

2nd Proofs 8/11/2017

**INSURANCE  
REGULATION**  
ANSWER BOOK  
2017–18 Edition



# PLI'S COMPLETE LIBRARY OF TREATISE TITLES

---

## **ART LAW**

Art Law: The Guide for Collectors, Investors, Dealers & Artists

## **BANKING & COMMERCIAL LAW**

Asset-Based Lending: A Practical Guide to Secured Financing  
Documenting Secured Transactions: Effective Drafting and Litigation  
Equipment Leasing—Leveraged Leasing  
Hillman on Commercial Loan Documentation  
Maritime Law Answer Book

## **BANKRUPTCY LAW**

Bankruptcy Deskbook  
Personal Bankruptcy Answer Book

## **BUSINESS, CORPORATE & SECURITIES LAW**

Accountants' Liability  
Anti-Money Laundering: A Practical Guide to Law and Compliance  
Antitrust Law Answer Book  
Broker-Dealer Regulation  
Conducting Due Diligence in a Securities Offering  
Consumer Financial Services Answer Book  
Corporate Compliance Answer Book  
Corporate Legal Departments: Practicing Law in a Corporation  
Corporate Political Activities Deskbook  
Corporate Whistleblowing in the Sarbanes-Oxley/Dodd-Frank Era  
Covered Bonds Handbook  
Cybersecurity: A Practical Guide to the Law of Cyber Risk  
Derivatives Deskbook: Close-Out Netting, Risk Mitigation, Litigation  
Deskbook on Internal Investigations, Corporate Compliance, and White Collar Issues  
Directors' and Officers' Liability: Current Law, Recent Developments, Emerging Issues  
Doing Business Under the Foreign Corrupt Practices Act  
EPA Compliance and Enforcement Answer Book  
Exempt and Hybrid Securities Offerings  
Fashion Law and Business: Brands & Retailers  
Financial Institutions Answer Book: Law, Governance, Compliance  
Financial Product Fundamentals: Law, Business, Compliance  
Financial Services Regulation Deskbook  
Financially Distressed Companies Answer Book  
Global Business Fraud and the Law: Preventing and Remediating Fraud and Corruption  
Hedge Fund Regulation  
Initial Public Offerings: A Practical Guide to Going Public  
Insider Trading Law and Compliance Answer Book  
Insurance and Investment Management M&A Deskbook  
International Corporate Practice: A Practitioner's Guide to Global Success  
Investment Adviser Regulation: A Step-by-Step Guide to Compliance and the Law  
Life at the Center: Reflections on Fifty Years of Securities Regulation  
Mergers, Acquisitions and Tender Offers: Law and Strategies  
Mutual Funds and Exchange Traded Funds Regulation  
Outsourcing: A Practical Guide to Law and Business  
Privacy Law Answer Book  
Private Equity Funds: Formation and Operation  
Proskauer on Privacy: A Guide to Privacy and Data Security Law in the Information Age  
Public Company Deskbook: Complying with Federal Governance & Disclosure Requirements  
SEC Compliance and Enforcement Answer Book  
Securities Investigations: Internal, Civil and Criminal

2nd Proofs 8/11/2017

Securities Law and Practice Handbook  
The Securities Law of Public Finance  
Securities Litigation: A Practitioner's Guide  
Social Media and the Law  
Soderquist on Corporate Law and Practice  
Sovereign Wealth Funds: A Legal, Tax and Economic Perspective  
A Starter Guide to Doing Business in the United States  
Technology Transactions: A Practical Guide to Drafting and Negotiating Commercial Agreements  
Variable Annuities and Variable Life Insurance Regulation

## **COMMUNICATIONS LAW**

Advertising and Commercial Speech: A First Amendment Guide  
Sack on Defamation: Libel, Slander, and Related Problems  
Telecommunications Law Answer Book

## **EMPLOYMENT LAW**

Employment Law Yearbook  
ERISA Benefits Litigation Answer Book  
Labor Management Law Answer Book

## **ESTATE PLANNING AND ELDER LAW**

Blattmachr on Income Taxation of Estates and Trusts  
Estate Planning & Chapter 14: Understanding the Special Valuation Rules  
International Tax & Estate Planning: A Practical Guide for Multinational Investors  
Manning on Estate Planning  
New York Elder Law  
Stocker on Drawing Wills and Trusts

## **HEALTH LAW**

FDA Deskbook: A Compliance and Enforcement Guide  
Health Care Litigation and Risk Management Answer Book  
Health Care Mergers and Acquisitions Answer Book  
Medical Devices Law and Regulation Answer Book  
Pharmaceutical Compliance and Enforcement Answer Book

## **IMMIGRATION LAW**

Fragomen on Immigration Fundamentals: A Guide to Law and Practice

## **INSURANCE LAW**

Business Liability Insurance Answer Book  
Insurance Regulation Answer Book  
Reinsurance Law

## **INTELLECTUAL PROPERTY LAW**

Copyright Law: A Practitioner's Guide  
Faber on Mechanics of Patent Claim Drafting  
Federal Circuit Yearbook: Patent Law Developments in the Federal Circuit  
How to Write a Patent Application  
Intellectual Property Law Answer Book  
Kane on Trademark Law: A Practitioner's Guide  
Likelihood of Confusion in Trademark Law  
Patent Claim Construction and *Markman* Hearings  
Patent Law: A Practitioner's Guide  
Patent Licensing and Selling: Strategy, Negotiation, Forms  
Patent Litigation  
Pharmaceutical and Biotech Patent Law  
Post-Grant Proceedings Before the Patent Trial and Appeal Board  
Substantial Similarity in Copyright Law  
Trade Secrets: A Practitioner's Guide

2nd Proofs 8/11/2017

## LITIGATION

American Arbitration: Principles and Practice  
Class Actions and Mass Torts Answer Book  
Electronic Discovery Deskbook  
Essential Trial Evidence: Brought to Life by Famous Trials, Films, and Fiction  
Expert Witness Answer Book  
Evidence in Negligence Cases  
Federal Bail and Detention Handbook  
How to Handle an Appeal  
Medical Malpractice: Discovery and Trial  
Product Liability Litigation: Current Law, Strategies and Best Practices  
Sinclair on Federal Civil Practice  
Trial Handbook

## REAL ESTATE LAW

Commercial Ground Leases  
Friedman on Contracts and Conveyances of Real Property  
Friedman on Leases  
Holtzschue on Real Estate Contracts and Closings: A Step-by-Step Guide to Buying and Selling Real Estate  
Net Leases and Sale-Leasebacks

## TAX LAW

The Circular 230 Deskbook: Related Penalties, Reportable Transactions, Working Forms  
The Corporate Tax Practice Series: Strategies for Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Financings, Reorganizations & Restructurings  
Foreign Account Tax Compliance Act Answer Book  
Internal Revenue Service Practice and Procedure Deskbook  
International Tax & Estate Planning: A Practical Guide for Multinational Investors  
International Tax Controversies: A Practical Guide  
International Trade Law Answer Book: U.S. Customs Laws and Regulations  
Langer on Practical International Tax Planning  
The Partnership Tax Practice Series: Planning for Domestic and Foreign Partnerships, LLCs, Joint Ventures & Other Strategic Alliances  
Private Clients Legal & Tax Planning Answer Book  
Transfer Pricing Answer Book

## GENERAL PRACTICE PAPERBACKS

Anatomy of a Mediation: A Dealmaker's Distinctive Approach to Resolving Dollar Disputes and Other Commercial Conflicts  
Attorney-Client Privilege Answer Book  
Drafting for Corporate Finance: Concepts, Deals, and Documents  
Pro Bono Service by In-House Counsel: Strategies and Perspectives  
Smart Negotiating: How to Make Good Deals in the Real World  
Thinking Like a Writer: A Lawyer's Guide to Effective Writing & Editing  
Working with Contracts: What Law School Doesn't Teach You

**Order now at [www.pli.edu](http://www.pli.edu)  
Or call (800) 260-4754 Mon.–Fri., 9 a.m.–6 p.m.**

**Practising Law Institute  
1177 Avenue of the Americas  
New York, NY 10036**

When ordering, please use Priority Code NWS9-X.

**INSURANCE  
REGULATION  
ANSWER BOOK**  
2017–18 Edition

**Eversheds Sutherland**

**John S. Pruitt, Co-Editor in Chief  
Cynthia R. Shoss, Co-Editor in Chief  
Justin Kitchens, Managing Editor**

Practising Law Institute  
New York City

**#206152**

2nd Proofs 8/11/2017

*This work is designed to provide practical and useful information on the subject matter covered. However, it is sold with the understanding that neither the publisher nor the author is engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.*

---

### QUESTIONS ABOUT THIS BOOK?

If you have questions about billing or shipments, or would like information on our other products, please contact our **customer service department** at info@pli.edu or at (800) 260-4PLI.

For any other questions or suggestions about this book, contact PLI's **editorial department** at: plipress@pli.edu.

For general information about Practising Law Institute, please visit **www.pli.edu**.

---

Legal Editor: Kelliann Kavanagh

Copyright © 2014, 2015, 2016, 2017 by Practising Law Institute. All rights reserved. Printed in the United States of America. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of Practising Law Institute.

LCCN: 2011923443  
ISBN: 978-1-4024-2974-3

# About the Editors

---

**JOHN S. PRUITT** is a partner in the Insurance practice group at Eversheds Sutherland (US) LLP, and he is the Chair of the group's Property-Casualty practice. Mr. Pruitt has wide-ranging experience in the field of insurance regulation and in corporate transactions involving insurance companies. His experience includes insurance company acquisitions and restructurings, formation and licensing of insurance companies and producers, advice and assistance on insurance Holding Company Act compliance (including multistate Form A filings), purchases and sales of specific blocks of business, insurance insolvency proceedings, formation and licensing of managing general agencies and negotiation of agency agreements, and general advice on compliance with insurance laws and regulations. In addition, Mr. Pruitt has been extensively involved over the years in the review, negotiation, and drafting of reinsurance agreements and has advised clients and drafted documentation in connection with structured insurance programs. Mr. Pruitt has also advised and assisted clients with the drafting of various commercial property and casualty policy forms, including general liability, directors' and officers' liability, professional errors and omissions, and property forms. In recent years, Mr. Pruitt has been actively involved in internal investigations and regulatory enforcement actions relating to a variety of matters, including relating to broker compensation practices, finite risk insurance and reinsurance, and sales and marketing practices. Mr. Pruitt is a graduate of Cornell Law School and of Hamilton College.

**CYNTHIA R. SHOSS** is a partner in and the Co-Head of the Global Insurance practice group at Eversheds Sutherland (US) LLP. She counsels clients on insurance regulatory matters, most often with respect to transformative transactions such as demutualizations, mergers, conversions, and other restructurings and acquisitions. She has also assisted clients with legislation, examinations and investigations, and with compliance, governance, investment and rehabilitation issues. Her clients have included insurers all over the world, as well as insurance commissioners and state attorneys general. Ms. Shoss has served on the Boards of, and as a speaker or author for, many industry associations and she has been recognized as a leading lawyer in insurance transactional and

2nd Proofs 8/11/2017

regulatory matters by such organizations as the *Association of Life Insurance Counsel*, *Chambers USA*, *Best Lawyers in America*, *New York Super Lawyers*, *Best Lawyers in New York* and *Business Insurance*, which named her one of its 25 Women to Watch in 2011. In 2014, Ms. Shoss was the first woman and second lawyer in private practice in the 100-year history of the Association of Life Insurance Counsel to receive its Buist M. Anderson Distinguished Service Award for lifetime service to the life insurance bar and industry. She was honored with BTI Consulting Group's Client Service Award for delivering unsurpassed client service in 2017. Previously, Ms. Shoss provided tax counsel to U.S. and multinational clients. She is a graduate of Newcomb College (Tulane University), Tulane Law School (J.D.) and NYU Law School (LL.M. in Tax).

**JUSTIN KITCHENS** is a principal associate in the Financial Services practice group at Eversheds Sutherland (International) LLP, where he advises insurers, reinsurers and other participants in the insurance sector on regulatory and transactional matters, including restructurings and acquisitions, transfers of blocks of business, and captive insurance company programs. Mr. Kitchens is a graduate of the University of Florida and NYU Law School and is admitted to practice both in New York and in England & Wales.

2nd Proofs 8/11/2017



# Table of Chapters

---

Chapter 1	What Is Insurance?
Chapter 2	State-Based Regulation of Insurance
Chapter 3	Form of Insurer
Chapter 4	Captive Insurance Companies
Chapter 5	Licensing of Insurance Companies
Chapter 6	Nonadmitted Insurance Market
Chapter 7	Licensing of Producers and Other Third Parties
Chapter 8	Regulation of Insurance Holding Company Systems
Chapter 9	Regulation of Life and Annuity Insurers
Chapter 10	Regulation of Property and Casualty Insurers
Chapter 11	Regulation of Monoline Insurers
Chapter 12	Regulation of Reinsurance
Chapter 13	Regulation of Health Insurers and Health Maintenance Organizations
Chapter 14	Registered Life and Annuity Products
Chapter 15	Impact of Other Regulators on Insurance Regulation
Chapter 16	Regulation of Insurance Company Financial Condition
Chapter 17	Insolvency and Restructuring
Chapter 18	Regulation of Investments by Insurance Companies
Chapter 19	Regulation of Market Conduct and Trade Practices
Chapter 20	Unclaimed Property
Chapter 21	Privacy and Cybersecurity
Chapter 22	International Regulation Affecting U.S. Insurers
Chapter 23	Emerging Issues

2nd Proofs 8/11/2017

# Table of Contents

---

<b>About the Editors</b> .....	vii
<b>Table of Chapters</b> .....	ix
<b>Table of Contents</b> .....	xi
<b>Introduction</b> .....	xxxix
<b>Selected Acronyms of Insurance Organizations and Concepts</b> .....	xli

## Chapter 1 What Is Insurance?

<b>Types of Insurance</b> .....	1-2
Q 1.1 What are the basic types of insurance? .....	1-2
Q 1.2 How is life insurance defined? .....	1-2
Q 1.3 What is an annuity? .....	1-3
Q 1.4 What is accident and health insurance? .....	1-3
Q 1.4.1 Can accident and health insurance be written by a life insurer? .....	1-3
Q 1.5 What is disability insurance? .....	1-3
Q 1.6 What is property insurance? .....	1-3
Q 1.7 What is fire insurance? .....	1-4
Q 1.8 What is liability insurance? .....	1-4
Q 1.9 What is casualty insurance? .....	1-4
Q 1.10 What is workers' compensation insurance? .....	1-4
Q 1.11 What is surety insurance? .....	1-5
Q 1.12 What is fidelity insurance? .....	1-5
Q 1.13 What is financial guaranty insurance? .....	1-5
Q 1.14 What is credit insurance? .....	1-6
Q 1.15 What is credit life insurance? .....	1-6
Q 1.16 What is marine and aviation insurance? .....	1-6
Q 1.17 What is inland marine insurance? .....	1-7
Q 1.18 What are "personal lines" insurance and "commercial lines" insurance? .....	1-8
Q 1.19 What is catastrophe insurance? .....	1-8

2nd Proofs 8/11/2017

Q 1.20 Given the broad definition of insurance cited above, are there nevertheless exemptions to what constitutes insurance under state law? .....1-8

**Insurance Policies**.....1-8

Q 1.21 What is an insurance policy? .....1-8

Q 1.22 What are the types of insurance policies? .....1-9

Q 1.23 What are the standard components of an insurance policy? .....1-9

Q 1.24 How are insurance policies interpreted? .....1-9

**Reinsurance** .....1-10

Q 1.25 Is there such a thing as a reinsurance policy?.....1-10

Q 1.26 What is reinsurance?.....1-10

Q 1.27 What types of reinsurance are there?.....1-10

    Q 1.27.1 What is treaty reinsurance? .....1-10

    Q 1.27.2 What is facultative reinsurance? .....1-11

Q 1.28 Can any company act as a reinsurer or does it require a special license?.....1-11

Q 1.29 Can a company reinsure both life and property and casualty risks? .....1-11

Q 1.30 What is “fronting”? .....1-12

    Q 1.30.1 Is fronting legal? .....1-12

Q 1.31 What is the difference between indemnity reinsurance and assumption reinsurance? .....1-12

Q 1.32 What is a retrocession agreement? .....1-13

## **Chapter 2 State-Based Regulation of Insurance**

**Basis for State Regulation**.....2-3

Q 2.1 Why is insurance in the United States regulated by the states? .....2-3

Q 2.2 What is the Federal Insurance Office and what does it do?.....2-3

Q 2.3 Doesn't the Federal Reserve also regulate insurance companies? .....2-4

Table of Contents

---

<b>NAIC</b> .....	2-4
Q 2.4 Given the fact that each state regulates the business of insurance, as permitted under McCarran-Ferguson, what does it mean to say that the United States has a “national system of state-based regulation”? .....	2-4
<i>Model Laws and Regulations</i> .....	2-6
Q 2.5 How does the system of promulgating NAIC Model Laws and Regulations actually work to effectuate uniform state statutes and regulations? .....	2-6
Q 2.6 Do the states adopt the NAIC Models in a form that is word-for-word the same as the Model which the NAIC approved? .....	2-7
Q 2.7 Does the NAIC have any power to influence which Model Laws and Regulations are adopted by the states? .....	2-7
Q 2.8 Which states are accredited by the NAIC? .....	2-8
Q 2.9 What are the NAIC Model Laws and Regulations that states are required to adopt in order to be accredited by the NAIC? .....	2-8
<i>Other NAIC Accreditation Standards</i> .....	2-9
Q 2.10 Are there any additional provisions that states are required to adopt in order to be accredited by the NAIC? .....	2-9
<i>Accounting Practices and Procedures</i> .....	2-10
Q 2.11 How does the NAIC accounting system work? .....	2-10
Q 2.12 Is SAP different from Generally Accepted Accounting Principles, or GAAP? .....	2-11
<i>Securities Valuation Office</i> .....	2-12
Q 2.13 How does the SVO affect insurance companies? .....	2-12
<i>Risk-Based Capital</i> .....	2-12
Q 2.14 What is risk-based capital, or RBC, for insurance companies? .....	2-12
Q 2.15 How does RBC for insurance companies work? .....	2-13
<i>Enterprise Risk</i> .....	2-14
Q 2.16 Is there regulation of enterprise risk across insurance holding companies? .....	2-14
Q 2.17 What is the NAIC doing to communicate and coordinate with insurance regulators in other countries? .....	2-15

2nd Proofs 8/11/2017

**Chapter 3 Form of Insurer**

**Stock Insurance Companies**.....3-2

Q 3.1 What is a stock insurance company? .....3-2

Q 3.2 Can a stock insurer be a public company? .....3-2

**Mutual Insurance Companies**.....3-3

Q 3.3 What is a mutual insurance company?.....3-3

Q 3.4 How does a mutual insurance company elect directors if there are no stockholders? .....3-3

Q 3.5 Other than ownership and election of directors, are there other differences between stock and mutual companies?.....3-3

**Demutualization**.....3-4

Q 3.6 Can a mutual insurer become a stock insurer? .....3-4

Q 3.7 Why would a mutual company demutualize?.....3-4

Q 3.8 Why might a company prefer to remain a mutual?.....3-4

Q 3.9 What happens in a demutualization?.....3-5

Q 3.10 Do stock companies ever mutualize? .....3-6

**Mutual Holding Companies**.....3-6

Q 3.11 Are there any other forms of conversion involving mutual insurers? .....3-6

Q 3.12 What are the advantages and disadvantages of converting to an MHC structure? .....3-6

**Reciprocal Insurers**.....3-7

Q 3.13 What is a reciprocal insurer? .....3-7

Q 3.14 Do all states authorize the formation of reciprocal insurers?.....3-8

**Fraternal Benefit Societies**.....3-9

Q 3.15 What is a fraternal benefit society?.....3-9

    Q 3.15.1 Are fraternal benefit societies subject to federal income taxation? .....3-10

**Lloyd’s of London**.....3-10

Q 3.16 What is Lloyd’s?.....3-10

Q 3.17 Who are the Members of Lloyd’s?.....3-10

    Q 3.17.1 Do Members have capital and surplus? .....3-11

Q 3.18 How is Lloyd’s regulated?.....3-11

2nd Proofs 8/11/2017

## Table of Contents

---

Q 3.19	Given that the Members underwrite insurance on a strictly several, not joint, basis, what would happen if a Member is unable to pay losses on its business?.....	3-11
	<i>Lloyd's in the United States</i> .....	3-12
Q 3.20	Does Lloyd's operate in the United States? .....	3-12
Q 3.21	Who is the lead regulator of Lloyd's in the United States? .....	3-12
Q 3.22	What is Lloyd's status in the United States?.....	3-12
Q 3.23	Does Lloyd's or do the Members maintain trust deposits in the United States?.....	3-13
Q 3.24	United States insurers in Texas and some other states have some version of the word "Lloyd's" in their names. Are these insurers affiliated with Lloyd's? .....	3-14
	<b>Risk Retention Groups and Risk Purchasing Groups</b> .....	3-14
Q 3.25	What are risk retention groups (RRGs) and risk purchasing groups (RPGs)?.....	3-14
Q 3.26	How may RRGs and RPGs be formed and conduct business? .....	3-15
Q 3.27	What are the benefits of forming an RRG or RPG? .....	3-16
Q 3.28	Are RRGs and RPGs regulated on a federal level? .....	3-16
Q 3.29	Are RRGs covered by state guaranty funds?.....	3-17
Q 3.30	Can RRGs and RPGs handle any kind of insurance? .....	3-17
Q 3.31	Are there any restrictions on ownership?.....	3-18

## Chapter 4 Captive Insurance Companies

	<b>Types of Captives</b> .....	4-2
Q 4.1	What types of captives are there?.....	4-2
	<b>Tax Issues</b> .....	4-4
Q 4.2	What are the tax issues applicable to captives? .....	4-4

## Chapter 5 Licensing of Insurance Companies

<b>Basis for License Requirement</b> .....	5-2
Q 5.1 Why is it necessary for insurance companies to be licensed?.....	5-2
Q 5.2 How do the states define “transaction of insurance”? .....	5-3
Q 5.3 How do insurance companies obtain licenses in the states in which they seek to transact insurance?.....	5-4
Q 5.4 Does the insurer have to repeat this licensing process in each state in which it wishes to transact insurance?.....	5-5
Q 5.4.1 How long does it take to become licensed in all states?.....	5-5
<b>“Seasoning” Rules</b> .....	5-6
Q 5.5 What are “seasoning” rules? .....	5-6
Q 5.6 Can seasoning requirements ever be waived?.....	5-6
<b>Penalties and Taxes</b> .....	5-7
Q 5.7 Do insurance regulators penalize insurers that fail to comply with licensing requirements?.....	5-7
Q 5.8 Do state insurance laws impose specific taxes on insurance premiums derived within the state? .....	5-8
<b>Ownership Restrictions and Prohibitions</b> .....	5-8
Q 5.9 Do state insurance laws impose restrictions on who may own or control an insurance company licensed in the state? .....	5-8
Q 5.10 Are there restrictions on government ownership of insurers? .....	5-9

## Chapter 6 Nonadmitted Insurance Market

<b>Introduction</b> .....	6-2
Q 6.1 What is nonadmitted insurance and how does it differ from admitted insurance? .....	6-2
Q 6.2 How is nonadmitted insurance regulated? .....	6-2
Q 6.3 What does it mean to “transact insurance” in the state?.....	6-3
Q 6.4 Can producers who place business with, or otherwise aid, nonadmitted insurers also be charged with a violation of law? .....	6-3
Q 6.5 What sanctions can be imposed for violations?.....	6-4



*Table of Contents*

---

**Surplus Lines Law** .....6-5

Q 6.6 What is the “surplus lines law”? Why does it exist? .....6-5

Q 6.7 Can any nonadmitted insurer write surplus lines insurance or does the insurer need to qualify in some way? .....6-5

Q 6.8 Are surplus lines insurers subject to the same rate and form requirements as licensed insurers? .....6-7

Q 6.9 Are there any limits on the products that can be sold under the surplus lines law? .....6-7

Q 6.10 Are the policies obtained through the surplus lines market covered by state guaranty funds and are surplus lines insurers subject to guaranty fund assessments? .....6-8

Q 6.11 Do surplus lines insurers compete against licensed insurers?.....6-8

    Q 6.11.1 What is a “diligent effort” or the “diligent search” test? ..... 6-9

    Q 6.11.2 Is the diligent search test always required? .....6-9

Q 6.12 Besides an eligible or approved insurer and the diligent search, are there any more requirements or restrictions? .....6-11

**Exemptions from the Doing Business Prohibitions** .....6-11

Q 6.13 Are there specific exceptions to the general doing business prohibitions that are available for sophisticated buyers of insurance? .....6-11

Q 6.14 Are there other express exemptions from the doing business prohibitions for nonadmitted insurers? .....6-12

Q 6.15 Do the prohibitions against nonadmitted insurers transacting insurance in the state apply to reinsurance? .....6-12

Q 6.16 Can an insured procure insurance directly from a nonadmitted insurer? .....6-13

**Tax on Nonadmitted Insurance** .....6-13

Q 6.17 Are insurance premiums taxed on nonadmitted insurance?.....6-13

**Multi-State Risks** .....6-15

Q 6.18 Which state’s law applies to the placement of multi-state risks? .....6-15

2nd Proofs 8/11/2017

**Chapter 7 Licensing of Producers and Other Third Parties**

**Insurance Agents, Brokers, and Producers** .....7-2

Q 7.1 What requirements apply to an insurance “producer”?.....7-2

Q 7.2 What requirements apply to an insurance “agent”? .....7-2

Q 7.3 What requirements apply to an insurance “broker”? .....7-3

**License Requirements and Activities Permitted Without a License** .....7-3

Q 7.4 What types of licenses are insurance producers, agents, and brokers required to have in order to transact business within a state?.....7-3

    Q 7.4.1 Can business entities obtain producer licenses?.....7-4

    Q 7.4.2 How burdensome is it for a producer to become licensed in all states?.....7-4

Q 7.5 Is there a special license for producers to place insurance with approved unauthorized, or surplus lines, insurers? .....7-6

Q 7.6 What can happen if a person engages in activities that are considered to be the activities of an insurance producer, or broker without a license in the state?.....7-6

    Q 7.6.1 What types of activities constitute “soliciting” or “marketing” insurance products within a state?.....7-7

Q 7.7 Can licensed producers, agents, and brokers assist insureds and insurers in handling and settling claims under insurance policies?.....7-7

Q 7.8 Is it possible to assist in the handling and settling of insurance claims if one is not a licensed insurance producer, agent, or broker? .....7-7

**Adjusters** .....7-8

Q 7.9 What is an “insurance adjuster”? .....7-8

    Q 7.9.1 What is a “public adjuster”? What is an “independent adjuster”? .....7-8

**Intermediaries**.....7-9

Q 7.10 What requirements apply to a “third-party administrator” (TPA)?.....7-9

Q 7.11 What requirements apply to a “managing general agent” (MGA)?.....7-9

Q 7.12 What requirements apply to a “reinsurance intermediary”?.....7-10

2nd Proofs 8/11/2017

## Chapter 8 Regulation of Insurance Holding Company Systems

<b>Insurance Holding Company Acts</b> .....	8-3
Q 8.1 How does the Insurance Holding Company Act (HCA) of the various states regulate insurance companies and insurance groups? .....	8-3
Q 8.2 What is “commercial domicile”? .....	8-5
Q 8.3 To determine whether an “acquisition of control” would occur, how does the HCA define “control”? .....	8-6
<b>Form A</b> .....	8-7
Q 8.4 At what point must a potential acquiror of an insurance company file the Form A?.....	8-7
Q 8.5 In what states must the Form A be filed? .....	8-8
Q 8.6 What are the exemption provisions under the HCA for filing a Form A? .....	8-8
Q 8.7 Are there statutory standards for approval of the Form A? .....	8-9
Q 8.8 What information is required in a Form A?.....	8-10
Q 8.8.1 Is the information provided on a Form A publicly available?.....	8-11
Q 8.9 Is a public hearing on a Form A required? .....	8-12
Q 8.10 How long does the process of obtaining Form A approval take?.....	8-12
<b>Control</b> .....	8-13
Q 8.11 Given that a Form A is required to be filed and approved before any person can acquire control of an insurance company, how does the HCA define “control”?.....	8-13
Q 8.12 Is it possible for an investor to own more than 10% of the voting securities of an insurance company or an insurance holding company and not be viewed as “controlling” the insurance company? .....	8-13
Q 8.13 Under what circumstances would an investor with more than 10% of the shares of an insurance company or insurance holding company seek to rebut the presumption of control? .....	8-13
Q 8.14 How does the investor seek a determination of non-control from the insurance regulator? .....	8-14

2nd Proofs 8/11/2017

Q 8.15 Do all states presume control to exist at the level of 10% of the shares? .....8-14

**Registration of Insurance Companies**.....8-15

Q 8.16 What types of rules or restrictions does a state’s HCA impose on transactions involving an insurer and members of its holding company system?.....8-15

Q 8.17 What other types of filings does the HCA require?.....8-17

Q 8.18 Are there restrictions on the ability of an insurer to pay dividends to its stockholder(s)? .....8-18

**Penalties for Violating the HCA** .....8-19

Q 8.19 What are the consequences of violating the HCA? .....8-19

**2010 Amendments to Model Law** .....8-20

Q 8.20 What types of information from parent companies and other affiliates are required under the 2010 Model Law Amendments? .....8-20

Q 8.21 Were there other significant requirements under the 2010 Model Law Amendments?.....8-20

**2014 Model Law Amendments**.....8-21

Q 8.22 What is an “internationally active insurance group”? .....8-21

Q 8.23 What are the responsibilities of a group-wide supervisor? .....8-22

Q 8.24 How do regulators decide which regulator will serve as group-wide supervisor for an internationally active insurance group? .....8-23

**Chapter 9 Regulation of Life and Annuity Insurers**

**Licensing**.....9-2

Q 9.1 How does a life insurance company become licensed to transact insurance in a particular state? .....9-2

Q 9.2 What lines of insurance are life insurers authorized to transact? .....9-3

2nd Proofs 8/11/2017

Table of Contents

---

**Types of Life Insurance** .....9-4

Q 9.3 What is the definition of life insurance? .....9-4

Q 9.4 Are there different types of life insurance? .....9-4

**Annuities** .....9-6

Q 9.5 What is the definition of annuity? .....9-6

Q 9.6 Are there different types of annuities? .....9-6

**Rules Common to Life Insurance Policies and Annuity Contracts** .....9-8

Q 9.7 Are life insurance policies and annuity contracts issued only to individuals? .....9-8

*Tax*.....9-9

Q 9.8 How are life insurance and annuity contracts taxed? .....9-9

*Marketing and Advertising* .....9-9

Q 9.9 What restrictions exist on the marketing and advertising of life insurance and annuity products? .....9-9

*Federal Securities Laws*.....9-11

Q 9.10 Are life and annuity products regulated under the federal securities laws? .....9-11

**Commission Restrictions** .....9-12

Q 9.11 Are there restrictions on permissible commissions for insurance agents and brokers? .....9-12

Q 9.12 Are life insurers required to file their rates and forms? .....9-12

**Interstate Compact** .....9-12

Q 9.13 What is the Interstate Insurance Compact? .....9-12

Q 9.14 How many states have adopted and entered into the Interstate Compact? .....9-13

Q 9.15 What is the practical effect for companies in the states in which the Interstate Compact has been adopted? .....9-13

2nd Proofs 8/11/2017

**Chapter 10 Regulation of Property and Casualty Insurers**

**Licensing** .....10-2

Q 10.1 How does a property and casualty insurer become licensed to transact insurance in a particular state? .....10-2

Q 10.2 What lines of insurance are property and casualty insurers authorized to transact? .....10-2

Q 10.3 Can an insurer be authorized to transact all lines of property and casualty insurance? .....10-4

Q 10.4 In order to write a specific line of property and casualty insurance in a state, must an insurer be specifically licensed for that line in that state? .....10-4

**Personal and Commercial Lines of Insurance** .....10-4

Q 10.5 What is the difference between “personal lines” and “commercial lines” of insurance? .....10-4

**Filing of Rates and Forms** .....10-5

Q 10.6 How are property and casualty insurance products regulated? .....10-5

Q 10.7 What is commercial lines deregulation? .....10-6

**Chapter 11 Regulation of Monoline Insurers**

**Types of Insurers That Are Considered “Monoline”** .....11-2

Q 11.1 Is there a statutory definition of “monoline” insurer, or is the term one of common industry usage? .....11-2

Q 11.2 Why are financial guaranty insurers, mortgage insurers, and title insurers regulated as monolines? .....11-2

**Financial Guaranty Insurance** .....11-3

Q 11.3 What activities constitute the business of “financial guaranty insurance”? .....11-3

Q 11.4 What minimum capitalization is required for financial guaranty insurers? .....11-6

Q 11.5 Are financial guaranty insurers subject to reserving requirements in addition to those generally imposed on property/casualty insurance companies? .....11-6

2nd Proofs 8/11/2017

Table of Contents

---

Q 11.6 Are financial guaranty insurers subject to single risk limitations?.....11-7

Q 11.7 Are financial guaranty insurers subject to aggregate risk limitations?.....11-8

Q 11.8 Are financial guaranty insurers subject to requirements pertaining to ceded reinsurance that differ from those generally imposed on property/casualty insurance companies? .....11-8

**Mortgage Guaranty Insurance** .....11-8

Q 11.9 What activities constitute the business of “mortgage guaranty insurance”? .....11-8

Q 11.10 What minimum capitalization is required for mortgage insurers? .....11-10

Q 11.11 Are mortgage insurers subject to reserving requirements in addition to those generally imposed on property/casualty insurance companies? .....11-10

Q 11.12 Are mortgage insurers subject to single risk limitations?.....11-11

Q 11.13 Are mortgage insurers subject to aggregate risk limitations? .....11-11

Q 11.14 Are mortgage insurers subject to requirements pertaining to ceded reinsurance that differ from those generally imposed on property/casualty insurance companies? .....11-12

Q 11.15 Are there any reform efforts directed at the current regulatory system with regard to mortgage guaranty insurance? .....11-12

**Title Insurance**.....11-13

Q 11.16 What activities constitute the business of “title insurance”? .....11-13

Q 11.17 What minimum capitalization is required for title insurers? .....11-14

Q 11.18 Are title insurance companies subject to reserving requirements in addition to those generally imposed on property/casualty insurance companies? .....11-15

Q 11.19 Are title insurance companies subject to single risk limitations?.....11-15

Q 11.20 Are title insurance companies subject to requirements pertaining to ceded reinsurance that differ from those generally imposed on property/casualty insurance companies? .....11-16

2nd Proofs 8/11/2017

**Chapter 12 Regulation of Reinsurance**

**Introduction**..... 12-2

Q 12.1 What is reinsurance?..... 12-2

Q 12.2 Who are the parties to a reinsurance contract?..... 12-2

**Regulation and Licensing** ..... 12-3

Q 12.3 Are reinsurance contracts regulated? ..... 12-3

Q 12.4 Are reinsurers regulated?..... 12-3

Q 12.5 Do states require reinsurers to be licensed or authorized in order to transact reinsurance business in the state? ..... 12-5

**Credit for Reinsurance**..... 12-5

Q 12.6 Why would a reinsurer want to be licensed in a state if reinsurance is generally exempt from the licensing requirement? Why would reinsurers want to be licensed in more states than their state of domicile? ..... 12-5

Q 12.7 If a reinsurer is not licensed in the state of domicile of its ceding insurer, is there any other way for the ceding insurer to obtain credit for the reinsurance? ..... 12-6

*Collateral* ..... 12-7

Q 12.8 What rules govern collateral in these circumstances?..... 12-7

Q 12.9 Are there circumstances in which a ceding insurer may take credit for reinsurance ceded to an unauthorized reinsurer without the reinsurer providing 100% collateral? ..... 12-8

*Multibeneficiary Trusts*..... 12-9

Q 12.10 Are there other mechanisms pursuant to which a ceding insurer is allowed to take financial statement credit for the amount of reinsurance that it expects to recover from an unlicensed reinsurer? ..... 12-9

2nd Proofs 8/11/2017



## Chapter 13 Regulation of Health Insurers and Health Maintenance Organizations

<b>Licensing and Regulation</b> .....	13-2
Q 13.1 How are health insurance companies organized and licensed? .....	13-2
Q 13.2 Can a life insurer or a property and casualty insurer be licensed to transact health insurance? .....	13-2
Q 13.3 Do health insurance policies have to be filed with the Insurance Commissioner? .....	13-3
Q 13.4 Are rates of health insurers filed with the Insurance Commissioner? .....	13-3
<b>Group and Individual Products</b> .....	13-4
Q 13.5 What kinds of products do health insurers provide? .....	13-4
Q 13.6 What are some of these rules for products issued to a group? .....	13-4
Q 13.6.1 Does a group have to consist of an employer/employee group? .....	13-5
Q 13.7 What is individual insurance? .....	13-6
Q 13.8 Are there advantages to being insured under a group versus an individual health insurance policy? .....	13-6
<b>Other Categories of Health Insurance</b> .....	13-6
Q 13.9 What other categories define health insurance offerings in the United States? .....	13-6
Q 13.10 What about less comprehensive health insurance products? .....	13-7
Q 13.11 What are HMOs and how are they regulated? .....	13-7
<b>ACA Provisions</b> .....	13-8
Q 13.12 How has the ACA affected the state regulation of health care insurance? .....	13-8
Q 13.13 What are some of these changes affecting health care insurance? .....	13-8
<i>“Essential Health Benefits”</i> .....	13-8
Q 13.14 What does “essential health benefits” mean? .....	13-8
Q 13.15 Are there any other requirements that these “essential health benefits” must provide? .....	13-9
Q 13.16 Which insurance companies are required to provide these “essential health benefits”? .....	13-9

2nd Proofs 8/11/2017

Q 13.17 How does the ACA use the terms “group” coverage and “individual” coverage for these purposes? Do the terms mean the same things as they do under state rules relating to group and individual health insurance coverage? .....13-9

Q 13.18 What other insurance market reforms are currently required by the ACA? .....13-10

    Q 13.18.1 What does “minimum essential coverage” mean for purposes of satisfying the individual mandate?.....13-11

*Provisions Effective Shortly After the Implementation of the ACA*.....13-12

Q 13.19 What types of reforms were insurers required to comply with by September 23, 2010? .....13-12

*Provisions Effective January 1, 2011* .....13-13

Q 13.20 What types of provisions are required effective January 1, 2011? .....13-13

    “Excepted Benefits” .....13-14

Q 13.21 What is the definition of “excepted benefits” that fall outside the scope of the various reforms contained in ACA? .....13-14

*Powers of the States* .....13-16

Q 13.22 How will the ACA affect the cost of health insurance?.....13-16

Q 13.23 Will the state Insurance Departments continue to be involved in the regulation of health insurance and health insurers? .....13-16

**Chapter 14 Registered Life and Annuity Products**

**Types of Registered Products**.....14-2

Q 14.1 What types of insurance products must be registered under the federal securities laws? .....14-2

Q 14.2 Why are these types of insurance products “securities” under the federal securities laws? .....14-3

Q 14.3 How are variable life insurance and variable annuity products generally designed? .....14-4

2nd Proofs 8/11/2017

*Table of Contents*

---

<b>Separate Accounts</b> .....	14-4
Q 14.4 Why must the separate account supporting a variable contract be registered under the 1940 Act?.....	14-4
Q 14.5 How are separate accounts structured under the 1940 Act?.....	14-5
<b>SEC Registration</b> .....	14-6
Q 14.6 How are variable contracts, and the separate accounts that support them, registered with the SEC?.....	14-6
Q 14.7 What is the relationship between the separate account and the insurer for purposes of the registration statement?.....	14-7
Q 14.8 Does the registration statement need to be updated? .....	14-7
Q 14.9 What disclosure materials must be provided to investors? .....	14-8
<b>Charges and Fees</b> .....	14-9
Q 14.10 How do the federal securities laws regulate the charges associated with registered variable life and annuity products? .....	14-9
Q 14.11 What are the various types of fees and charges under variable products? .....	14-10
<b>Sale of Variable Products</b> .....	14-14
Q 14.12 Other than the reasonableness requirement for aggregate charges, what other SEC conditions must be met to sell variable insurance contracts? .....	14-14
Q 14.13 How does the 1940 Act regulate the operations of registered variable contracts? .....	14-15
Q 14.14 What requirements apply to calculation of the cash value?.....	14-16
Q 14.15 How are fees and charges deducted? .....	14-17
Q 14.16 How does the daily pricing requirement generally apply to contract owner transactions?.....	14-18
Q 14.17 How must new applications and premiums be processed under the 1940 Act? .....	14-19
Q 14.18 How does the “free look” period affect processing of new applications and premium?.....	14-20
<b>Operation of Variable Products</b> .....	14-21
Q 14.19 How are withdrawals and surrenders regulated under the 1940 Act?.....	14-21
Q 14.20 How are transfers among investment options (and exchanges of variable contracts) regulated under the 1940 Act? .....	14-23

Q 14.21 How do death benefits work under variable insurance products?.....14-24

Q 14.22 What are “good order” requirements?.....14-26

Q 14.23 What are “living benefits”?.....14-26

Q 14.24 How do the 1940 Act start-up requirements apply? .....14-27

Q 14.25 What are “combination contracts”?.....14-27

**Other SEC Registered Insurance Products** .....14-28

Q 14.26 What kinds of insurance products, other than variable products, are or could be SEC-registered securities?.....14-28

Q 14.27 Is the insurance company or separate account subject to any periodic reporting requirements?.....14-32

Q 14.28 What other materials must be filed with the SEC?.....14-33

**Other Requirements**.....14-33

Q 14.29 What other federal securities laws requirements apply to registered variable life and annuity products? Is a securities compliance program required? .....14-33

Q 14.30 Are there substantive SEC or FINRA requirements applicable to marketing materials for insurance securities products?.....14-34

Q 14.31 Are registered variable life and annuity products exempt from state securities and insurance regulation? .....14-35

Q 14.32 What special federal income tax considerations apply to variable annuity and life insurance contracts? .....14-36

## Chapter 15 Impact of Other Regulators on Insurance Regulation

**Introduction**.....15-2

Q 15.1 If federal law leaves to the states the regulation of the business of insurance, how can any governmental agencies, other than state Insurance Departments, affect the regulation of insurance?.....15-2

**Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010**.....15-3

Q 15.2 How does Dodd-Frank affect insurance regulation? .....15-3

Table of Contents

---

FIO ..... 15-3

Q 15.3 What does Dodd-Frank say about FIO?..... 15-3

    Q 15.3.1 What recommendations were made in the FIO  
            modernization report?..... 15-4

    Q 15.3.2 What recommendations were made in the FIO  
            reinsurance report? ..... 15-6

Q 15.4 Beyond these monitoring and data analysis functions, does  
    FIO have any substantive responsibilities under Dodd-Frank? ..... 15-7

*Nonadmitted and Reinsurance Reform Act*..... 15-8

Q 15.5 How does Dodd-Frank affect the regulation of reinsurance  
    and surplus lines insurance? ..... 15-8

    Q 15.5.1 How does NRRRA affect the regulation of reinsurance?..... 15-8

    Q 15.5.2 How does NRRRA affect the regulation of surplus lines  
            insurance? ..... 15-9

*Other Provisions*..... 15-9

Q 15.6 Are there any other ways in which Dodd-Frank will affect  
    insurance companies? ..... 15-9

**Federal Laws Relating to Foreign Trade**..... 15-13

Q 15.7 What are some of the federal laws relating to foreign trade  
    that affect insurance regulation?..... 15-13

    Q 15.7.1 Are there other restrictions affecting Iran in  
            particular?..... 15-14

Q 15.8 What other federal laws affect U.S. companies in their  
    business activities? ..... 15-16

**Securities and Exchange Commission**..... 15-17

Q 15.9 Chapter 9, regarding the regulation of life and annuity  
    insurers, noted that certain products offered by annuity  
    and life insurance writers must be registered with the  
    SEC; are there other ways in which the SEC regulates  
    insurance companies? ..... 15-17

**State Attorneys General**..... 15-17

Q 15.10 Do state attorneys general have authority to enforce  
    insurance laws? ..... 15-17

2nd Proofs 8/11/2017

<b>Federal Antitrust Laws</b> .....	15-18
Q 15.11 Are insurance companies subject to antitrust laws?.....	15-18
Q 15.11.1 Can the “business of insurance” ever be subject to federal antitrust laws? .....	15-18
Q 15.11.2 Aside from the three exemptions mentioned above, can we assume that the federal antitrust laws never apply?.....	15-19
Q 15.12 Why do the federal antitrust authorities support a repeal of the McCarran-Ferguson Act? .....	15-19
Q 15.13 As a practical matter, what does the McCarran-Ferguson exemption allow?.....	15-19
Q 15.14 Are there any other important antitrust exemptions? .....	15-20
Q 15.15 Do federal and state antitrust laws affect market concentration in the industry?.....	15-20
<b>Other Laws Affecting Insurance Companies</b> .....	15-21
Q 15.16 Are there other federal laws that affect the regulation of insurance companies? .....	15-21

## Chapter 16 Regulation of Insurance Company Financial Condition

<b>Minimum Capital and Surplus Requirements</b> .....	16-2
Q 16.1 What requirements do the insurance laws impose on the minimum amount of capital an insurance company is required to have and maintain?.....	16-2
Q 16.2 What is the practical effect of these minimum capital and surplus requirements for insurance companies? .....	16-3
Q 16.3 Are paid-in capital and paid-in surplus the only ways in which insurers can receive operating capital? .....	16-3
Q 16.3.1 What is a surplus note? .....	16-3
<b>Dividend and NAIC Requirements</b> .....	16-4
Q 16.4 Are shareholder dividends by insurance companies regulated?.....	16-4
Q 16.5 How do Insurance Commissioners monitor and regulate the insurance liabilities of insurance companies? .....	16-5

2nd Proofs 8/11/2017

Table of Contents

---

Q 16.6 How does the state-based system of insurance regulation assure that insurance company financial statements are prepared in accordance with consistent and uniform standards? .....16-5

    Q 16.6.1 Are there any state variants from these uniform practices? .....16-6

**RBC**.....16-6

Q 16.7 How is RBC used by regulators to determine the financial condition of insurance companies? .....16-6

**Examinations** .....16-7

Q 16.8 What laws govern financial examinations? .....16-7

Q 16.9 How often may Insurance Departments conduct financial condition examinations? .....16-8

Q 16.10 How do different states work together on examinations? .....16-8

Q 16.11 What type of information or documents must the insurer under examination make available for inspection to the examiners? .....16-9

Q 16.12 Who bears the cost of an examination? .....16-9

*Insurance Commissioner's Powers*.....16-9

Q 16.13 Do the Insurance Commissioner's examination powers extend beyond the licensed insurer?.....16-9

Q 16.14 Does the Insurance Commissioner have the power to take testimony in connection with a financial examination? .....16-10

Q 16.15 Is the financial examination conducted strictly by insurance regulators, or can the Insurance Commissioner retain other individuals to assist with the examination? .....16-10

*Examination Reports*.....16-10

Q 16.16 What type of information typically appears in the examination report that is prepared by the examiners?.....16-10

Q 16.17 Are examination reports available to the public? .....16-11

Q 16.18 Does the insurer see the examination report before it is issued? .....16-11

Q 16.19 Can an insurer contest the findings that appear in a report on examination? .....16-11

Q 16.20 Is the insurer required to accept the report? .....16-12

2nd Proofs 8/11/2017

**Regulatory Reform Related to Insurance Company Financial Condition .....16-12**

- Q 16.21 What regulatory reform developments will impact the regulation of insurance companies' financial condition?.....16-12

**Chapter 17 Insolvency and Restructuring**

**Federal Bankruptcy Laws.....17-2**

- Q 17.1 Are insurance companies subject to federal bankruptcy law?.....17-2  
 Q 17.2 Does this exemption extend to the parents or affiliates of insurance companies? .....17-3  
 Q 17.3 Are corporations licensed as insurance agents, brokers, etc. also exempt from federal bankruptcy? .....17-3

**State Insurance Rehabilitation, Liquidation, and Receivership Laws .....17-3**

- Q 17.4 What happens to an insurance company that is in financial difficulty if Chapter 11 and Chapter 7 of the federal bankruptcy law are not available? .....17-3

***Delinquency Proceedings* .....17-4**

- Q 17.5 What is a “delinquency proceeding” under state insurance insolvency law?.....17-4  
 Q 17.6 What are the grounds upon which the Insurance Commissioner may seek an order to liquidate, rehabilitate, or conserve an insurer?.....17-4  
 Q 17.7 Are there statutory limits on these grounds for initiating delinquency proceedings against an insurer? .....17-5  
 Q 17.8 What happens when the Insurance Commissioner obtains a finding from state court that an insurer must be placed into delinquency proceedings? .....17-5

***Conservation* .....17-6**

- Q 17.9 What does it mean for the Insurance Commissioner to be granted an order of “conservation” over an insurer?.....17-6

***Supervision* .....17-6**

- Q 17.10 What does it mean to place an insurer under supervision? .....17-6

***Rehabilitation*.....17-7**

- Q 17.11 What does it mean to place an insurer into rehabilitation?.....17-7

2nd Proofs 8/11/2017



Table of Contents

*Liquidation* .....17-8

Q 17.12 What determines whether an Insurance Commissioner will seek an order to liquidate an insurer? .....17-8

Q 17.13 What does the Insurance Commissioner as liquidator of an insurer do? .....17-8

Q 17.14 What happens to policyholder claims in liquidation?.....17-9

**State Insurance Guaranty Funds**.....17-9

Q 17.15 Do policyholders have any other recourse for payment of their policy claims? .....17-9

Q 17.16 Who provides the funds that are administered by the guaranty associations? .....17-9

**Chapter 18 Regulation of Investments by Insurance Companies**

**State Insurance Laws** .....18-2

Q 18.1 Why do state insurance laws regulate investments made by insurers? .....18-2

Q 18.2 How do state insurance laws regulate investments made by insurers? .....18-2

**NAIC Model Investment Laws** .....18-2

Q 18.3 Is there an NAIC model law on insurance company investments? .....18-2

Q 18.4 Which version of the NAIC model law in investments do most states follow?.....18-3

**New York Insurance Laws** .....18-4

Q 18.5 How does New York impose its investment law on non-domestic insurers? .....18-4

Q 18.6 If the insurer is not domiciled in New York, how can that state impose its rules, even with a statute that requires “substantial compliance” with the New York laws?.....18-4

Q 18.7 What types of rules on insurer investments are imposed by New York law?.....18-4

Q 18.8 What is the difference between “admitted” and “permitted” assets?.....18-5

2nd Proofs 8/11/2017

**Derivatives, NAIC Securities Valuation Office, and Risk-Based Capital** .....18-6

Q 18.9 Do insurer investment statutes authorize insurers to engage in derivatives transactions? .....18-6

Q 18.10 How are investments valued for purposes of annual financial statement filing? .....18-6

Q 18.11 What impact does an insurer’s investments have on its risk-based capital? .....18-6

**Chapter 19 Regulation of Market Conduct and Trade Practices**

**Market Conduct Examinations** .....19-2

Q 19.1 What laws govern market regulation? .....19-2

Q 19.2 What do market conduct examinations and enforcement actions typically focus on? .....19-3

Q 19.3 What type of information or documents must the insurer that is being examined make available to the examiners for inspection? .....19-3

Q 19.4 What do Insurance Commissioners do with their findings? .....19-3

Q 19.5 Can the examination findings be contested? .....19-4

**Unfair Trade Practices** .....19-4

Q 19.6 Is there a NAIC model law on unfair trade practices? .....19-4

Q 19.7 What types of practices typically constitute “unfair trade practices” in the business of insurance? .....19-4

Q 19.8 Do rules relating to unfair trade practices apply only to insurers? .....19-5

Q 19.9 What are the consequences if the Insurance Commissioner finds that an insurer or person has engaged in an unfair trade practice? .....19-5

**Unfair Claims Practices** .....19-6

Q 19.10 Is there a model NAIC law on unfair claims practices? .....19-6

Q 19.11 What types of practices typically constitute “unfair claims practices” in the business of insurance? .....19-6

Q 19.12 What are the consequences if the Insurance Commissioner finds that an insurer or other person has engaged in an unfair claims practice? .....19-7

2nd Proofs 8/11/2017

## Chapter 20 Unclaimed Property

<b>State Unclaimed Property Laws</b> .....	20-2
Q 20.1 What types of property are subject to state unclaimed property laws? .....	20-2
Q 20.2 What are the Uniform Unclaimed Property Acts? .....	20-2
Q 20.3 What obligations do state unclaimed property laws impose on holders? .....	20-3
Q 20.4 Who regulates unclaimed property? .....	20-4
Q 20.5 What is the dormancy period? .....	20-4
Q 20.6 When does the dormancy period begin to run? .....	20-5
<b>Life Insurance</b> .....	20-5
Q 20.7 When do life insurance proceeds become unclaimed property? .....	20-5
Q 20.8 What is the Social Security Death Master File, why is it important, and do life insurers have a duty to search the Death Master File? .....	20-8
<b>Property &amp; Casualty and Other Types of Insurance</b> .....	20-10
Q 20.9 How does unclaimed property apply to insurers other than life insurers? .....	20-10
Q 20.10 What is involved in an unclaimed property audit? .....	20-11
Q 20.11 What are offers of settlement and are they unclaimed property? .....	20-12
<b>Custody</b> .....	20-12
Q 20.12 Which state is entitled to take custody of unclaimed funds? .....	20-12

## Chapter 21 Privacy and Cybersecurity

<b>Gramm-Leach-Bliley Act</b> .....	21-2
Q 21.1 What is the legal framework in the United States governing data privacy in the insurance industry? .....	21-2
Q 21.2 What are the general requirements under GLB? .....	21-3

2nd Proofs 8/11/2017

**Model Privacy and Safeguarding** .....21-4

Q 21.3 How many states have adopted the Model Privacy Act and what are the basic requirements? .....21-4

Q 21.4 How many states have adopted the Model Privacy Regulation and what are the basic requirements? .....21-4

Q 21.5 How many states have adopted the Model Safeguarding Regulation and what are the basic requirements? .....21-5

**Other State Privacy and Cybersecurity Laws and Regulations** .....21-6

Q 21.6 What are the requirements under state breach notification laws? .....21-6

Q 21.7 What other state laws govern information privacy and security? .....21-8

Q 21.8 What does the New York Cybersecurity Regulation require of Department of Financial Services (DFS) regulated institutions? .....21-9

Q 21.9 What are the special requirements with respect to affiliate-sharing under FCRA and in California? .....21-11

**Federal Privacy Laws and Regulations** .....21-12

Q 21.10 What are the information privacy requirements under HIPAA? .....21-12

Q 21.11 Are there federal breach notification requirements? .....21-14

Q 21.12 What other federal laws and regulations address information privacy and security? .....21-15

Q 21.13 How are social media, cloud computing, mobile marketing and other emerging technologies services affecting information privacy risks for insurance companies? .....21-15

**International Privacy Laws and Regulations** .....21-17

Q 21.14 What additional privacy issues should be considered by U.S. insurance organizations doing business abroad? .....21-17

2nd Proofs 8/11/2017

## Chapter 22 International Regulation Affecting U.S. Insurers

<b>Memorandum of Understanding Between U.S. States and Foreign Governments</b> .....	22-2
Q 22.1 How do U.S. insurance regulators work and exchange information with regulators in other nations? .....	22-2
<b>IAIS</b> .....	22-4
Q 22.2 What is the IAIS and how does it affect insurance regulation in the United States? .....	22-4
Q 22.3 What form of regulatory guidance does the IAIS issue?.....	22-5
Q 22.4 How is the United States involved in IAIS activities?.....	22-5
Q 22.5 What is ComFrame and how is the United States involved in ComFrame? .....	22-6
<b>Solvency II</b> .....	22-6
Q 22.6 What is Solvency II? .....	22-6
Q 22.7 What impact could Solvency II have on U.S. insurers?.....	22-7
<i>“Equivalence”</i> .....	22-8
Q 22.8 Who makes the “equivalence” determination and what is the process for making that determination? .....	22-8
Q 22.9 Will the United States be assessed for “equivalence”?.....	22-9
<b>International Financial Reporting Standards</b> .....	22-9
Q 22.10 What are International Financial Reporting Standards, or IFRS, and how do they affect U.S. insurance regulation? .....	22-9

## Chapter 23 Emerging Issues

<b>Relationship Between Federal and State Insurance Regulation</b> .....	23-2
Q 23.1 What are the dominant themes or trends in insurance regulation in the coming years? .....	23-2
Q 23.2 Starting with reference to some of the recent federal laws and developments, is it still fair to say that insurance is a “state-based” system of national regulation? .....	23-3
Q 23.3 In addition to these federal statutes, what other regulatory issues are emerging in the United States?.....	23-4

2nd Proofs 8/11/2017

**International Insurance Regulation**.....23-4

Q 23.4 How will developments in international insurance regulation  
affect the insurance industry in the United States?.....23-4

**The Impact of Technology on the Insurance Industry**.....23-5

Q 23.5 How are innovations in technology impacting the insurance  
industry in the United States? .....23-5

**Index**.....I-1

2nd Proofs 8/11/2017

# Introduction

---

*Insurance Regulation Answer Book* provides a general overview of the significant legal and regulatory guidelines that govern the insurance business in the United States. The book is deliberately high level, providing an introduction to a complex and constantly changing area of the law. Insurance in the United States has historically been regulated principally by the individual states, rather than by the federal government. Thus, an extensive body of law, regulation and practice affecting insurance has been developed in all 50+ jurisdictions within this country. There are common underlying comments and there is a degree of uniformity among states due to the efforts of the National Association of Insurance Commissioners to create uniform standards throughout the United States. Increasingly, this state-based system of regulation must be understood in the context of national and international developments that affect the business and the regulation of insurance.

We believe that *Insurance Regulation Answer Book* can be helpful to a wide range of users. Lawyers who do not specialize in insurance regulatory matters need an answer book to identify and understand some of the common questions that arise when insurance regulation must be considered. Business decision makers need a single source for the types of issues in insurance regulation that may affect their businesses. Lawyers and regulators outside the United States who require a general introduction to how insurance is regulated in this country will find this answer book a valuable resource. Students of both law and business can use this book as a ready introduction to insurance regulation in the United States.

It is primarily to these audiences that we have addressed this book. Of course, it cannot serve as a treatise on any single area of insurance regulation or on the law or practice of any specific state. As a general overview of significant legal and regulatory issues that govern the insurance business in the United States, however, this book fills a need that is not otherwise addressed.

2nd Proofs 8/11/2017

We have updated the book, including adding new chapters, each year since its original publication, and will continue to do so.

JOHN S. PRUITT AND CYNTHIA R. SHOSS  
Eversheds Sutherland (US) LLP  
July 2017

2nd Proofs 8/11/2017



# Selected Acronyms of Insurance Organizations and Concepts

---

AAA	American Academy of Actuaries
ACA	Affordable Care Act (or the Patient Protection and Affordable Care Act (PPACA))
ACLI	American Council of Life Insurers
AIA	American Insurance Association
DUP	Derivative Use Plan
DOL	U.S. Department of Labor
EIOPA	European Insurance and Occupational Pensions Authority
ERISA	Employee Retirement Income Security Act
ERM	Enterprise Risk Management
FIO	Federal Insurance Office (of the U.S. Department of Treasury)
FRB	Federal Reserve Board (officially, the Board of Governors of the Federal Reserve System)
FINRA	Financial Industry Regulatory Authority
FSAP	Financial Sector Assessment Program (of the International Monetary Fund (IMF))
G-SII	Global Systemically Important Insurer
GLB	Gramm-Leach-Bliley (Act)
HCA	Holding Company Act
HMO	Health Maintenance Organization
IAIG	Internationally Active Insurance Group
IAIS	International Association of Insurance Supervisors
III	Insurance Information Institute
IIPRC	Interstate Insurance Product Regulation Commission

LIMRA	Life Insurance Marketing and Research Association
LOMA	Life Office Management Association
MBT	Multibeneficiary Trust
MGA	Managing General Agent
MHC	Mutual Holding Company
NAIC	National Association of Insurance Commissioners
NALC	National Alliance of Life Companies
NARAB	National Association of Registered Agents and Brokers
NCIGF	National Conference of Insurance Guaranty Funds
NCOIL	National Conference of Insurance Legislators
NOLHGA	National Organization of Life and Health Insurance Guaranty Associations
NRRA	Nonadmitted and Reinsurance Reform Act
ORSA	Own Risk and Solvency Assessment
PBR	Principles-Based Reserving
PCI	Property Casualty Insurers Association of America
RAA	Reinsurance Association of America
RBC	Risk-Based Capital
RIMS	Risk and Insurance Management Society
RPG	Risk Purchasing Group
RRG	Risk Retention Group
SAP	Statutory Accounting Principles
SEC	U.S. Securities and Exchange Commission
SOA	Society of Actuaries
SVO	Securities Valuation Office (of the NAIC)
TPA	Third-Party Administrator
UCAA	Uniform Certificate of Authority Application

2nd Proofs 8/11/2017