

**MEMORANDUM**

**TO:** Carrie Haughwout, Assistant Director of Policy and Product Coordination, Ohio Department of Insurance

**FROM:** Tess Eckstein, Regulatory Policy Advocate

**DATE:** February 1, 2017

**RE:** **CSI Review – Corporate Governance Annual Disclosure (OAC 3901-3-19)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

This rule package consists of one amended rule being proposed by the Ohio Department of Insurance (ODI). The rule package was submitted to the CSI Office on January 12, 2017, and the comment period remained open until January 28, 2017.

ODI is proposing rule 3901-3-19 to require that all insurers in the state provide, on an annual basis, adequate information to the Department as relates to their corporate governance practices. This information is currently available to ODI only during full-scope examinations, which usually occur in three- to five-year intervals. Changes to governance practices, however, must be communicated more frequently to enable ODI to determine each insurer's current and prospective solvency. A requirement for annual disclosure of corporate governance practices was established in a National Association of Insurance Commissioners (NAIC) model law and model rule, which represent best practices for the corporate governance of insurers across the United States. Recently-enacted ORC 3901.074 now statutorily mandates that ODI promulgate a Corporate Governance Annual Disclosure (CGAD) rule. In the CGAD, insurers must document confidential information about their corporate governance framework, including the structure and policies of their boards of directors and key committees. They must also disclose policies and practices used by their boards of directors for directing senior management on critical issues.

All insurers that are domiciled in Ohio are impacted by 3901-3-19. Adverse impacts associated with the rule include completing and filing the CGAD. ODI anticipates this taking 40 hours the first year and significantly less time in subsequent years, as insurers will simply be updating the existing disclosure with any necessary changes. In addition, failure to comply with the rule could result in a civil penalty being assessed against the insurer. The BIA explains that adverse impacts arising from these rules are justified because the information gathered during the CGAD can be used by ODI to understand, review, and assess the corporate governance practices of insurers, which promotes ongoing and effective oversight of insurers and helps ensure their long-term success. In addition, to minimize some of the adverse impacts previously indicated, the rule provides insurers with a variety of flexibilities. For example, insurers are given discretion regarding the format in which required information is submitted, and if existing documents provide information that is comparable to that which is required to be submitted by this rule, an insurer is able to reference those documents to eliminate duplication of paperwork.

ODI engaged stakeholders through a collaborative stakeholder outreach process. The Department discussed drafts of the rule with life, health, and property and casualty insurance associations, as well as organizations such as the Ohio Insurance Institute. Conversations and meetings began in early 2016 and continued throughout the year. No stakeholders requested revisions to the rule. Similarly, no comments were submitted during the CSI public comment period. Therefore, the CSI Office determines the purpose of the rule to be justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Ohio Department of Insurance should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office