

Topic: **Management/Service Agreements**

Situations that require filing Management/Service Agreements:

- Holding company transactions;
- Demonstrating compliance with abatement item for release from regulatory proceedings;
- Transactions with an officer or director;
- TDI requests resulting from financial analysis of an insurer's financial statements.
- (Note: Agreements may be part of a company licensing application and if the company is subject to the Texas Holding Company Act, the agreement is required to be filed separately as a holding company transaction pursuant to TIC§823.)

Examples of services covered by Management/Service Agreements include, but are not limited to:

- Management compensation and benefits
- Staff compensation and benefits
- Claims processing
- Data processing\*
- Investment advise and funds management
- Marketing services
- Underwriting services
- Facilities, furniture & equipment

\*Agreements must provide that the insurance company has ownership of all data and systems/licenses to process data.

Note: In addition to the agreement filed, the entity providing the services may be required to be licensed by TDI, such as Third Party Administrators providing claim processing services.

Examples of criteria that will be scrutinized for compliance with statutory, regulatory and policyholder protection standards include but are not limited to:

- Clarity of all parties to the agreement including who is providing services and who is receiving services;
- Clarity of the specific services to be provided;
- Clarity of the duration of the agreement, including establishing a duration that is limited in time to provide for amended or new agreement that takes into account changes in cost of living, efficiencies of scale, inflation, etc.;
- Clarity of the basis for, and the amount of, compensation including a direct relationship to each insurer's business writings and method of operation, the ability of the insurer to pay such compensation, etc.;
- Clarity of the method of allocation of expenses;
- Built in profit or cost-plus feature;
- Fees that require all surplus funds above an insurer's minimum capital stock and surplus, or equivalent, be distributed. (refer to 28TAC § 8.3 (19);

- The effect of the proposed agreement's cost and payments when combined with other cash outflows and the company's current or projected financial condition;
- Company comparisons to services and cost if services were performed by an independent third party;
- Compliance with statutory and regulatory requirements, including but not limited to statutory accounting;
- Settlement provisions including a direct relationship to each insurer's business writings and method of operation and ability of the insurer to pay (e.g., settlements may vary from daily, weekly, monthly, etc., but in no event shall settlements exceed 90 days);
- Any restriction on the Commissioner's or Receiver's ability to take action and take control of the insurer's books and records.

**Statutory Authority:**

- TIC §823.101 & 823.103
- TIC §805.001 through §805.004 if an officer or director is a party.
- TIC §21.28-A
- 28 TAC §7.204(a)(2)(d)
- 28TAC §8.3