

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

**45 Fremont Street, 21st Floor
San Francisco, California 94105**

INITIAL STATEMENT OF REASONS

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STANDARDS FOR APPROVAL OF INSURER NAMES

INTRODUCTION

California Insurance Code Sections 881 *et seq.* requires that the name of every insurer (including reciprocal insurers, interinsurance exchanges, other risk bearing entities), motor club, underwritten title company, and home protection company transacting business in California must be approved by the Insurance Commissioner of the State of California (Commissioner.) Insurance Code Sections 881 *et seq.* require such entities to submit a written application for name approval to the Commissioner and the statutes specify that a name may not be used until it is approved by the Commissioner. Insurance Code Section 881 provides that the standard for rejection of a name is as follows:

The commissioner may reject any name submitted when it is in an interference with, or too similar to one already appropriated, or when it is likely to mislead the public in any respect.

In applying Insurance Code Section 881 on an application by application basis, the Commissioner has determined that names containing certain words, combinations of words, numerals, similarities, and circumstances cannot be approved because the proposed name would interfere with names that have been appropriated (either through use, reservation of a name, or pending application) by another entity, because the proposed names are too similar to other names, or because the words in the proposed names or other circumstances regarding the proposed names are likely to mislead the public as to the insurer's business or affiliations. Some words are prohibited for use by statute and therefore cannot be used in names. Names or part of names that that sound or look like names of other insurers or other businesses or entities which are not affiliated with the entity seeking the name are likely to mislead the public into believing there is an affiliation, or may be too similar to another entity's name. The Commissioner has also determined that certain words are necessary as part of a proposed name so that the public is not likely to be misled as to the type of business that is or will be conducted by the applicant. These regulations specify specific words and circumstances when a proposed name will not comply with Insurance Code Section 881 and will therefore not be approved by the Commissioner. Because it is possible that a proposed name would be rejected pursuant to these regulations, but the name would not interfere with an appropriated name, would not be too similar, and is not

likely to mislead the public, the regulations also provide that the Commissioner retains discretion to approve such a name. The Commissioner also retains discretion to reject a proposed name that does not comply with Insurance Code Section 881 but which otherwise facially complies with these regulations.

The proposed regulations are necessary to specify standards and procedures for obtaining name approval. The proposed regulations will provide guidance to the insurance industry as to names that will be rejected by the Commissioner as being an interference with, or too similar to a name that is already appropriated or when a name is likely to mislead the public in any respect. By providing guidance to the industry, the name approval process will be streamlined and unnecessary efforts will be avoided in connection with names that will not be approved. Promulgation of these regulations creates transparency of governmental processes and can reduce administrative costs of compliance.

SPECIFIC PURPOSE AND REASONABLE NECESSITY OF REGULATION

The specific purpose of adoption and the rationale for the Commissioner's determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed are set forth below:

SECTION 2278.50 APPLICABILITY

Insurance Code Section 881 provides that it applies to insurers (including reciprocal insurers and interinsurance exchanges), attorneys in fact, motor clubs, and underwritten title companies. Insurance Code Sections 881.5 and 882.5 refer to certain name approval limitations for home protection companies. Insurance Code Section 882 refers to name approval of underwriter's policies. The application of Insurance Code Section 881 to other entities is set forth in other parts of the Insurance Code. This section is reasonably necessary to specify the applicability of Insurance Code Section 881 to different types of entities for whom name approval is required.

This regulation section clarifies that these regulations apply to any insurer licensed to transact business in California. This section specifies that the regulations apply to domestic insurers (as defined in Insurance Code Section 26), foreign insurers (as defined in Insurance Code Section 27), alien insurers (as defined in Insurance Code Section 1580), and reciprocal insurers, interinsurance exchanges (as defined in Insurance Code Section 1303), motor clubs (as defined in Insurance Code Section 12142), underwritten title companies (as defined in Insurance Code Section 12340.5), home protection companies (as defined in Insurance Code Section 12740), fraternal benefit societies (as defined in Insurance Code Section 10990 and as made applicable by Insurance Code Section 10970), two or more insurers proposing to issue an underwriter's policy (as specified in Insurance Code Sections 882 and 883), multiple employer welfare arrangements (as defined in Insurance Code Section 742.21 and as made applicable by Insurance Code Section 742.42), and attorneys-in-fact of a reciprocals or interinsurance exchanges or agent or other representative duly authorized and acting under a power of attorney for subscribers of a reciprocal or interinsurance exchange (as specified in Insurance Code Section 881). Finally, the section clarifies that it applies to any other entity that is required to obtain name approval from the Commissioner (excluding insurance producers.)

Subdivision (b) of this section clarifies that the regulations do not apply to persons that are "non-admitted." Insurance that is transacted on a surplus lines basis (in conformity with the requirements of the Insurance Code) does not make the insurer that issues such policies subject to Insurance Code Section 881 *et seq.*

Subdivision (c) clarifies that the regulations do not affect names that have been approved prior to the effective date of these regulations.

SECTION 2278.51 DEFINITIONS

This section defines four terms that are used in these regulations. The terms are necessary to make these regulations concise and to avoid repetition of each definition in every regulation section where the term is used. The defined terms are used in these regulations to distinguish circumstances in which a proposed name may interfere with, be too similar to, or be likely to mislead the public in connection with the name of an entity that is not affiliated with the person seeking name approval, versus in connection with the name of an entity that *is* affiliated with the person seeking name approval.

Subdivision (a) defines the term "Licensee" to mean any of the entities specified in regulation Section 2278.50 (e.g., domestic and foreign insurers, motor clubs, home protection company, *et al.*) This subdivision is reasonably necessary to make the regulations clear and concise.

Subdivision (b) defines the term "Applicant" to mean a person seeking the approval of a name pursuant to these regulations. The term is defined as meaning both entities in existence at the time the application is submitted and entities that have not yet been formed (or have not completed formation.) Entities in formation, or to be formed in the future, may seek to reserve names and this section is reasonably necessary to specify that the regulations apply to both existing entities, entities in formation and entities proposed to be formed.

Subdivision (c) defines the term "Affiliate" for the purpose of differentiating in these regulations between considerations for approval of a proposed name that may be an interference with, too similar to, or likely to mislead the public with respect to the name of a non-affiliated entity, versus the name of an affiliated entity. The definition of Affiliate is taken from Insurance Code Section 1215(a), which is part of the Insurance Holding Company System Regulatory Act. This definition is consistent with existing law and is well understood within the insurance industry. This section is reasonably necessary to distinguish considerations that apply when a proposed name may be an interference with or too similar to a name that is already appropriated or likely to mislead the public with respect to affiliated entities versus non-affiliated entities.

SECTION 2278.52 WRITTEN APPLICATION

Insurance Code Section 881 requires requests for approval of a name to be submitted by a written application. This section specifies the contents of such applications and it is divided into two parts which distinguish applications for approval of a name from applications for approval of a name change.

Subdivision (a) specifies materials that must be submitted in connection with a request for approval of a name and it specifies that the Commissioner may require the submission of any other information that is reasonably necessary under the circumstances. Subdivision (a) provides that an Applicant may use Commissioner's Form N-1.

Subdivision (a)(1) provides that in addition to the requested name, an Applicant may submit two alternative names in the event that the Commissioner will not approve the requested name. As a matter of efficiency for both the Commissioner and the Applicant, subdivision (a)(1) requires the Applicant to list any proposed alternative names in order of preference.

Subdivisions (a)(2) through (6) require basic background information regarding the Applicant. Subdivision (a)(2) requires the Applicant to identify its domicile, Subdivision (a)(3) requires its Federal Employer Identification Number, and Subdivision (a)(4) requires Applicant's National Association of Insurance Commissioner individual and group name and number (if the latter are applicable.) Subdivision (a)(5) requires the submission of the Applicant's organizational chart showing its position in any group or other ownership structure. Subdivision (a)(6) requires an Applicant that is not affiliated with other companies or persons to identify its owners or proposed owners. These requirements are reasonably necessary for the Commissioner to identify the Applicant, to determine whether it has Affiliates (which may or may not be Licensees), and to thereafter ascertain whether the proposed name is likely to mislead the public in any respect.

Subdivision (a)(7) requires an Applicant that is underwritten title company to state the counties in which it transacts or will transact business. Underwritten title companies are required to be licensed to write in each county in which they transact business (Insurance Code Section 12389(a)) and this information is reasonably necessary to determine if a proposed name is likely to mislead the public. Subdivision (a)(7) also requires an Applicant to specify the title insurer(s) that will underwrite the title insurance policies that will be offered by the Applicant. This information is reasonably necessary to ascertain that the proposed name is not likely to mislead the public as to the Applicant's affiliation, or absence thereof, with a title insurer.

Subdivision (a)(8) requires an Applicant to specify the classes of insurance, including specialty lines, that it transacts or will transact. This information is necessary to determine if a proposed name is likely to mislead the public.

Subdivision (a)(9) requires an Applicant to identify other applications or filings that are pending with the Commissioner. This requirement is reasonably necessary for efficiency for the Commissioner and the Applicant. The Commissioner may need to coordinate the approval of a name with an application to amend a certificate of authority or with another application. Changes in the Applicant's certificate of authority or other operations may have an impact on whether a proposed name is likely to mislead the public. Similarly, this Subdivision requires the identification of pending applications and filings by Affiliates. Pending matters pertaining to Affiliates may have an impact on whether a proposed name is an interference with or too similar to the appropriated name of an Affiliate, and whether the proposed name is likely to mislead the public in any respect. The Applicant is in the best position to identify all pending matters. Uncoordinated applications can result in duplication of effort, such as repetitive issuance of amended certificates of authority. Subdivision (a)(9) excludes applications regarding dividends,

property and casualty rates, and form filings because they do not require coordination and they do not pertain to matters that are likely to mislead the public.

Subdivision (a)(10) requires foreign insurers, alien insurers and other entities that will be required to use an operating name to provide evidence, in the form of a certified resolution, that the use of an operating name has been authorized by the Applicant's board of directors (or other governing body if it does not have a board of directors.) A certified resolution is reasonably necessary to demonstrate to the Commissioner that the proposed use of an operating name has been considered by and approved by the insurer's governing body and that the request is an authorized action.

Subdivision (b) pertains to applications for name changes. This Subdivision specifies additional information that must be provided when the application is for a name change. Subdivision (b)(1) requires the Applicant to advise the Commissioner of the reason for the proposed name change and it specifies, as examples, mergers, marketing concerns, acquisition or reorganization of the Applicant. A proposed name may or may not be likely to mislead the public if there are also underlying changes in the Applicant's business or its ownership. Changes in ownership could affect whether a proposed name interferes with or is too similar to the name of entities that will be Affiliates or will no longer be Affiliates, and similarly could create circumstances in which the name would be likely to mislead the public.. Further, the information can assist the Commissioner in determining whether there are, or are likely to be, other applications or filings by the Applicant that should be coordinated with the name change application. Subdivision (b)(2) provides that if Title 10, Chapter 5, Subchapter 3, Article 3, Section 2303.15(q) applies to the Applicant, then the Applicant must submit a formal commitment, in the manner specified in Section 2303.15(r), that it will comply with Section 2303.15(q.) Section 2303.15(q) establishes requirements for an insurer that is sold as a corporate shell or when the sale of an insurer or other circumstances result in a significant change in the insurer's operation such that all or a majority of the documents that were previously submitted by the insurer are no longer valid. Section 2303.15(r) specifies the form of the certification. This subdivision specifies that the written commitment does not have to be in the form of a board resolution. Subdivision (b)(2) is reasonably necessary to coordinate the review of the proposed name change with the Commissioner's review in connection with the sale of an insurer or the other circumstances specified in Section 2303.15(q) and to provide efficiency for both the Commissioner and the Applicant.

Subdivision (c) pertains to applications from insurers whose primary business is (or will be) reinsurance and whose proposed name contains the word "reinsurer" or "reinsurance." Either of these words in a company's name are likely to lead the public to believe that the insurer is primarily engaged in assuming reinsurance risks from other insurers. Accordingly, this Subdivision requires an Applicant to submit a written commitment in the manner specified in regulation Section 2303.15(r) that its primary business in California will be reinsurance. Conversely, a name that includes "reinsurer" or "reinsurance" would be likely to mislead the public if reinsurance is not the Applicant's primary business and therefore, this Subdivision also requires a written commitment that the Applicant will seek approval to change its name (deleting "reinsurer" or "reinsurance") when it intends to change its primary business to direct insurance. Such an application for a name change is to be submitted prospectively when the

Applicant determines to engage primarily in direct business, rather than when the Applicant's mix of business has in fact changed and its direct business predominates. The written commitment does not have to be in the form of a board resolution.

SECTION 2278.53 PROHIBITED WORDS OR PHRASES

This Section specifies words and phrases whose use is prohibited because they are likely to mislead the public, including words and phrases whose use is prohibited by statute. The specified words are likely to mislead the public by implying an affiliation, connection, endorsement or other relationship that does not exist, by implying that the Applicant performs services that it does not provide, or by implying that it is a type of business that it is not. This Section is reasonably necessary to prevent the use of a name that is likely to be an interference with, or too similar to a name that is already appropriated or which is likely to mislead the public.

(The Commissioner notes that certain prohibited words or phrases are in use by a very small number of insurers. Because they have been in use for a substantial period of time and because requiring those insurers to cease using those names could be unduly disruptive to the insurers and to the public if a name change were to be required, the Commissioner will permit the continued, existing use of those words or phrases by those insurers.)

Subdivision (a) lists nineteen words and phrases that may not be used in a name. Subdivision (a) specifies that the prohibition applies to plural and derivations of the words.

Subdivision (a)(1) prohibits the use of the word "Federal." The use of the word "Federal" is generally prohibited by 18 U.S.C.A. Section 709. The word is likely to mislead the public to believe that there is an association, affiliation, approval, endorsement, license, qualification, or other relationship between the Applicant and the federal government.

Subdivision (a)(2) prohibits the use of the words "United States," "U.S." and "U.S.A." The use of the words "United States" are generally prohibited by 18 U.S.C.A. Section 709 and therefore their use is likely to mislead the public that is an association, affiliation, approval, endorsement, license, qualification, or other relationship between the Applicant and the federal government. Similarly, the initials "U.S." and "U.S.A." are likely to be understood as abbreviations for "United States" and are also likely to mislead the public in the same manner.

Subdivision (a)(3) prohibits the use of the word "reserve." The use of the word "reserve" is generally prohibited by 18 U.S.C.A. Section 709. The word is likely to mislead the public to believe that there is an association, affiliation, approval, endorsement, license, qualification or other relationship between the Applicant and the federal government, including with the United States Federal Reserve System. Further, the word "reserve" is likely to mislead the public to believe that the Applicant is a bank, savings bank, savings and loan, or other financial institution, or is guaranteed by such an institution.

Subdivision (a)(4) prohibits the use of the words "Deposit Insurance." The use of the words "Deposit Insurance" are generally prohibited by 18 U.S.C.A. Section 709. The words are likely

to mislead the public to believe the Applicant is a financial institution or that its policies are covered by the Federal Deposit Insurance Corporation (FDIC) or other financial guaranty fund.

Subdivision (a)(5) prohibits the use of the words "Federal Deposit." The use of the words "Federal Deposit" are generally prohibited by 18 U.S.C.A. Section 709. The words are likely to mislead the public to believe the Applicant is a financial institution or that it is either covered by, or affiliated with, the Federal Deposit Insurance Corporation or a similar entity.

Subdivision (a)(6) prohibits the use of the word "Olympic." The use of the word "Olympic" is generally prohibited by 36 U.S.C.A. Section 220506(a)(4). The words is likely to mislead the public to believe the Applicant is affiliated with the United States Olympic Committee, or is affiliated with another entity associated with the Olympics.

Subdivision (a)(7) prohibits the use of the word "Olympia." The use of the word "Olympia" is similar to the word "Olympic" and is likely to mislead the public to believe the Applicant is affiliated with the United States Olympic Committee, or is affiliated with another entity associated with the Olympics.

Subdivision (a)(8) prohibits the use of the word "bank." The use of the word "bank" is generally prohibited for California entities that do not have a certificate of authority issued by the Commissioner of Financial Institutions (*see*, Corp. Code Sections 201, 5122, 7122, 9122, and 12302.) The word is likely to mislead the public to believe the Applicant is a financial institution.

Subdivisions (a)(9) through (a)(14) prohibit the use of the following words: "savings association," "savings," "savings bank" (except as discussed below), "savings and loan association," "building and loan association," and "building association." The use of these words is generally prohibited under California Financial Code Section 5652. Insurance Code Section 881.2 provides that the term "savings bank" may be used if the remaining words in the Applicant's name show that the Applicant is or will be engaged in insurance business and is not a savings bank. Consistent with Section 881.2, Subdivision (a)(11) provides that the term "savings bank" may be used if the Applicant is or will be engaged in insurance business and it is not a savings bank. Subdivision (a)(11) conditions use of the words "savings bank" upon receipt of a "no objection" letter from the Commissioner of Financial Institutions. On an application by application basis, the Commissioner has required Applicants to obtain "no objection" letters from the Commissioner of Financial Institutions. The Commissioner of Financial Institutions reviews and approves the names of savings associations, savings banks, and other associations pursuant to California Financial Code Section 5650 and pursuant to California Financial Code Section 5651, reviews whether such names are likely to deceive or mislead the public as to impermissibly similar existing names. Subdivision (a)(11) coordinates the review by the Commissioner with the expertise of the Commissioner of Financial Institutions in reviewing the names of savings institutions and determining whether a proposed name is likely to mislead or deceive the public.

Subdivisions (a)(15) and (a)(16) prohibit the use of the words "trust" and "trustee," respectively. The use of those words is generally prohibited for California entities that do not have a certificate

of authority issued by the Commissioner of Financial Institutions (*see*, Corp. Code Sections 201, 5122, 7122, 9122, and 12302.) The words are likely to mislead the public to believe that the Applicant is a financial institution or is organized as a trust. Subdivision (a)(15) exempts Multiple Employer Welfare Associations, which for the reasons set forth as to Subdivision (j) of Section 2278.54, is requires the word "trust" in the name of a Multiple Employer Welfare Association.

Subdivisions (a)(17) and (a)(18) prohibit the use of the words "agent" and "agency," respectively. Those words are generally understood to refer to insurance producers (agent and brokers), as opposed to insurers or other risk-bearing entities. Use of the words is likely to mislead the public to believe the Applicant is not an insurer or other risk-bearing entity and, instead, is an agent or other representative of an insurer or risk-bearing entity. As such, the public may be misled to believe that the financial resources of some other entity (i.e., the principal for which the Applicant is the "agent") supports the obligations of the policies and contracts. The term is inherently misleading and confusing as to an Applicant that is an insurer or risk-bearing entity and which is not an agent or broker.

Subdivision (a)(19) prohibits the use of the word "society" unless the Applicant is a fraternal benefit society organized and operating pursuant to Insurance Code. The use of the word by any other type of organization (other than a grants and annuity society, which are not required to obtain name approval) is likely to mislead the public to believe that the Applicant is either a fraternal benefit society or a grants and annuity society.

Subdivision (b) prohibits the use of the words "reinsurer" and "reinsurance" by an Applicant whose primary business is not reinsurance. The use of either word is likely to mislead the public to believe that the Applicant is primarily a reinsurer, and accordingly, primarily assumes reinsurance risks. Reinsurance differs in nature and financial risk from the risks on direct insurance policies.

SECTION 2278.54 REQUIRED WORDS OR PHRASES

This Section specifies words and phrases whose use is required in order to prevent a proposed name from being likely to mislead the public by failing to provide basic information regarding the Applicant's form of organization and business. This Section is reasonably necessary to assure that the public will be advised of the Applicant's form of business organization and the type of business that it conducts. This information facilitates efficient and informed choices in selecting the type of insurer or other risk-bearing entity that is appropriate or desired and it helps keep the public from being misled by an incomplete, insufficient or otherwise misleading name.

Subdivision (a) specifies that a proposed name for an Applicant that is, or will be, an insurer must include one of the words "Assurance," "Casualty," "Indemnity," or "Insurance." Each of those words is commonly used to denote that the entity is an insurer and the words are generally understood as such by the public. Use of one of these words in a proposed name is reasonably necessary so that the public is advised that the entity is, in fact, an insurer and the products it is offering for sale are insurance products. In the absence of one of these words, a proposed name could lead the public to believe that the entity is another type of risk bearing entity, or is a

financial sector institution that offers products other than insurance which have different benefits and risks. Inclusion of one of the foregoing words also advises the public that the entity is an insurer that is subject to the laws and regulations that pertain to insurers.

Subdivision (b) specifies that a proposed name for an Applicant that will write life insurance must include the word "life." The word "life" is reasonably necessary to be included in the proposed name of a life insurer so that the public is advised that the entity is a life insurer and is not another type of insurer and is not a financial sector institution that offers financial products that have different benefits and risks. In the absence of the word "life," the public is likely to be misled as to business that the Applicant is or will be engaged in.

Subdivision (c) specifies that a proposed name for an Applicant that is or will be organized as a stock company must indicate that the Applicant is a stock company. The Subdivision specifies that the word "Company" is sufficient for this purpose. Insurers can be organized as stock companies (including mutuals) or reciprocals and the different forms of organization have different forms of capitalization, governance, and economic considerations. This Subdivision is reasonably necessary to permit the public to readily identify that an insurer is stock company. The word "Company" is commonly used by insurers that are stock companies and it is commonly understood to refer, in the context of insurers, to stock companies. (Mutual insurers may use the word "company" but per these regulations, they must also use include the word "mutual" in the name.) In the absence of words indicating that the Applicant is or will be a stock company, the public is likely to be misled as to the Applicant's form of organization.

Subdivision (d) specifies that a proposed name for an Applicant that is or will be organized as a mutual insurer must include the word "Mutual." Ownership and governance of a mutual insurer is different than that of a stock company, and mutual insurers may be subject to different economic considerations than stock companies, reciprocals and interinsurance exchanges. This Subdivision is reasonably necessary to permit the public to readily identify that the Applicant is a mutual company. In the absence of words indicating that the Applicant is or will be a mutual insurer, the public is likely to be misled as to the Applicant's form of organization.

Subdivision (e) specifies that a proposed name for an Applicant that is or will be organized as a reciprocal insurer or an interinsurance exchange must include one of the phrase or words "Interinsurance Exchange," "Exchange," or "Reciprocal." Ownership and governance of reciprocal insurers and interinsurance exchanges are different than that of a stock company or mutual insurer, and reciprocals and exchanges may be subject to different economic considerations than stock companies or mutual insurers. This Subdivision is reasonably necessary to permit the public to readily identify that an insurer is a reciprocal or an interinsurance exchange. In the absence of words indicating that the Applicant is or will be a reciprocal or interinsurance exchange, the public is likely to be misled as to the Applicant's form of organization.

Subdivision (f) specifies that a proposed name for an Applicant that is or will be organized as an underwritten title company or a title insurer must include the word "title." Requirements for organization and operation of underwritten title companies and title insurers are set forth in Insurance Code Div. 2, Part 6, Chapter 1. Title insurers are monoline insurers (i.e., they may not

write any other line of insurance.) This Subdivision is reasonably necessary to permit the public to readily identify an entity that is either a title or an underwritten title company. In the absence of word "title," the public is likely to be misled that Applicant either solely writes title insurance, or is an underwritten title company.

Subdivision (g) specifies that a proposed name for an Applicant that will write mortgage insurance or mortgage guaranty insurance must include the word "mortgage" or "mortgage guaranty," as applicable. Requirements for organization and operation of a mortgage insurer and mortgage guaranty insurer are set forth in Insurance Code Div. 2, Part 4, Chapter 2 and 2A, respectively. Insurers writing either mortgage insurance or mortgage guaranty insurance are monoline insurers. This Subdivision is reasonably necessary to permit the public to readily identify an insurer that is either a monoline mortgage insurer or a monoline mortgage guaranty insurer. In the absence of these words, the public is likely to be misled that Applicant writes other lines of insurance.

Subdivision (h) specifies that the name of an Applicant that is or will be a motor club must include the word "Club" and one of the words "Motor," "Auto," or "Automobile." Requirements for organization and operation of motor clubs are set forth in Insurance Code Div. 2, Part 5. This Subdivision is reasonably necessary to permit the public to readily identify that an entity licensed by the Commissioner as a motor club is in fact a motor club and it is reasonably necessary to prevent the adoption of a name that is likely to mislead the public that the club is another type of organization.

Subdivision (i) specifies that the name of an Applicant that is a United States branch of an alien insurer must include the words "United States Branch" or "U.S. Branch." This Subdivision is reasonably necessary to permit the public to readily identify that the insurer is in fact a branch of an alien insurer and is subject to regulatory requirements of an alien (non-United States) jurisdiction. This Subdivision is reasonably necessary to prevent the public from being misled to believe that an alien insurer is domiciled in the United States.

Subdivision (j) specifies that the name of an Applicant that is a Multiple Employer Welfare Association (MEWA) must include the word "Trust." Insurance Code Section 724.24(d) provides that in order to be eligible for a certificate of compliance, a MEWA must operate pursuant to a trust agreement by a board of trustees. This Subdivision is reasonably necessary to permit the public to readily identify a MEWA's operations are operated pursuant to a trust agreement. In the absence of the word "trust," the public is likely to be misled as to the manner in which the MEWA is organized and the control of its operations.

SECTION 2278.55 NAMES WHICH ARE AN INTERFERENCE WITH OR ARE TOO SIMILAR TO NAMES OR WHICH ARE LIKELY TO MISLEAD THE PUBLIC

This Section sets forth general circumstances in which a proposed name may be an interference with another name, may be too similar to another name, or which are likely to mislead the public.

This Section provides that names that may be interfered with, which may be too similar, or which are likely to mislead the public include names that have been reserved pursuant to

Insurance Code Section 881. Further, for administrative practicality and efficiency, the Commissioner will give priority to applications for proposed names on a first-come, first-served basis and this Section also applies to names for which an application has been submitted to, and is pending before, the Commissioner. Therefore, the introductory paragraph to this Section specifies that the word "name" as used in this Section includes reserved names and proposed names in pending applications.

Subdivision (a) specifies circumstances in which a proposed name will be considered to be too similar to, or an interference with, the name of another business, entity, or Licensee. Paragraph (a)(1) provides that a proposed name will not be approved if its first two words, initials or numbers are identical to the first two words, initials or numbers of the name of a business or entity, other than an Affiliate. For example, the Commissioner would not approve the name "Sasquatch Insurance Company of America" if a non-affiliated insurer had the approved name "Sasquatch Insurance Company," and he or she would not approve "Sasquatch General Insurance Company" if the name of a non-affiliated business was "Sasquatch General Financial Company. Proposed names in which the first two words, initials or numbers are identical to those of a non-affiliated business or entity are likely to create the impression, and mislead the public, that the Applicant and the other business or entity are affiliated. This Paragraph is reasonably necessary to prevent a proposed name from being an interference with or too similar to an appropriated name and is reasonably necessary to .

Paragraph (a)(2) provides that a proposed name will not be approved if it contains words or phrases that are used in the name of another Licensee that is not an Affiliate if the words are either: (i) not general words or phrases, or (ii) not commonly used in the names of Licensees. This Paragraph is intended to provide general guidance that such words, even though they are not coined words, are likely to be associated with another Licensee and use by the Applicant is likely to mislead the public to believe there is an affiliation or are one and the same company. Further, the use of such words is both an interference with, and too similar too, the other name. For example, if there is already a "Sasquatch Mother of Pearl Insurance Company," the Commissioner would not approve a name with the words "Mother of Pearl" for a non-Affiliate. In this example, the words are not commonly used in the names of Licensees and they are likely to be associated with Sasquatch Mother of Pearl Insurance Company.

Paragraph (a)(3) provides that a proposed name will not be approved if it contains a coined word, which is a word that is made up, that is part of the name of another business, entity or Licensee which is not an Affiliate. A coined word is unique and is likely to be associated solely with the other business, entity or Licensee. Like the prohibition set forth in Paragraph (a)(2), a coined word that is already in use by another business, entity or Licensee is likely to be associated with that other business, entity or Licensee and use by the Applicant is likely to mislead the public as to an affiliation between the companies or confusion as to whether the companies are the same, and the use would be an interference with the other business, entity or Licensee's use. This Paragraph is reasonably necessary to prevent a proposed name from being an interference with or too similar to an appropriated name.

Paragraph (a)(4) provides that a proposed name will not be approved if is so similar in words, usage, word order, spelling, pronunciation or appearance to the name, logo, symbol, trademark,

trade name, or service mark of a well-known business or entity (which is not an Affiliate) or a Licensee (which is not an Affiliate) as to borrow on the latter's name, imply affiliation therewith, or create a likelihood of confusion and thus mislead the public. Names that are similar in this fashion are likely to lead the public to incorrectly associate the Applicant with the well-known business or entity, or with a Licensee. Such names are likely to lead the public to believe that they are dealing with other company itself or an affiliate thereof. Such names are an interference with or too similar to the other name. For example, the Commissioner would not approve the name "Intel Insurance Company" if the Applicant was not affiliated with Intel Corporation. Such a name would mislead the public to believe there was an affiliation with Intel Corporation and could lead the public to make assumptions regarding the Applicant's management and financial strength. The name would also be too similar to Intel Corporation and could interfere with that name. As another example, the Commissioner would not approve a slightly varied spelling or pronunciation of the name of a well-known company; e.g., "Intell Insurance Company" or "Firemans Fun Insurance Company." The prohibitions in this Paragraph are not limited to companies regulated by the Commissioner or identified with the insurance industry. This Paragraph is reasonably necessary to prevent a proposed name from being likely to mislead the public and to prevent a proposed name from being an interference with or too similar to an appropriated name.

Paragraph (a)(5) provides that a proposed name will not be approved if it is identical in words, regardless of order, to the name of another Licensee (including an Affiliate.) For example, the Commissioner would not approve the name "Sasquatch American Insurance Company" if there is already an "American Sasquatch Insurance Company." Such a name is too similar to the other name, is likely to mislead the public, and is likely to be an interference with the other name.

Subdivision (b) specifies circumstances in which a proposed name is likely to mislead the public. Paragraph (b)(1) provides that a proposed name will not be approved if it would tend to cause the public to believe that the Applicant offers, or will offer, classes or types of insurance that it does not or will not offer. For example, the Commissioner will not approve a proposed name that includes the word "Sprinkler" if the insurer does not offer or intend to offer sprinkler insurance. This Paragraph is reasonably necessary to prevent the public from being misled by a name that implies that insurer offers insurance that it does not in fact offer or intend to offer.

Paragraph (b)(2) provides that a proposed name will not be approved if it includes the name of a state or jurisdiction other than the state or jurisdiction in which the Applicant is domiciled. For example, the Commissioner will not approve a proposed name such as "Conglomerated Insurance of Maine" if the Applicant is not domiciled in Maine. The name of a state or jurisdiction in a name implies that the Applicant is domiciled in such state or jurisdiction and is subject to the laws and regulatory requirements of that jurisdiction. This Paragraph is reasonably necessary to prevent the public from being misled as to an Applicant's domicile and the laws and requirements to which it is subject.

Paragraph (b)(3) provides that a proposed name will not be approved if it is the same as, closely resembles, borrows on the name of, or implies affiliation with or sponsorship by a federal, state, or local governmental authority or program. Names that sound like, resemble, borrow or imply affiliation may mislead the public to believe that the Applicant is part of, affiliated with, or

sponsored by a governmental entity, or that it has governmental funding, backing, control or other involvement. Further, such a name might mislead the public to believe that the Applicant is subject to additional governmental controls, or possibly is exempt therefrom. Such names are also too similar to the names of the governmental entity or program.

Paragraph (b)(4) provides that a proposed name will not be approved if it is the same as, closely resembles, borrows on the name of, implies affiliation, or is too similar to the name of a bank, savings association, trust company, industrial loan company, or other financial institution that is not an Affiliate. Names that sound like, resemble, borrow on or imply affiliation with a financial institution may mislead the public to believe that the Applicant is part of or affiliated with the financial institution, that is subject to regulation by financial regulators, and/or that the strength of the financial institution directly or indirectly supports the Applicant (or that there is Federal Deposit Insurance Corporation insurance.) Further, a proposed name that closely resembles, borrows on, implies affiliation with or is too similar to the name of a financial institution may be an interference with the name of such institution. If, however, the proposed name resembles, borrows on the name of, implies affiliation, or is similar to the name of a financial institution that is in fact affiliated with the Applicant, then the proposed name may be approved if it does not otherwise violate Insurance Code Section 881 and meets the other requirements of these regulations for approval of a name of an Affiliate.

Paragraph (b)(5) provides that a proposed name will not be approved if it contains words or numbers indicating or implying that it was organized or commenced transacting business prior to another Licensee or Applicant, regardless whether the Licensee or Applicant is an Affiliate. For example, the Commissioner would not approve the name "First California Plate Glass Insurance Company" if there was already a Licensee with the approved name "California Plate Glass Insurance Company." Permitting words or numbers that indicate priority in time would be likely to mislead the public to believe that the Applicant conducted business prior to or longer than another Licensee or other Applicant and had greater expertise, experience, reliability, or stability. It would also be likely to create confusion between the two entities (the Applicant and the other Licensee or Applicant) and mislead the public. It would also interfere with the other name. This Subdivision is reasonably necessary to prevent the public from being misled as to the identity of the Applicant.

Paragraph (b)(6) provides that a proposed name will not be approved if it would lead the public to believe that the Applicant is an insurance agent, life agent, insurance broker, insurance solicitor, or other holder of a license specified in Insurance Code Part 2, Chapters 5 and 7. Insurance producers are not risk bearing entities. This Paragraph is reasonably necessary to prevent the public from being misled to believe that the Applicant is an insurance agent or broker.

Subdivision (c) specifies that the Commissioner retains discretion to determine that a name is too similar to or is an interference with the name of a business, other entity or Licensee, or is likely to mislead the public under other circumstances on a case by case basis. This Subdivision is reasonably necessary to address specific facts and circumstances that will be presented when a name is submitted for approval and because they are not typical or foreseeable, they cannot be categorized or anticipated for the purpose of general rules. This regulation is reasonably necessary to implement Code Section 881 as to

disapproval of a name that is too similar to or an interference with the name of another entity, or which is likely to mislead the public.

SECTION 2278.56 USE OF NAMES SIMILAR TO AFFILIATE'S NAME

This Section specifies that a proposed name will not be considered to be an interference with the name of an Affiliate if certain requirements are met and the proposed name is not likely to mislead the public. A proposed name for an Affiliate will not be approved if it is likely to mislead the public, but generally, greater leeway can be permitted to Affiliates to use names that reflect their affiliation. Affiliated entities have been permitted to use names that are identical, except for the use of additional words (e.g., "Sasquatch Insurance Company," "Sasquatch Specialty Insurance Company," "Sasquatch Ocean Marine Insurance Company.") If the proposed name is not otherwise likely to mislead the public, this Section provides that a name may be approved if (1) each affected Affiliate provides a written, unconditional, and irrevocable consent to the use of the proposed name by the Applicant, and if (2) the Applicant and each affected Affiliate provide a written, unconditional, and irrevocable commitment that neither will use any resulting confusion from their names as a defense to avoid a claim against either. Written consent from affected Affiliates is reasonably necessary to provide evidence to the Commissioner that the Affiliate does not, in fact, object to the use of a similar name. Written consents that a defense will not be raised is reasonably necessary to protect the public in the event that the names mislead the public in any respect. Although a name will not be approved by the Commissioner if it is likely to mislead the public, if in fact there is resulting confusion, that confusion should not be a defense to the Applicant or the Affiliate.

Written consents must be signed by the entity's chairman, president or any vice president, and by its corporate secretary, an assistant secretary, chief financial officer, or assistant treasurer. Signature by these officers is reasonably necessary to provide assurance to the Commissioner that the written commitment have been signed by persons with authority and therefore are legally binding.

SECTION 2278.57 OPERATING NAMES

Insurance Code Section 881 provides that if a proposed name by a foreign or alien insurer -- i.e., its true name -- is rejected, it may arrange to conduct business under an approved name as an operating name. This section clarifies that only an approved operating name may be used (except, consistent with Insurance Code Section 881, in filings made with the Commissioner.) In order to avoid the likelihood of misleading the public by using both a true name and an approved operating name, and to assure consistency in use of the operating names in communications and transactions with the public, this Section sets forth examples of documents and writings on which the operating name must be used. These examples are as follows: (a) insurance policies, (b) endorsements to insurance policies, (c) assumption certificates, (d) advertising materials, (e) brochures, sales literature, information materials, (f) information provided or made available to the public, (g) stock sales announcements, circulars, prospectuses, and related advertisements and literature, (h) correspondence (including electronic mail), (i) telephone communications, and (j) internet advertisements. This Section is reasonably necessary to provide guidance to foreign

and alien insurers that obtain approved operating names and to avoid the likelihood of misleading the public.

SECTION 2278.58 COMMISSIONER'S DISCRETION

This Section provides that the Commissioner may exercise discretion in whether to require strict compliance with these regulations under circumstances where the Commissioner determines that a proposed name will not constitute or create an interference with the name of another business or entity, or when a proposed name is not too similar to the name of an entity that is not an affiliate, or when a proposed name is not likely to mislead the public in any respect. The Section clarifies that the Commissioner's discretion in approving or disapproving names is not exhausted by these regulations. This Section is reasonably necessary to notify insurers that the Commissioner retains his discretion under Insurance Code Section 881 to approve a proposed name under specific circumstances when it will not interfere with or be too similar to an appropriated name or when a name is not likely to meet the public. Further, the Commissioner retains his discretion to reject a proposed name that might comply with these regulations but which will nonetheless interfere with or be too similar to an appropriated name, or which is likely to mislead the public. This Section is reasonably necessary to allow the Commissioner to exercise his discretion in interpreting and implementing Code Section 881 under specific facts and circumstances. This regulation is reasonably necessary to implement Code Section 881.

SECTION 2278.59 FORM N-1

This Section sets for Form N-1, which is an optional form for providing certain information that must be submitted for the Commissioner's review of a name approval request or a name reservation request. The form is not a limitation on information that the Commissioner may seek, review or request from an applicant or from other persons or sources. Use of the form is optional. It is intended to provide guidance to applicants to help streamline and expedite the application and review processes.

Section 1 Proposed Names(s)

This section requests the proposed names or names, in order of preference.

Section 2 Background Information

This section permits an applicant to provide the information required by regulation Section 2257.52.

Section 3 Applicant Seeking a Name Change

This section permits an applicant to provide the information required by regulation Section 2257.52(b)(1).

Section 4 Applicant Underwritten Title Company

This section permits an applicant to provide the information required by regulation Section 2257.52(b)(7).

Section 5 Pending Applications (All Applicants)

This section permits an applicant to provide the information required by regulation Section 2257.52(b)(9).

Section 6 Applicants - Foreign or Alien Company

This section permits an applicant to provide the information required by regulation Section 2257.52(b)(10).

Section 7 Applicants To Which Regulation Section 2303.15(q) Applies

This section advises applicants of need to comply, if applicable, with the requirements of Section 2257.52(b)(2.)

IDENTIFICATION OF STUDIES

There are no studies that were relied upon in the adoption of these regulations.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of these regulations would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Commissioner has determined that no reasonable alternative exists to carry out the purpose for which the regulations are proposed.

ECONOMIC IMPACT ON SMALL BUSINESS

The Commissioner has identified no reasonable alternative to the proposed regulations that would lessen any impact on small business.

PRE-NOTICE DISCUSSIONS

The Commissioner held a pre-notice public discussion pursuant to Government Code Section 11346.45 on December 8, 2009.