

BEFORE THE COMMISSIONER OF INSURANCE

STATE OF GEORGIA

IN THE MATTER OF:)
)
REGULATION 120-2-23)
Confidentiality of Information Received) **DOCKET NUMBER I-15-I-2**
From International Regulators)

ORDER

I. STATEMENT OF PROCEEDINGS

On March 26, 2015, Notice of Intent to Adopt Rule Changes and Notice of Hearing (“Notice”) was given regarding the proposed adoption of a new Regulation entitled “Confidentiality of Information Received From International Regulators.”¹ (Record, Exhibit 1) The purpose of the proposed regulatory action is to strengthen this Office’s regulatory framework to facilitate its entry into a Multilateral Memorandum of Understanding (“MMoU”) for purposes of cross-border cooperation and information exchange amongst supervisors globally to enhance the supervision of internationally active insurance companies.

By letter dated April 7, 2015, the Office of the Attorney General opined that the proposed Regulation is within the Commissioner’s scope of authority. (Record, Exhibit 5) Pursuant to O.C.G.A. Section 50-13-4(e), the proposed amendments to this Office’s regulations were transmitted to Wayne R. Allen, Legislative Counsel for the General Assembly, for assignment to the appropriate standing committees of the Senate and House of Representatives. (Record, Exhibit 6) The proposed amendments were assigned accordingly. (Record, Exhibit 7)

¹ More specifically, the Notice proposed repealing Regulation 120-2-23-.21 entitled “Severability Clause” and adopting in lieu thereof a new Regulation 120-2-23-.21 entitled “Confidentiality of Information Received From International Regulators.” Additionally, the Notice proposed adopting Regulation 120-2-23-.22 entitled “Severability Clause.”

II. CONSIDERATION OF COMMENTS OFFERED AT THE HEARING

Interested persons were given the opportunity to participate in the proposed rulemaking by submitting their written comments to this Office by May 29, 2015, and by making oral comments at the public hearing held June 3, 2015. Amy Atkinson, Second Vice President & Associate General Counsel of Munich Reinsurance (“Munich”), submitted written comments. (Record, Exhibit 8) Molly Levinson, an attorney for this Office, was the only person to offer oral comments at the hearing. (Record, pp. 8-12 of Transcript.)

According to Ms. Levinson, the proposed amendments accomplish several objectives including the following: specifying who has access to confidential information provided to this Office by international regulators; specifying the scope with which that information can be used; clearly delineating the difference between unauthorized disclosure and inadvertent disclosure; and providing a framework for this Office to follow if required to disclose confidential information by law or court order. An important change contemplated by the proposed amendments is the establishment of a “Form G.” The execution of the Form G would be required of anyone attempting to access confidential information received from international regulators. Signatories to the Form G must affirm their understanding of relevant Georgia law and the MMoU that govern their access and use of the confidential information. They will agree to certain terms and conditions of that access; specifically, the care that they must exercise to avoid disclosing that information either deliberately or inadvertently.

Munich requests that this Office make two revisions to the proposed amendments. (Record, p. 12 of Transcript; Exhibit 8.) The first concerns the definition of “Confidential

information.” The second concerns the definition of “Person.” The company’s requests are marked for clarity as follows:

1. Regulation Section 120-2-23-.21(2)(c): “Confidential information” shall mean all information that is confidential pursuant to O.C.G.A. Sections 33-2-14(g), and 33-13-8(a) and any other applicable laws or regulations and which is covered by the memorandum of understanding. (Suggestion #1)
2. Regulation Section 120-2-23-.21(2)(g): “Person” shall mean an individual, insurer, reinsurer, company, association, trade association organization, society, reciprocal or interinsurance exchange, partnership, syndicate, business trust, corporation, Lloyd’s association, and associations, groups, or departments of underwriters, and any other legal entity.” (Suggestion #2)

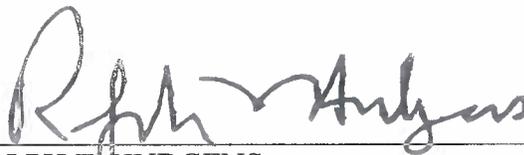
According to Munich, the addition of the language in Suggestion #1 would ensure that this Office’s regulations would not need to be amended as a result of the passage of any other laws or the promulgation of any regulations regarding confidentiality of insurer information. Additionally, Munich suggests that the language proposed in Suggestion #2 would ensure that there is no question that reinsurers are included in the definition of “Person.” This Office appreciates Munich’s comments but notes that Suggestions #1 and #2 cannot be adopted by the Commissioner at this time because they were not included in the version of the proposed amendments that accompanied the Notice.² (Record, Exhibit 1) Moreover, this Office considers a reinsurer to be a “Person” as defined in Regulation Section 120-2-23-.21(2)(g) and proposed with the Notice.

III. DECISION

² Pursuant to O.C.G.A. Section 50-13-4(a) “Prior to the adoption... of any rule... the agency shall... Give at least 30 days’ notice of its intended action. The notice shall include an *exact copy* of the proposed rule...” [emphasis added.] Additionally, O.C.G.A. Section 50-13-4(d) provides that “No rule adopted... shall be valid unless adopted *in exact compliance* with [50-13-4(a)]...” [emphasis added.]

WHEREAS, based on the forgoing, **IT IS HEREBY ORDERED** that Regulation 120-2-23-.21 entitled "Severability Clause" is **REPEALED** and the proposed new Regulation 120-2-23-.21 with the same title is **ADOPTED**. **IT IS HEREBY ADDITIONALLY ORDERED** that Regulation 120-2-23-.22 entitled "Severability Clause" is **ADOPTED**. A copy of the new Regulations are attached hereto and made a part by reference.

Given under my Hand and Seal this 2nd day of July, 2015.



RALPH T. HUDGENS
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA

