**2024-8654**



**Subchapter B. Insurance Holding Company Systems**
**28 TAC §7.216**

**INTRODUCTION.** The commissioner of insurance adopts new 28 TAC §7.216, concerning a liquidity stress test framework for certain insurance companies. Section 7.216 implements House Bill 2839, 88th Legislature, 2023. The new section is adopted with changes to the proposed text published in the December 8, 2023, issue of the *Texas Register* (40 TexReg 7159); a correction of error was published in the December 22, 2023, issue of the Texas Register (48 TexReg 8039). The Texas Department of Insurance (TDI) revised proposed §7.216 to clarify that copies of the National Association of Insurance Commissioners (NAIC) standards are available from either TDI or the NAIC.

**REASONED JUSTIFICATION.** New §7.216 adopts a liquidity stress test framework and reporting requirements for certain insurers. The new section is necessary to implement HB 2839, which added new Insurance Code §823.0596. New Insurance Code §823.0596 requires the commissioner to adopt a liquidity stress test framework--including scope criteria and reporting templates--consistent with the framework published by the NAIC and report it to the NAIC to facilitate the aggregation of results from the liquidity stress test filed with this and other states. HB 2839 was a biennial recommendation from TDI. The liquidity stress test framework simulates large-scale asset sales in response to unexpected liquidity demands and assesses the potential impact of these sales on financial markets.

A secondary goal of the liquidity stress test implementation is to enhance monitoring of large life insurers that might be vulnerable to liquidity stress. Liquidity demands can be placed unexpectedly on an insurer that issues long-term cash-buildup products, particularly when policy and contract surrenders require cash and asset sales at greater-than-projected levels during widespread economic shifts. Elevated demand of cash payouts by customers can impact broader financial markets if those insurers are required to sell a significant amount of assets to meet demand.

New §7.216(a) provides the purpose of the section. New §7.216(b) adopts by reference the liquidity stress test framework as published by the NAIC. New §7.216(c) specifies the scope criteria and thresholds applicable to the liquidity stress test framework. New §7.216(d) specifies the appropriate reporting template. New §7.216(e) specifies that the ultimate controlling person of an insurer must submit the liquidity stress test framework filing using the appropriate reporting template in an electronic format. TDI changed the text of §7.216(e) as proposed to clarify that copies of the NAIC standards are available from either the NAIC or TDI. New §7.216(f) describes the exemption process. Only after consultation with other state insurance commissioners can the commissioner exempt from the filing requirement a data year that an insurer would otherwise be required to submit under subsection (e) of this section. New §7.216(g) states that if there is a conflict between the liquidity stress test framework adopted by NAIC and the Insurance Code or TDI rules, including new §7.216, the Insurance Code or TDI rule takes precedence and in all respects controls.

At its December 2023 meeting, the NAIC and its Financial Stability (E) Task Force and Macroprudential (E) Working Group adopted revisions to the liquidity stress test framework. This included minor edits from the 2022 framework.

**SUMMARY OF COMMENTS AND AGENCY RESPONSE.**

**Commenters:** TDI provided an opportunity for public comment on the rule proposal for a period that ended on January 8, 2024. TDI received comments from two commenters. Commenters in support of the proposal with changes were Centene Corporation and the Texas Association of Life and Health Insurers.

**Comment.** One commenter requests clarification on whether the liquidity stress test framework will be a requirement for 2024 filings for health entities. The commenter notes that the most recent framework as adopted by the NAIC Financial Stability (E) Task Force on December 1, 2023, is clearly scoped exclusively to life insurers.

**Agency Response.** TDI agrees and has removed mention of framework requirements where they had inadvertently been added to the wrong filing checklists. No changes are made to the rule text in response to the comment.

**Comment.** One commenter requests that the final adopted rule specifically refer to the specific liquidity stress test framework being adopted. The commenter notes that if the NAIC amends this framework in the future in any manner, then this could have a material impact on some insurers that may not be in the current scope criteria. Any companies not currently affected by the liquidity stress test framework could be impacted by future changes by the NAIC and should have the opportunity to comment through the formal rulemaking process before those changes are adopted in Texas. The commenter contends that any amendment by the NAIC would not be effective unless it is adopted by the TDI through formal rulemaking procedures.

**Agency Response.** TDI declines to make a change. TDI acknowledges that references to standards adopted by entities outside of TDI must be considered carefully. However, the entirety of the circumstances, including TDI's ability to participate in NAIC discussion and standards development, allows for the adoption of the liquidity stress test framework as proposed. TDI notes that the statute requires that the commissioner by rule adopt a liquidity stress test framework, including scope criteria and reporting templates, consistent with the framework published by the NAIC. The statute further explains that this consistency is to facilitate the aggregation of results from the liquidity stress test filed with this and other states.

The liquidity stress test framework has been adopted as an accreditation requirement effective January 1, 2026. If TDI were to not adopt the applicable liquidity stress test framework, Texas would be at risk of having its NAIC accreditation placed on probation, suspended, or revoked. An insurer domiciled in a nonaccredited state may face additional regulatory requirements when doing business outside that nonaccredited state.

TDI staff recognizes that insurers will need to be made aware of changes in the scope as specified in the framework. To promote awareness, TDI adds language to subsection §7.216(e) that provides that TDI will make available the liquidity stress test framework on request. TDI reminds insurers that the purpose of the liquidity stress test framework is to monitor macroprudential risk, and the scope criteria is intended to cover only large insurers.

TDI also notes that the rule as adopted includes the exemption possibility found in Insurance Code §823.0596(d). That provision states that the commissioner may exempt from the filing requirement for a data year an insurer described by subsection (b) after the commissioner consults with other state insurance commissioners regarding the impact that exempting the insurer may have on the aggregation of liquidity stress test results filed by other insurers with those states. TDI encourages insurers potentially affected by the filing requirements to communicate with TDI Financial Regulation Division staff. The statutory exemption process provides an opportunity to mitigate unexpected changes to the liquidity stress test framework scope criteria. TDI staff expects that the liquidity stress test framework scope criteria will not be reduced in real (inflation adjusted) terms. It is likely that insurers not already in the liquidity stress test framework scope criteria will reach that scope criteria threshold only through natural growth or merger. The future applicability of the liquidity stress test framework can thus be considered in the planning and operations of potentially affected insurers.

If the liquidity stress test framework changes prove to be more challenging to implement or monitor, interested stakeholders--including insurers--are welcome to petition for new rulemaking. The Administrative Procedure Act, Government Code §2001.021, and TDI rules at 28 TAC §1.202 provide procedures to formally request rulemaking. TDI will also continue to monitor the liquidity stress test framework adoption at the NAIC level and with respect to Texas filers. TDI will consider whether changes to this rule are necessary as circumstances warrant.

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**28 TAC §7.216**

**STATUTORY AUTHORITY.** The commissioner adopts new §7.216 under Insurance Code §§823.012, 823.0596, and 36.001.

Insurance Code §823.012 states the commissioner may, after notice and opportunity for all interested persons to be heard, adopt rules and issue orders to implement Insurance Code Chapter 823, including the conducting of business and proceedings under Insurance Code Chapter 823.

Insurance Code §823.0596 requires the commissioner to adopt by rule a liquidity stress test framework, including scope criteria and reporting templates, consistent with the framework published by the NAIC to facilitate the aggregation of results from the liquidity stress test filed with this and other states.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

**TEXT.**

**§7.216. Liquidity Stress Test Framework.**

(a) Purpose. This section specifies the requirements for the ultimate controlling person of an insurance holding company system to submit a liquidity stress test framework necessary to report information as required by Insurance Code §823.0596.

(b) Liquidity stress test framework. The commissioner adopts by reference the liquidity stress test framework as adopted and published by the National Association of Insurance Commissioners (NAIC). The liquidity stress test framework is available on the department's website.

(c) Scope criteria. The scope criteria are the designated criteria and thresholds described in the liquidity stress test framework as adopted by reference in subsection (b) of this section.

(d) Reporting template. The reporting template an insurer must use is described in the liquidity stress test framework as adopted in subsection (b) of this section.

(e) Filing. Using the reporting template described in the liquidity stress test framework adopted by reference in subsection (b) of this section, the ultimate controlling person of an insurer must submit a liquidity stress test framework filing on or before June 30 of each year, using the appropriate reporting template in an electronic format acceptable to TDI. The electronic filing address is provided on TDI's website at www.tdi.texas.gov. Copies of the latest editions of the reporting templates and related instruction manuals adopted and published by the NAIC may be obtained from the NAIC or from the Texas Department of Insurance, Financial Regulation Division.

(f) Exemption. Only after consultation with other state insurance commissioners will the commissioner exempt from the filing requirement a data year that an insurer would otherwise be required to submit under subsection (e) of this section.

(g) Conflicts. In the event of a conflict between the liquidity stress test framework adopted and published by the NAIC and the Insurance Code, any TDI rule, or any specific requirement of this section, the Insurance Code, TDI rule, or specific requirement of this section takes precedence and in all respects controls. The requirements of this section do not repeal, modify, or amend any TDI rule or any Insurance Code provision.

**CERTIFICATION.** This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on May 14, 2024.

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Jessica Barta, General Counsel
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New 28 TAC §7.216 is adopted.

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Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2024-8654