domiciled insurance company that has written over \$500,000,000 in direct premiums. A review conducted by Division staff of insurers in the United States writing more than \$500,000,000 in direct premiums shows that these companies are not small businesses. The requirement in this regulation also does not apply to producers or administrators.

Based on the experience of the Division's insurance examiner staff in reviewing insurance company financial information and rates, the cost of such an internal audit process is not significant compared to the very large amount of direct premium taken in by companies writing \$500,000,000 or more in direct premiums. Any trickle-down of this cost to those who buy the insurance product would be de minimis. As a result, there is no direct, significant, or burdensome impact on Nevada small businesses due to this regulation. Therefore, the Division concluded that no solicitation outside of the workshop and hearing setting is required; nor is a small business impact statement needed.

3. DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? (NRS 233B.0608.1)


NO (answer #4) YES (skip to #5)

4. HOW WAS THAT CONCLUSION REACHED? (NRS 233B.0608.3)

See answer to #2 above.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify to the best of my knowledge or belief a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0608.3)

9/1/16
(DATE)


BARBARA D. RICHARDSON
Commissioner of Insurance

Small Business Impact Statement

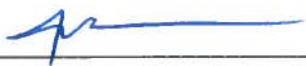
LCB File No. R108-16

5. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES (NRS 233B.0609.1.a)
N/A
6. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE (NRS 233B.0609.1.c)
N/A
7. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES (NRS 233B.0609.1.d)
N/A
8. ESTIMATED COST OF ENFORCEMENT (NRS 233B.0609.1.e)
N/A
9. FEE CHANGES (NRS 233B.0609.1.f)
N/A
10. DUPLICATIVE PROVISIONS (NRS 233B.0609.1.g)
N/A
11. HOW WAS THE ANALYSIS CONDUCTED? (NRS 233B.0609.1.b)
N/A
12. REASONS FOR CONCLUSIONS (NRS 233B.0609.1.h)
N/A

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify to the best of my knowledge or belief a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0609.2)

9/1/16

(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R108-16

August 25, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-10, NRS 679B.130.

A REGULATION relating to insurance; requiring the establishment of an internal audit function for certain insurers and groups of insurers; revising provisions relating to auditing for insurers and groups of insurers; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code. (NRS 679B.130) Existing law also requires certain insurers to annually file with the Commissioner a financial statement certified by a certified public accountant who is not an employee of the insurer. (NRS 680A.265) **Section 4** of this regulation requires each insurer or group of insurers to establish an internal audit function and establishes requirements relating to the internal audit function. **Section 3** of this regulation exempts certain insurers from the requirements of **section 4**. **Section 8** of this regulation requires the audit committee responsible for an insurer or group of insurers to oversee the internal audit function of the insurer or group of insurers and grant the persons responsible for the internal audit function suitable authority and resources to perform the function.

Section 1. Chapter 680A of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *“Internal audit function” means a person or persons who provide independent, objective and reasonable assurance designed to add value and improve an organization’s operations and accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, internal control and governance processes.*

Sec. 3. 1. *An insurer is exempt from the requirements of section 4 of this regulation if:*

(a) The insurer has annual direct written and unaffiliated assumed premiums, including international direct and assumed premiums but excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program, of less than \$500,000,000; and

(b) The group of insurers of which the insurer is a member has annual direct written and unaffiliated assumed premiums, including international direct and assumed premiums but excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program, of less than \$1 billion.

2. An insurer who was previously exempt from the requirements of section 4 of this regulation pursuant to subsection 1 but no longer qualifies for such an exemption shall comply with the requirements of section 4 of this regulation within 1 year after the date on which the insurer ceased to qualify for an exemption pursuant to subsection 1.

Sec. 4. 1. *Each insurer or group of insurers shall establish an internal audit function to provide assurance to the audit committee and the management of the insurer or group of insurers regarding the governance, risk management and internal controls of the insurer or group of insurers. The internal audit function must provide this assurance by performing general and specific audits, reviews and tests and by employing other techniques deemed necessary to protect assets, evaluate internal control effectiveness and efficiency and evaluate compliance with policies and regulations.*

2. The internal audit function must be organizationally independent to ensure that internal auditors remain objective. The internal audit function shall not defer ultimate judgment on any audit matter to others. The audit committee shall appoint a person to head

the internal audit function who has direct and unrestricted access to each applicable board of directors. A requirement that the internal audit function report to more than one person does not violate the requirements of this subsection.

3. The person appointed to head the internal audit function shall report to the audit committee regularly, but not less than annually, on the plan of the internal audit function for periodic audits, factors that may adversely impact the independence or effectiveness of the internal audit function, material findings from completed audits and the appropriateness of corrective actions implemented by management as a result of audit findings.

4. An insurer which is a member of an insurance holding company system as defined in NRS 692C.060 or included in a group of insurers is deemed to satisfy the requirements of this section if an internal audit function has been established within the legal entity which exercises ultimate control over the insurer, within the intermediate holding company or within the insurer which satisfies the requirements of this section with respect to the insurer.

Sec. 5. NAC 680A.005 is hereby amended to read as follows:

680A.005 “Audit committee” means a committee or equivalent body established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers , *the internal audit function of an insurer or group of insurers* and *all other* audits of financial statements of the insurer or group of insurers.

Sec. 6. NAC 680A.189 is hereby amended to read as follows:

680A.189 1. The insurer’s financial statements must be examined by an independent certified public accountant for the purposes of and the regulations adopted pursuant thereto. The audit of the insurer’s financial statements must be conducted in accordance with generally

accepted auditing standards. In accordance with AU Section ~~319, Consideration of Internal Control in a Financial Statement Audit,~~ **314, Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement**, included in the *AICPA Professional Standards*, as adopted by reference in subsection 2, the independent certified public accountant must obtain an understanding of the insurer's internal control sufficient to plan the audit. If required by AU Section ~~319,~~ **314**, for those insurers required to file a Management's Report on Internal Control Over Financial Reporting pursuant to NAC 680A.203, the independent certified public accountant shall consider the most recently available report in planning and performing the audit of the financial statements. Consideration should be given to the procedures set forth in the *Financial Condition Examiners Handbook*, adopted by reference in NAC 679B.033, as the independent certified public accountant deems necessary.

2. The *AICPA Professional Standards* are hereby adopted by reference and may be obtained ~~by mail~~ from the American Institute of Certified Public Accountants ~~Member Service Center, Order Processing, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 or~~ by ordering via telephone at (888) 777-7077, by facsimile at (800) 362-5066 or on the Internet at ~~http://www.epa2biz.com~~ <http://www.aicpastore.com/> at the price of ~~\$135~~ **\$159** for members of the American Institute of Certified Public Accountants and ~~\$168.75~~ **\$199** for nonmembers.

Sec. 7. NAC 680A.193 is hereby amended to read as follows:

680A.193 1. In addition to the annual Audited Financial Report, each insurer shall furnish the Commissioner with a completed Communication of Internal Control Related Matters Noted in an Audit as to any ~~unremediated~~ material weaknesses in its internal control over financial reporting noted during the audit.

2. The report required pursuant to the provisions of this section must be prepared by the independent certified public accountant within 60 days after the date on which the annual Audited Financial Report is filed with the Commissioner and must contain a description of any ~~unremediated~~ material weakness in the insurer's internal control over financial reporting noted during the audit of the insurer's financial statements by the accountant, as of December 31 of the most recent calendar year.

3. If there are no ~~unremediated~~ material weaknesses noted, the report to the Commissioner must state that there are no ~~unremediated~~ material weaknesses noted.

4. The insurer must provide a description of any remedial actions taken or proposed to be taken to correct any ~~unremediated~~ material weaknesses, if the actions taken by the insurer are not described in the accountant's report.

5. As used in this section, ~~unremediated~~ "material weakness" has the meaning ascribed to it in the Statements of Auditing Standards No. ~~112,~~ *115*, Communicating Internal Control Related Matters Identified in an Audit, included in the *AICPA Professional Standards*, adopted by reference in NAC 680A.189.

Sec. 8. NAC 680A.199 is hereby amended to read as follows:

680A.199 1. The provisions of this section do not apply to a foreign or alien insurer licensed in this State or an insurer that is a SOX Compliant Entity or a direct or indirect wholly owned subsidiary of a SOX Compliant Entity.

2. The audit committee shall be directly responsible for the appointment, compensation and oversight of the work of any accountant for the purpose of preparing or issuing the Audited Financial Report or related work pursuant to NAC 680A.173 to 680A.211, inclusive ~~1,~~ *and sections 3 and 4 of this regulation.* Any dispute between the management of the insurer and the

accountant during the course of the audit regarding the financial reporting for the preparation or issuance of the annual Audited Financial Report of the insurer must be resolved by the audit committee. Each accountant shall report directly to the audit committee.

3. *The audit committee shall be responsible for:*

(a) Overseeing the internal audit function of the insurer or group of insurers; and

(b) Granting the internal audit function suitable authority and resources to perform its function.

4. Each member of the audit committee must be a member of the board of directors of the insurer or a member of the board of directors of an entity that controls a group of insurers. If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee.

~~4.1~~ 5. Except as otherwise provided in this subsection, to be considered independent for the purposes of this section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board or committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof. If, by law, participation on the board of directors by otherwise nonindependent members is required, such members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of NAC 680A.173 to 680A.211, inclusive, *and sections 3 and 4 of this regulation* at the election of the controlling person.

~~15.1~~ 6. If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, the insurer shall provide notice to the Commissioner, and the member may remain an audit committee member of the insurer until the earlier of the next annual meeting of the insurer or 1 year after the occurrence of the event that caused the member to be no longer independent.

~~16.1~~ 7. To exercise the election of the controlling person to designate the audit committee for purposes of NAC 680A.173 to 680A.211, inclusive, *and sections 3 and 4 of this regulation* the ultimate controlling person shall provide written notice to the insurance regulatory authority of other affected states. Notification must be made timely before the issuance of the Audited Financial Report and include a description of the basis for the election. The election may be changed through notice to the Commissioner by the insurer, which must include a description of the basis for the change. The election remains in effect for perpetuity or until rescinded.

~~17.1~~ 8. The audit committee shall require the independent certified public accountant that performs any audit for an insurer as required by NAC 680A.173 to 680A.211, inclusive, *and sections 3 and 4 of this regulation* to timely report to the audit committee in accordance with the requirements of Statements of Auditing Standards No. ~~61.1~~ *114, The Auditor's Communication [with Audit Committees,] With Those Charged With Governance*, included in the *AICPA Professional Standards*, as adopted by reference in NAC 680A.189, including, without limitation:

- (a) All significant accounting policies and material permitted practices;
- (b) All material alternative treatments of financial information within statutory accounting principles that have been discussed with the management of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

(c) Any other material written communications between the independent certified public accountant and the management of the insurer, including any management letter or schedule of unadjusted differences.

~~18.1~~ **9.** If an insurer is a member of an insurance holding company system ~~1.1~~ *as defined in NRS 692C.060*, the reports required by subsection ~~17.1~~ **8** may be provided to the audit committee on an aggregate basis for the insurers in the holding company system if the independent certified accountant identifies to the audit committee any substantial differences among insurers in the system.

~~19.1~~ **10.** The proportion of independent audit committee members must meet or exceed the following criteria:

Previous Calendar Year Direct Written and Assumed Premiums		
\$0 – 300,000,000	\$300,000,001 – 500,000,000	Over \$500,000,000
No minimum requirements.	Majority (50 percent or more) of members shall be independent.	Supermajority (75 percent or more) of members shall be independent.

~~110.1~~ **11.** The Commissioner may require the board of directors of an insurer or a group of insurers to enact improvements to the independence of the audit committee membership, if:

(a) The insurer is subject to filing the Risk-Based Capital (RBC) Report and the insurer has identified a risk-based capital action level event pursuant to the provisions of NAC 681B.400 to 681B.595, inclusive;

(b) The insurer meets one or more of the standards of an insurer deemed to be in hazardous financial condition identified pursuant to NRS 680A.205 and NAC 680A.220 to 680A.226, inclusive; or

(c) The insurer otherwise exhibits qualities of a troubled insurer.

~~{11}~~ **12.** All insurers with less than \$500 million in direct written and assumed premiums for the previous calendar year are encouraged to structure their audit committees with at least a supermajority of independent audit committee members.

~~{12}~~ **13.** An insurer with direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program, of less than \$500 million may apply in writing to the Commissioner for a waiver from the requirements of this section based on hardship. If the waiver is granted, the insurer shall file, with its annual statement filing, the approval for the waiver with the states in which it is licensed or doing business and with the National Association of Insurance Commissioners. If the nondomestic state accepts electronic filing with the National Association of Insurance Commissioners, the insurer shall file the approval in an electronic format acceptable to the National Association of Insurance Commissioners.

~~{13. — The requirements of this section become effective on January 1, 2010, except that:}~~

14. *Notwithstanding any provision of this section to the contrary:*

(a) An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members because the total written and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to changes in premiums must comply with the independence requirements within 1 year after the year the threshold is exceeded; and

(b) An insurer that becomes subject to one of the independence requirements because of a business combination must comply with the independence requirements within 1 calendar year after the date of acquisition or combination.

Sec. 9. NAC 680A.203 is hereby amended to read as follows:

680A.203 1. Except as otherwise provided in subsections 2 and 3, beginning with the reporting period ending December 31, 2010, and each year thereafter, every insurer required to file an Audited Financial Report pursuant to NRS 680A.265 and the regulations adopted pursuant thereto that has annual direct written and assumed premiums of \$500 million or more, excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program, must prepare a report of the insurer's or group of insurers' internal control over financial reporting. The Management's Report on Internal Control Over Financial Reporting must be filed with the Commissioner along with the Communication of Internal Control Related Matters Noted in an Audit report described in NAC 680A.193. The Management's Report on Internal Control Over Financial Reporting must be current as of the previous December 31.

2. An insurer or a group of insurers:

(a) That is not required to file an Audited Financial Report because the total written premium of the insurer or group of insurers is below the threshold and subsequently becomes subject to the reporting requirements shall file the Management's Report on Internal Control Over Financial Reporting within 2 years after the year in which the threshold is exceeded; or

(b) That is acquired in a business combination shall file the Management's Report on Internal Control Over Financial Reporting within 2 calendar years after the date of acquisition or combination.

3. In addition to an insurer described in subsection 1, the Commissioner may require an insurer to file the Management's Report on Internal Control Over Financial Reporting if:

(a) The insurer is subject to the Risk-Based Capital Report pursuant to the provisions of NRS ~~681B.290~~ **681B.550** and the insurer has identified a risk-based capital action level event that requires the insurer to file a corrective action plan pursuant to the provisions of NAC 681B.400 to 681B.595, inclusive;

(b) The insurer meets one or more of the standards of an insurer deemed to be in hazardous financial condition identified pursuant to the provisions of NRS 680A.205 and NAC 680A.220 to 680A.226, inclusive; or

(c) The insurer otherwise exhibits qualities of a troubled insurer.

4. An insurer or group of insurers that is:

(a) Directly subject to the provisions of Section 404;

(b) A member of a holding company system whose parent is directly subject to Section 404;

(c) Not directly subject to Section 404 but a SOX Compliant Entity; or

(d) A member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity,

↳ may file its or its parent's Section 404 Report and an addendum in satisfaction of this section's requirement, if those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' statutory Audited Financial Reports were included in the scope of the Section 404 Report. The addendum must be a positive statement by the management of the insurer that there are no material processes with respect to the preparation of the insurer's or group of insurers' statutory Audited Financial Reports excluded from the Section 404 Report.

5. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' statutory Audited Financial Reports and those internal controls were not included in the scope of the Section 404 Report, the insurer or group of insurers may file:

(a) The Management's Report on Internal Control Over Financial Reporting; or

(b) The Section 404 Report and the Management's Report on Internal Control Over Financial Reporting for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' statutory Audited Financial Reports not covered by the Section 404 Report.

6. A Management's Report on Internal Control Over Financial Reporting must include each of the following:

(a) A statement that the management of the insurer is responsible for establishing and maintaining adequate internal control over financial reporting.

(b) A statement that the management of the insurer has established internal control over financial reporting and an assertion, to the best of the management's knowledge and belief after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles.

(c) A statement that briefly describes the approach or processes by which the management of the insurer evaluated the effectiveness of its internal control over financial reporting.

(d) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded.

(e) A statement disclosing any ~~unremediated~~ material weaknesses in the internal control over financial reporting identified by the management of the insurer as of the previous December 31. The management of the insurer may not conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there are one or more ~~unremediated~~ material weaknesses in its internal control over financial reporting.

(f) A statement regarding the inherent limitations of internal control systems.

(g) Signatures of the chief executive officer and the chief financial officer or, in the absence of one of these positions, signatures of two other principal officers or directors who have an equivalent position or title.

7. The management of the insurer shall document and make available upon examination of its financial condition the basis upon which its assertions are made, as required pursuant to subsection 6. Such basis may include its review, monitoring and testing of internal controls undertaken in the normal course of its activities.

8. The management of the insurer has discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost-effective manner and, as such, may include assembly of or reference to existing documentation.

9. The Management's Report on Internal Control Over Financial Reporting and any documentation provided in support thereof during the course of a financial condition examination must be kept confidential by the Division.

10. As used in this section, ~~unremediated~~ "material weakness" has the meaning ascribed to it in the Statements of Auditing Standards No. ~~112,~~ **115**, Communicating Internal Control

Related Matters Identified in an Audit, included in the *AICPA Professional Standards*, adopted by reference in NAC 680A.189.

Sec. 10. This regulation becomes effective on January 1, 2017.