Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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REGULATORY IMPACT STATEMENT and COST-BENEFIT ANALYSIS (RIS)

Agency Information:

Department name:

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Rule Set Information:

ARD assigned rule set number:

2023-64 IF

Title of proposed rule set:

Term and Universal Life Insurance Reserve Financing

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

The proposed rules are not parallel to rules and regulations promulgated by the federal government. The proposed rules would adopt Term and Universal Life Insurance Reserve Financing Model Regulation #787 (Model Regulation) promulgated by the National Association of Insurance Commissioners (NAIC). The NAIC administers a program under which states must adopt the NAIC's accreditation standards in order to maintain the state's status as an accredited jurisdiction.

A. Are these rules required by state law or federal mandate?

No. The proposed rules are not mandated under applicable statutory authority.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The proposed rules do not exceed a federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The Department considers the states bordering Michigan to be similarly situated states, which include Illinois, Indiana, Minnesota, Ohio, and Wisconsin. Indiana has adopted the Model Regulation under Indiana Administrative Code, Title 760, § 1-82-1 to 1-82-19. Wisconsin has adopted the Model Regulation under Wisconsin Administrative Code § 52.20 to 52.26. According to the NAIC's state adoption list applicable to the Model Regulation, current as of the date this statement was prepared, Illinois, Ohio, and Minnesota have adopted the Model Regulation in a "substantially similar manner" through those states' adoption of the Accounting Practices and Procedures Manual (AP&P Manual) and/or Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (AG 48).

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The rules do not exceed standards in the similarly situated states that have adopted the Model Regulation. To the extent that the proposed rules deviate from the other states' adopted standards, the proposed rules adopt the Model Regulation without substantive departure, because the Model Regulation has become an NAIC Accreditation requirement.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

The proposed rules are not duplicative of or in conflict with other laws, rules, or legal requirements. To the degree that the proposed rules are considered to "overlap" with other laws, rules, or legal requirements, the rules apply to the financial evaluation reinsurance treaties that cede liabilities pertaining to "covered policies," as defined in the rules, issued by a life insurance company domiciled in Michigan. Reinsurance transactions are governed under Chapter 11 of the Insurance Code of 1956 (Code), MCL 500.1101 to 500.1127, see also MCL 500.632; these rules establish standards for the applicable reinsurance treaties in accordance with the authority provided in MCL 500.1106. Rules 500.1121 to 500.1134, Credit for Reinsurance, and establish standards governing reinsurance transactions in order to implement Chapter 11 of the Code. The Credit for Reinsurance rules would generally apply to reinsurance treaties subject to the proposed rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

There is no federal or local law applicable to the same activity or subject matter that the proposed rules apply to. Chapter 11 of the Code is the state law governing reinsurance transactions, a subset of which are regulated under the proposed rules. The rules "coordinate" with Chapter 11 by establishing standards for reinsurance treaties, subject to the rules in accordance with the authority provided in MCL 500.1106. The proposed rules "coordinate" with the Credit for Reinsurance rules, R 500.1121 to R 500.1134, by stating that the reinsurance treaties subject to the proposed rules are also subject to the Credit for Reinsurance rules, and in the event of a direct conflict, the relevant provision of the proposed rules applies. No effort was otherwise made to avoid or minimize duplication because the proposed rules are not duplicative of other federal, state, or local laws.

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The Model Regulation was developed from a concern that insurers, primarily life insurers, were using captives and special purpose vehicles (SPV) to avoid perceived redundancies in existing actuarial reserve requirements under certain NAIC model standards. This was reportedly accomplished by insurers forming and ceding risk to captives/SPVs through a reinsurance transaction in order to enhance the securitization of the ceding insurer's risk. To discourage the practice as a mechanism to avoid statutory accounting requirements, it was proposed to review the existing reserve requirements applicable to the types of insurance that gave rise to the practice, to ensure that the accounting requirements were consistent with the risks involved. The regulatory response was the NAIC's adoption of the Model Regulation, in addition to an amendment of AG 48, which is included within the AP&P Manual. Insurers, including those subject to the proposed rules, are required to submit to the Department, annual and quarterly financial statements in compliance with the AP&P Manual, as prescribed by the Director of the Department. The proposed rules would apply to those filings with respect to transactions that are governed by the proposed rules.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The proposed rules would establish standards for security requirements for certain life insurers with reserve financing arrangements, which are generally monitored through insurers' financial statements filed with the Department on a quarterly and annual basis. The proposed rules would require ceding insurers of covered policies to meet certain security requirements on an ongoing basis as a condition of having a credit for the reinsurance and to use best efforts to eliminate any deficiencies at any time it becomes aware of the deficiency, as determined under the proposed rules.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Currently, insurers subject to the proposed rules prepare financial statements submitted to the Department in accordance with the AP&P Manual and AG 48, as prescribed by the Director of the Department. The desired practice is for those insurers to apply the standards in the proposed rules to those filings and remediate deficiencies in security, as determined and required under the proposed rules.

C. What is the desired outcome?

The desired outcome is for insurers subject to the proposed rules to apply uniform standards governing reserve financing arrangements that are subject to the rules and ensure that security is held in appropriate form and amount.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

By establishing standards for the financial accounting of certain life insurers with reserve financing arrangements, the proposed rules aim to strengthen the financial health of those insurers, and the related financial statement filing requirements assist the Department in monitoring the financial condition of those insurers, to ensure that they remain safe, reliable, and entitled to public confidence. Failure to promulgate the proposed rules and adopt the Model Regulation could jeopardize Michigan's accreditation status with the NAIC.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The rules would promulgate a new rule set; there are none currently written.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

By strengthening the financial health of insurers subject to the proposed rules and with the Department's oversight through those insurers' financial statement filings, the health, safety, and welfare of Michigan citizens is protected by ensuring that those insurers remain able to satisfy financial obligations, including obligations owed to their policyholders. The proposed rules do not impose a burdensome regulatory environment in Michigan; insurers subject to the proposed rules are currently required to submit financial filing statements to the Department, and those statements are currently prepared under standards that are substantially similar to the standards under the proposed rules.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

The proposed rules would establish a new rule set; there are no rules that are obsolete or unnecessary.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

The proposed rules are not expected to have a fiscal impact on the Department. The Department currently receives and reviews financial statements filed by insurers, which is the primary mechanism for which the Department expects to oversee compliance with the proposed rules.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No appropriation has been made to expressly fund expenditures associated with the proposed rules, as there is not expected to be a fiscal impact on the Department that would necessitate such an appropriation.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules do not place burdens on individuals. The proposed rules apply to certain insurance companies. The proposed rules require certain life insurance companies, with respect to certain transactions, to apply specified accounting standards designed to ensure that the insurer maintains appropriate forms and amounts of security. Insurers subject to the proposed rules are currently required to prepare and submit to the Department financial filing statements, as prescribed by the Director of the Department. The existing standards applicable to those filings are substantially similar to those established in the proposed rules. The proposed rules do require certain life insurance companies, with respect to certain transactions, to remediate deficiencies in security specified in the rules and provide for accounting standards that apply when such deficiencies exist. The standards established under the proposed rules ensure that insurers subject to the proposed rules maintain appropriate security, and by adopting the Model Regulation under the proposed rules, those standards are applied uniformly among the states.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The proposed rules do not place burdens on individuals. The proposed rules' requirements relating the financial accounting of certain life insurers, with respect to certain transactions, are needed to ensure that those insurers maintain appropriate security according to uniform, national standards. Promulgation of the proposed rules also benefits Michigan insurers, as it relates to the state's continued accreditation status with the NAIC.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

The proposed rules are not expected to have an increase or decrease in revenues or costs to other state or local governmental units.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

The proposed rules do not impose a program, service, duty, or responsibility on a city, county, town, village, or school district.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The proposed rules do not require local governmental units to take actions to comply with the rules.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

There are not additional expenditures associated with the proposed rules in relation to other state governmental units or local governmental units.

Rural Impact

14. In general, what impact will the rules have on rural areas?

The proposed rules would not impact rural areas differently than urban areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The proposed rules apply to financial transactions of certain insurers and reinsurers with respect to state-level oversight and regulation of the financial health of those insurers/reinsurers and are substantially similar to existing standards used by the Department. The proposed rules do not affect public and private interests in rural areas differently than urban areas.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules do not have an impact on the environment.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The Department did not exempt "small businesses" from the proposed rules. The proposed rules impact life insurers utilizing reserve financing arrangements subject to the rules. Based on annual data reported in 2022, there were approximately 363 companies licensed to transact life insurance in Michigan; approximately 16 of those companies were domiciled in Michigan. The NAIC's 2022 Market Share Report lists the total direct written premium (which may include life and other lines/products) for life insurers (and fraternals) at the group and company level, as applicable; most of Michigan's domiciled insurers' total annual direct written premiums exceed $6,000,000.00 and do not appear to qualify as a "small business" based on their level of premiums or ownership structure. See MCL 24.207a. To the extent that an insurer subject to the rules would qualify as a "small business," the proposed rules are not expected to have a disproportionate impact on the business because of its size. The rules only apply to insurers that elect to engage in reinsurance transactions using the reserve financing arrangements subject to the rules; insurers are not required to engage in these arrangements. Despite the lack of a "small business" exemption, the Department understands that the reserve financing arrangements subject to the rules are, in reality, used by the largest life insurance companies. Further, the standards in the proposed rules are substantially similar to the Department's existing requirements adopted for evaluating the relevant transactions.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The proposed rules are not anticipated to have a disproportionate economic impact on "small businesses" because of their size. Disparate treatment of insurers engaging in the reserve financing arrangements subject to the rules is not feasible and lawful because (1) the proposed rules relate to implementing MCL 500.1106, which applies in relevant part with regard to reinsurance agreements concerning certain "life insurance policies"; (2) the purpose of the Model Regulation and proposed rules is to establish modern and uniform capital and security requirements that apply with respect to reserve financing arrangements; and (3) adoption of the Model Regulation is a requirement for NAIC state accreditation.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The Department estimates that very few, if any, "small businesses" would be affected by the proposed rules because a company electing to engage in reserve financing arrangements subject to the rules would not qualify as a "small business" or would not engage in those arrangements as a matter of business practices. As with any insurer electing to engage in the reserve financing arrangements subject to the proposed rules, the insurer might incur costs to bring its practices into compliance, such as updating its systems and/or professional services. The probable effect of the proposed rules on "small businesses" is little to no impact because the insurance company is unlikely to qualify as a "small business" or does not engage in the relevant reserve financing arrangements, and moreover, compliance costs are expected to be minimal because the standards in the proposed rules are substantially similar to the Department's existing requirements adopted for evaluating the relevant transactions, which regulated insurers should be aware of.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The proposed rules do not establish different compliance or reporting requirements or timetables for "small businesses." Verification and compliance with the proposed rules are generally monitored through current requirements for financial statement filings with applicable deadlines that are established in the Code or prescribed by the Director of the Department with respect to all regulated insurers. All regulated insurers should be aware of existing applicable filing requirements, and the standards in the proposed rules are substantially similar to the Department's existing requirements adopted for evaluating the reserve financing arrangements that are subject to the proposed rules. A uniform application of the proposed rules in this regard promotes coordination with other states' evaluation of their domestic insurers through the NAIC accreditation program.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The proposed rules do not consolidate or simplify compliance and reporting requirements for "small businesses." The proposed rules establish modern and uniform capital and security requirements that apply to reserve financing arrangements subject to the rules, and compliance is generally monitored through current requirements for financial statement filings. The proposed rules' adoption of the Model Regulation codifies the most appropriate approach to ensuring that all relevant reserve financing arrangements are adequately secured, and that the Department is able to effectively monitor the financial health of the insurer. As with any insurer electing to engage in the reserve financing arrangements subject to the proposed rules, appropriate actuarial, accounting, and/or other financially related skills are necessary to comply with the proposed rules and associated filing requirements. However, insurers use these skills and services in the normal course of business, and if the insurer is currently engaged in reserve financing arrangements subject to the rules, the insurer would be familiar with the specific level of skill necessary to comply because the standards in the proposed rules are substantially similar to the Department's existing requirements adopted for evaluating the relevant transactions.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The proposed rules do not establish performance standards in replace of design or operation standards. Disparate treatment of insurers engaging in the reserve financing arrangements subject to the rules is not feasible because (1) the proposed rules relate to implementing MCL 500.1106, which applies in relevant part with regard to reinsurance agreements concerning certain "life insurance policies"; (2) the purpose of the Model Regulation and proposed rules is to establish modern and uniform capital and security requirements that apply with respect to reserve financing arrangements; and (3) adoption of the Model Regulation is a requirement for NAIC state accreditation.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The proposed rules are not anticipated to have a disproportionate impact on "small businesses" because of their size or geographic location.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

It is unlikely that regulated entities engaging in transactions governed by the proposed rules constitute "small businesses." The proposed rules do not expressly require an additional "report"; compliance with the proposed rules is generally monitored through current requirements for financial statement filings. The standards in the proposed rules are substantially similar to the Department's existing requirements adopted for evaluating the relevant transactions. As a result, to the extent that a "small business" is subject to the proposed rules and any requirement is deemed a "report," the estimated cost resulting from promulgating the proposed rules is expected to be minimal.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

It is unlikely that regulated entities engaging in transactions governed by the proposed rules constitute "small businesses." As with any insurer electing to engage in the reserve financing arrangements subject to the proposed rules, the insurer might incur costs to bring its practices into compliance, such as updating its systems and/or professional financial services, and is expected to demonstrate compliance through financial statement filings. However, the standards in the proposed rules are substantially similar to the Department's existing requirements adopted for evaluating the relevant transactions, and regulated insurers are currently required to prepare financial statements. As a result, to the extent that a "small business" is subject to the proposed rules, any costs resulting from promulgating the proposed rules are expected to be minimal.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

It is unlikely that regulated entities engaging in transactions governed by the proposed rules constitute "small businesses." As with any insurer electing to engage in the reserve financing arrangements subject to the proposed rules, the insurer might incur costs to bring its practices into compliance, such as updating its systems and/or professional financial services and is expected to demonstrate compliance through financial statement filings. This could include legal, consulting, or accounting services. However, the standards in the proposed rules are substantially similar to the Department's existing requirements adopted for evaluating the relevant transactions, and regulated insurers are currently required to prepare financial statements. As a result, to the extent that a "small business" is subject to the proposed rules, any cost resulting from promulgating the proposed rules is expected to be minimal.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

It is unlikely that regulated entities engaging in transactions governed by the proposed rules constitute "small businesses." To the extent that a "small business" is subject to the proposed rules, any costs resulting from promulgating the proposed rules are expected to be minimal. The Department estimates that because of the familiarity of the standards in the proposed rules (in light of the Department's existing substantially similar requirements adopted for evaluating the relevant transactions and the Model Regulation's adoption in many other jurisdictions) and experience in submitting currently required financial statement filings, the insurer would be able to absorb any costs without suffering economic harm or adversely affecting competition.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Assuming that a "small business" would be engaging in reserve financing arrangements subject to the proposed rules, to administer or enforce a rule that exempts small businesses or sets lesser standards for small businesses, the Department initially would have to use staff resources to research and solicit comment on what the alternative standards should be, despite that the Model Regulation was developed at the national level over multiple years and with significant regulator input and comment from interested parties. Department staff resources would also be expended to amend any materials, documents, or orders the Department uses for the purposes of regulated insurers' financial statement filings. Additional Department staff resources could be necessary when reviewing and monitoring insurers' compliance, as having different standards for "small businesses" eliminates the efficiencies gained by applying uniform standards to all reserve financing arrangements subject to the proposed rules, regardless of whether the company meets the definition of "small business" established under the Administrative Procedures Act of 1969. Because it is unlikely that regulated entities engaging in transactions governed by the proposed rules constitute "small businesses," ongoing costs for overseeing compliance with the differing set of standards might not be significant. However, failing to adopt the Model Regulation by promulgating the proposed rules would jeopardize the Department's accreditation status with the NAIC. Accredited states receive substantial benefit from the efficiencies created by coordinating with other accredited states' financial evaluation of their domestic insurers.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The Department believes that the public interest could be harmed if any exemptions are made, or lesser standards are set in the proposed rules. The proposed rules would adopt the Model Regulation, which sets standards for the adequate securitization of insurers with respect to reserve financing arrangements subject to the proposed rules; maintaining adequate security in the forms and amounts specified in the proposed rules helps to ensure that the insurer remains financially solvent in order to meet its contractual obligations, including the payment of claims to policyholders. Consumers should be entitled to have confidence in their insurer's financial health, regardless of whether the insurer qualifies as a "small business" under the Administrative Procedures Act of 1969. If no "small business" is subject to the proposed rules by engaging in the relevant reserve financing arrangements, any exemption or lesser standards for "small businesses" would not become operational, limiting any adverse impact on the public interest. However, if Michigan lost its accreditation status with the NAIC due to adopting exemptions or lesser standards that depart from the Model Regulation, Michigan's domestic insurance industry, including, but not limited to, life insurers, would experience increased costs of business because they would become subject to regulatory oversight of other states they wish to operate in. Increased costs of business could translate to increase costs for insurance for Michigan consumers.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The Department has not involved small businesses in the development of the proposed rules.

A. If small businesses were involved in the development of the rules, please identify the business(es).

The Department has not involved small businesses in the development of the proposed rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The Department estimates that there will be little or no actual statewide compliance costs due to the promulgation of the proposed new rule set. The proposed rules establish modern and uniform capital and security requirements that apply to reserve financing arrangements subject to the rules, and compliance is generally monitored through current requirements for financial statement filings. All regulated insurers should be aware of existing applicable filing requirements, and the standards in the proposed rules are substantially similar to the Department's existing requirements adopted for evaluating the reserve financing arrangements that are subject to the proposed rules. If an insurer elects to newly engage in the reserve financing arrangements subject to the rules, it might incur costs to bring its practices into compliance, such as updating its systems and/or professional services. Additionally, while the Department's existing requirements for evaluating these transactions are largely the same as provided in the proposed rules, the proposed rules, consistent with the Model Regulation, are enforced through a disallowance of credit for the reinsurance transaction, as opposed to a qualified actuarial opinion, and compliance must be verified with respect to the due dates for quarterly and annual financial statement filings, as opposed to annually. The Department estimates that because of the familiarity of the standards in the proposed rules (in light of the Department's existing substantially similar requirements adopted for evaluating the relevant transactions and the Model Regulation's adoption in many other jurisdictions) and experience in submitting currently required financial statement filings, insurers subject to the proposed rules would be able to absorb any costs through existing operations. Costs of compliance for insurers electing to engage in the relevant transactions could conceivably vary by insurer, depending on their current business practices.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

The proposed rules directly affect Michigan insurers issuing life insurance policies that are "covered policies," as defined in the proposed rules, when reserve financing arrangements subject to the proposed rules are used. Those businesses bear any costs of compliance. All Michigan insurers benefit from the promulgation of the proposed rules to the extent that the failure to adopt the Model Regulation through promulgation of the proposed rules would jeopardize Michigan's accreditation status with the NAIC.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The businesses or groups that would bear the cost of compliance are Michigan insurers issuing life insurance policies that are "covered policies" when reserve financing arrangements subject to the proposed rules are used. Costs of compliance could vary by insurer but are expected to be minimal, as explained above. There are no other additional costs imposed on other businesses or other groups under the proposed rules.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The Department estimates that there will be no actual statewide compliance costs of the proposed rules on individuals or the public.

A. How many and what category of individuals will be affected by the rules?

Individuals are not regulated under the proposed rules; the standards applicable to the relevant reserve financing arrangements apply at the insurer level.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

Individuals are not regulated under the proposed rules; the standards applicable to the relevant reserve financing arrangements apply at the insurer level.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

The proposed rules are not expected to result in any cost reductions.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

A primary and direct benefit of the proposed rules is that insurers engaged in the transactions governed by the rules will apply modernized and consistent standards to secure the transactions and remediate any deficiencies. In addition to promoting market stability, consumers benefit from confidence that their insurer will be financially able to pay benefits on term and universal life policies when they are owed to the consumer. Another primary and direct benefit is increased transparency regarding the affected insurers' financial health for the public generally, investors, associated businesses, and state insurance regulators. Transparency is achieved through uniformity among the states with respect to the standards that apply to the reserve financing arrangements governed by the proposed rules and state regulators' ability to oversee compliance through insurers' financial statement filings. Uniformity of these standards and practices also provides efficiencies for the affected insurers operating in multiple states. A secondary or indirect benefit is that because the proposed rules adopt the Model Regulation, Michigan's NAIC accreditation status will not be jeopardized. States' maintenance of their NAIC accreditation status lessens the state regulatory burdens for insurers operating in multiple states and allows accredited states to coordinate their regulatory obligations with respect to those insurers.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules are not expected to impact business growth or job creation (or elimination) in Michigan. However, Michigan's continued NAIC accreditation status resulting from promulgating the rules avoids incentive for domestic insurers to move to another state.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

Michigan insurers issuing life insurance policies that are "covered policies," as defined in the proposed rules, and engaging in reserve financing arrangements subject to the proposed rules are businesses that are disproportionately affected by the rules as a result of their industrial sector. Businesses are not expected to be otherwise disproportionately affected by the rules. Individuals are not regulated under the proposed rules; the standards applicable to the relevant reserve financing arrangements apply at the insurer level to ensure their financial health, which will promote their ability to pay benefits to insureds. Individuals are not expected to be otherwise disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The Department relied on the following sources in compiling this statement: (1) the NAIC Financial Regulation Standards and Accreditation (F) Committee's webpage, available at https://content.naic.org/committees/f/financial-regulation-standards-accreditation-cmte; (2) Term and Universal Life Insurance Reserve Financing Model Regulation (#787), available at https://content.naic.org/sites/default/files/model-law-787.pdf, the NAIC state-adoption list, available at https://content.naic.org/sites/default/files/ST787.pdf, and the NAIC Project History, available at https://content.naic.org/sites/default/files/model-laws-project-history-787.pdf; (3) the NAIC Accreditation Informational Pamphlet, available at https://content.naic.org/sites/default/files/inline-files/FRSA%20Pamphlet%204-2022.pdf; (4) the NAIC Accredited Jurisdiction List, available at https://content.naic.org/cmte_f_accredited_states.htm; (5) June 2013 Captives and Special Purpose Vehicles: An NAIC White Paper, available at https://naic.soutronglobal.net/Portal/Public/en-GB/DownloadImageFile.ashx?objectId=6405&ownerType=0&ownerId=1012; (6) Administrative Codes of similarly situated states and associated rulemaking, accessed through Thomson Reuters Westlaw ; (7) Michigan's Administrative Code, as published by the Michigan Office of Administrative Hearings and Rules, available at https://www.michigan.gov/lara/bureau-list/moahr/admin-rules; (8) Michigan's Compiled Laws, as published by the Michigan Legislature, available at https://www.legislature.mi.gov/(S(pitllmneitzmjoe4d0v3gcby))/mileg.aspx?page=home; (9) Michigan Department of Insurance and Financial Services Financial Statement Instruction Booklets and Forms (including annual orders of the Director), available at https://www.michigan.gov/difs/forms/insurance/fin-filing/financial-statement-instruction-booklets-and-forms; (10) 2022 Market Share Reports for the Top 125 Life and Fraternal Insurance Groups and Companies by State and Countrywide: NAIC 2023 Report, available at https://content.naic.org/sites/default/files/publication-msr-lb-life-fraternal.pdf; and (11) Department data on licensed insurers, accessed through internal systems and discussion. The Department considered the expertise of staff and researched the listed sources to arrive at informed conclusions regarding the impact and cost-benefit analysis of the proposed rules.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The Department assumed the accuracy of the testimony and materials relating to the NAIC's adoption of the Model Regulation and that failure to adopt the Model Regulation through the promulgation of the proposed rules would jeopardize Michigan's accreditation status. The proposed rules' fiscal impact on the Department was estimated at no impact based on the Department's experience implementing standards substantially similar to those established in the proposed rules and the assumption that following promulgation of the rules, there would be no significant change in insurer conduct regarding the frequency and nature of the regulated conduct that triggers application of the rules. The Department made assumptions regarding the proposed rules' applicability to transactions undertaken by the largest life insurers based on the experience and knowledge of Department staff and other subject matter experts and assumed that data reported for the purposes of 2022 provides a comparable assessment of current data. The Department estimated regulated insurers' cost of compliance assuming their familiarity with existing standards and requirements that insurers must comply with and the resources and skills generally necessary to operate as an insurer in compliance with state and federal laws.

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

The Department has not identified any reasonable alternatives to the proposed rules.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

The Department has not identified any reasonable alternatives to the proposed rules.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

The financial oversight of insurers and reinsurers is under the jurisdiction of state regulators, and the Department is unaware of any other state using a private market-based system to as an alternative to implementing the standards in the Model Regulation.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

The Department did not consider a significant alternative to the proposed rules, the adoption of which is required to maintain the state's accreditation status with the NAIC.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The Director of the Department prescribes practices and procedures for financial statement filings under an order in accordance with MCL 500.438, which may direct compliance with the proposed rules following promulgation for the applicable year.