



February 10, 2012

Robert E. Feldmann
Executive Secretary
Attention: Comments
Federal Insurance Deposit Corporation
550 17th Street, NW
Washington, DC 20429

**Mutual Insurance Holding Company Treated as Insurance Company
12 CFR Part 380
(RIN 3064-AD89)**

Dear Mr. Feldman:

These comments are submitted on behalf of the Mutual Insurance Holding Company Coalition, a group of mutual insurance holding companies that represent many of the U.S. mutual insurance holding companies, including the largest U.S. mutual insurance holding companies (the “Coalition”). The names of the Coalition members are set forth in Appendix A. We appreciate the opportunity to submit comments on the Corporation’s notice of proposed rulemaking relating to the treatment of a mutual insurance holding company (“MIHC”) as an insurance company for the purpose of Section 203(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5383(e).

We wholly support the goal of this rulemaking – to assure that a MIHC be treated as an insurance company for the purpose of Section 203(e) of the Dodd-Frank Act. However, we have some proposed changes to the wording of the proposed rule which are designed to assure that (i) the defined terms used in § 380.11 of the proposed rule are consistent with the state insurance laws that provide for the organization and regulation of MIHCs, and (ii) the conditions to a MIHC being treated as an insurance company for the purpose of Section 203(e) of the Dodd-Frank Act are consistent with both the state insurance laws that provide for the organization and regulation of MIHCs and the U.S. Bankruptcy Code. For ease of presentation, we have set forth our proposed changes in Appendix B and explain the need for each such change below.

§ 380.1 – Intermediate Insurance Stock Holding Company

This limiting phrase “For purposes of this subpart” is unnecessary and not included in any other definition in the existing § 380.1 or any of the new proposed definitions in § 380.1. We recommend that this phrase be deleted to conform to the style used for all other existing and new definitions.

Some MIHC laws require that the intermediate insurance stock holding company “directly or indirectly” hold the voting stock of the converted mutual insurance company.¹ Therefore, we recommend that this proposed definition be consistent with the description of an intermediate insurance stock holding company under state insurance laws to as to assure that the treatment of a MIHC under § 380.11 will be applicable to such a MIHC.

§ 380.1 – Mutual Insurance Company

A MIHC is a non-stock corporation and not an association.² Thus, we recommend the word “corporation” be substituted for the word “association” in this definition.

A mutual insurance company has no equity interests and membership rights may be broader than just voting rights. Instead, mutual insurance company members have certain rights in surplus (dividends as declared by their board of directors and rights to distribution in liquidation) and membership interests (interests under the insurer’s corporate governance documents, the right to vote for directors and the right to vote for a merger or consolidation). It is these rights and interests that are extinguished in the mutual insurance company and lodged in the MIHC when a mutual insurance company reorganizes by forming a MIHC. Therefore, we recommend that the phrase “rights in surplus and membership interests” be substituted for “equity and voting rights” in this definition.

§ 380.1 – Mutual Insurance Holding Company

Some MIHC laws require that the MIHC “directly or indirectly” hold the voting stock of the intermediate insurance stock holding company.³ Therefore, we recommend that this proposed definition be consistent with the description of a MIHC under state insurance laws to as to assure that the treatment of a MIHC under § 380.11 will be applicable to such a MIHC.

¹ See, e.g., Neb. Rev. Stat. § 44-6124(2) and Minn. Stat. Ann. § 66A.40, Subd. 1(b).

² See, e.g., Minn. Stat. Ann. §§ 66A.40, Subd. 6 and 66A.07(a); Neb. Rev. Stat. § 44-6124(3) and Ohio Rev. Code Ann. § 3913.25(C).

³ See, e.g., Neb. Rev. Stat. § 44-6124(3); Minn. Stat. Ann. § 66A.40, Subd. 2(b).

While some MIHC laws require ownership of 51% or more of voting stock, many MIHC laws require a majority of voting power.⁴ Therefore, we recommend that each of the conditions in paragraph (2) be modified to accommodate MIHCs that are subject to the majority standard to assure that the treatment of a MIHC under § 380.11 will be applicable to such a MIHC.

§ 380.11(b) – U.S. Bankruptcy Code Status

The typical MIHC law (i) provides that the MIHC is treated as a domestic insurer under the state insurance insolvency law so that it is subject to state-court rehabilitation or liquidation,⁵ (ii) provides that the MIHC becomes a party to any insolvency proceeding of the converted mutual insurance company,⁶ and (iii) in some cases has a “reach-up” provision under which the MIHC assets are deemed assets of the estate of the converted mutual insurance company to the extent necessary to satisfy policy claims against the converted mutual insurance company.⁷ Only an “insurance company” is excluded from being a debtor under the U.S. Bankruptcy Code – *see* 11 U.S.C. § 109. However, the term “insurance company” is not defined in the U.S. Bankruptcy Code, and there is no case law on the question of whether an MIHC falls within this undefined term. Because of this lack of clarity in the U.S. Bankruptcy Code, the condition in subsection (b) introduces uncertainty. Clarity and certainty support effective and efficient resolution of the issue being addressed in the proposed rule to assure that a MIHC will be treated as an insurance company for the purpose of Section 203(e) of the Dodd-Frank Act. A MIHC is clearly described in subsection (a). We recommend deleting subsection (b).

§ 380.11(d) – MIHC Assets and Investments

We are not aware of the bracketed phrase being a statutory mandate in the typical MIHC law. However, state MIHC laws generally provide that the state insurance regulator shall “retain jurisdiction” over the MIHC,⁸ and state law governs in other ways the investments made by the MIHC. For this reason, we recommend the deletion of the phrase “of the type authorized for holding and investment by an insurance company domiciled in its state of incorporation” and the substitution of the phrase “permitted under applicable State law.”

⁴ *See, e.g.,* Minn. Stat. Ann. § 66A.40, Subd. 1(b); Neb. Rev. Stat. § 44-6124(3) and Ohio Rev. Code Ann. § 3913.26(F).

⁵ *See* Neb. Rev. Stat. § 44-6125(6)(d).

⁶ *See* Neb. Rev. Stat. § 44-6125(6)(g).

⁷ *See* Neb. Rev. Stat. § 44-6125(6)(g).

⁸ *See, e.g.,* Minn. Stat. Ann. § 66A.40, Subd. 1(a); Neb. Rev. Stat. § 44-6125(6)(c) and Ohio Rev. Code Ann. § 3913.28(I).

Robert E. Feldmann

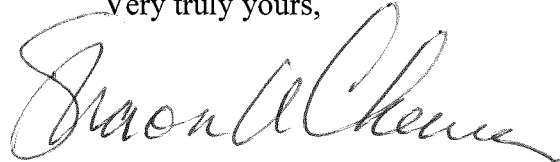
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We thank the Corporation for its consideration of our views in respect of the proposed rules. Please contact me at (949) 219-3852 or Sharon.Cheever@PacificLife.com if you have any questions or comments regarding these comments.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Sharon Cheever". The signature is written in dark ink and is positioned below the typed name "Sharon Cheever".

Appendix A
Coalition Members

Ameritas (UNIFI Mutual Holding Company)

Assurity Security Group

Baltimore Life Holdings, Inc.

CUNA Mutual Group

EMC National Life Mutual Holding Company

Mutual Trust Financial Group

National Life Group

Ohio National Mutual Holdings, Inc.

One America (American United Mutual Insurance Holding Company)

Pan-American Life Insurance Group

Pacific Mutual Holding Company

Securian Financial Group

Trustmark Mutual Holding Company

United Heritage Mutual Holding Company

Western & Southern Mutual Holding Company

Appendix B
Coalition Proposed Changes to the Proposed Rule
(additions are underlined and deletions are [bracketed])

§ 380.1 Definitions.

For purposes of this part, the following terms are defined as follows:

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Insurance Company. * * *

Intermediate insurance stock holding company. [For purposes of this subpart, t] The term “intermediate insurance stock holding company” means a corporation that (1) is a subsidiary of a mutual insurance holding company, (2) holds, directly or indirectly, all of the issued and outstanding voting stock of the converted mutual insurance company created at the time of formation of the mutual insurance holding company, and (3) holds, as its largest United States subsidiary (as measured by total assets as of the end of the previous calendar quarter), an insurance company.

Mutual insurance company. The term “mutual insurance company” means a domestic insurance company organized under the laws of a State that provides for the formation of such an entity as a non-stock mutual [association] corporation in which [equity and voting rights] rights in surplus and membership interests are vested in the policyholders.

Mutual insurance holding company. The term “mutual insurance holding company” means a corporation that (1) is lawfully organized under state law authorizing its formation in connection with the reorganization of a mutual insurance company that converts the mutual insurance company to a stock insurance company, and directly or indirectly (2) holds either (i) [at least 51% of the issued and outstanding voting] stock having at least a majority of the voting power in the election of directors of the intermediate insurance stock holding company, if any, or (ii) if there is no intermediate insurance stock holding company, [at least 51% of the issued and outstanding voting] stock having at least a majority of the voting power in the election of directors of the converted mutual insurance company.

* * * * *

4. Revise §380.11 to read as follows:

§ 380.11 Treatment of Mutual Insurance Holding Companies.

A mutual insurance holding company shall be treated as an insurance company for the purpose of section 203(e) of the Dodd-Frank Act, 12 U.S.C. 5383(e); provided that –

(a) the company is subject to the insurance laws of the state of its domicile, including, specifically and without limitation, a statutory regime for the rehabilitation or liquidation of insurance companies that are in default or in danger of default;

[(b) the company is not subject to bankruptcy proceedings under Title 11 of the United States Code;]

(c) the largest United States subsidiary of the company (as measured by total assets as of the end of the previous calendar quarter) is an insurance company or an intermediate insurance stock holding company; and

(d) the assets and investments of the company are limited to the securities of an intermediate insurance stock holding company, the securities of the converted mutual insurance company and other assets and securities permitted under applicable State law [of the type authorized for holding and investment by an insurance company domiciled in its state of incorporation].