The Commonwealth of Massachusetts
Executive Office of Consumer Affairs
Division of Insurance
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SECRETARY

LINDA RUTHARDT
COMMISSIONER

To: All Massachusetts Domestic Insurance Companies
From: The Commonwealth of Massachusetts Division of Insurance
Re: Recent Statutory Changes Relative to Dividend Distributions
Date: November 15, 1993

BULLETIN NUMBER 93-05

Please be advised that effective November 9, 1993, Massachusetts has adopted new standards pertaining to dividend distributions by insurance companies. The standards are contained in §51 of Chapter 226 of the Acts of 1993. These new standards will alter the dividend approval process for all domestic insurance companies.

The new requirements include the following:

1.) **Filing with the Commissioner**: (c. 175 § 206C (e)). Every domestic insurance company seeking to make **any** dividend or other distributions to its shareholders **must** file a report with the commissioner within five (5) business days after the date such dividend or distribution is declared and at least ten (10) business days prior to the intended date of dispersal. The report shall be in a narrative form and include a complete description of the proposed dividend, including but not limited to the following: declaration date, payment date, dividend amount, affected stockholder(s) and the reason for the dividend or other distribution.

2.) **Definition of Extraordinary Dividend**: (c. 175 § 206C (r)(1)). The new sections define "Extraordinary Dividend" as: any dividend or other property, whose fair market value together with other dividends or distributions made within the preceding twelve (12) months exceeds **the greater of** ten (10) percent of the insurer's surplus as regards policyholders as of the end of the preceding year, or the net gain from operations of a life insurance company or the net income of a non-life insurance company for the

preceding year. No pro-rata distribution of any class of the insurer's own securities is to be included.

3.) **Approval of Extraordinary Dividend**: (c. 175 § 206C (r)(1)). No domestic insurance company shall pay any extraordinary dividend or other extraordinary distributions until thirty days (30) after the commissioner has received notice of the intended distribution and has not objected. The commissioner may affirmatively approve the dividend during the thirty day period. A company may declare an extraordinary dividend or distribution only if it does not confer any rights upon the shareholders until the commissioner has approved such dividend or failed to disapprove such dividend within the aforementioned thirty (30) day period.

4.) **Review Process**: (c. 175 § 206C (t)). As part of the review of all dividends or distributions declared, the commissioner will analyze an insurer's surplus as regards policyholders based upon the following factors, among others:

(i) The size of the insurer based upon assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;
(ii) The diversification of the insurer's lines of business;
(iii) The number and size the insurer's of risks in each line of business;
(iv) Geographical dispersion of insurer's risks;
(v) The nature and extent of the insurer's reinsurance program;
(vi) The quality, diversification, and liquidity of the insurer's investment portfolio;
(vii) The recent past and future trend of the size of the insurer's investment portfolio and surplus as regards policyholders;
(viii) The surplus as regards policyholders of comparable insurer's;
(ix) The adequacy of the insurer's reserves;
(x) The quality and liquidity of investments in affiliates; and
(xi) The quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items.

5.) **Use of Unassigned Funds**: (c. 175 § 206C (e)). No insurer shall pay any dividend or distribution to its shareholders from any source other than unassigned funds unless the commissioner affirmatively approves such a dividend or distribution. The term "unassigned funds" for purposes of this subsection will have the same meaning as that used in the Annual Statement (page 3, line 25B for non-life companies or, page 3, line 34 for life companies) required to be filed with the commissioner under the provisions of M.G.L. c. 175 § 25.

Please forward all reports of dividend distributions to Kevin McAdoo, Director of Financial Surveillance and Company Licensing at the Commonwealth of Massachusetts Division of Insurance, 470 Atlantic Avenue, Boston, MA 02210-2208. If you have any questions regarding the statutory changes outlined in this bulletin, please contact Mr. McAdoo at (617) 521-7388.