

Table of Contents

About the Editors	v
About the Contributors	vii
Table of Chapters	ix
Table of Contents	xi
Introduction	xxxix
Selected Acronyms of Insurance Organizations and Concepts	xli

Chapter 1 What Is Insurance?

Types of Insurance	1-2
Q 1.1 What are the basic types of insurance?	1-2
Q 1.2 How is life insurance defined?	1-2
Q 1.3 What is an annuity?	1-2
Q 1.4 What is accident and health insurance?	1-3
Q 1.4.1 Can accident and health insurance be written by a life insurer?	1-3
Q 1.5 What is disability insurance?	1-3
Q 1.6 What is property insurance?	1-3
Q 1.7 What is fire insurance?	1-3
Q 1.8 What is liability insurance?	1-4
Q 1.9 What is casualty insurance?	1-4
Q 1.10 What is workers' compensation insurance?	1-4
Q 1.11 What is surety insurance?	1-5
Q 1.12 What is fidelity insurance?	1-5
Q 1.13 What is financial guaranty insurance?	1-5
Q 1.14 What is credit insurance?	1-6
Q 1.15 What is credit life insurance?	1-6
Q 1.16 What is marine and aviation insurance?	1-7
Q 1.17 What is inland marine insurance?	1-7
Q 1.18 What are "personal lines" insurance and "commercial lines" insurance?	1-8
Q 1.19 What is catastrophe insurance?	1-8
Q 1.20 Given the broad definition of insurance cited above, are there nevertheless exemptions to what constitutes insurance under state law?	1-8

Insurance Policies	1-9
Q 1.21 What is an insurance policy?	1-9
Q 1.22 What are the types of insurance policies?	1-9
Q 1.23 What are the standard components of an insurance policy?	1-9
Q 1.24 How are insurance policies interpreted?	1-9
Reinsurance	1-10
Q 1.25 Is there such a thing as a reinsurance policy?.....	1-10
Q 1.26 What is reinsurance?.....	1-10
Q 1.27 What types of reinsurance are there?.....	1-10
Q 1.27.1 What is treaty reinsurance?	1-10
Q 1.27.2 What is facultative reinsurance?	1-11
Q 1.28 Can any company act as a reinsurer or does it require a special license?	1-11
Q 1.29 Can a company reinsure both life and property and casualty risks?	1-11
Q 1.30 What is “fronting”?	1-12
Q 1.30.1 Is fronting legal?	1-12
Q 1.31 What is the difference between indemnity reinsurance and assumption reinsurance?	1-12
Q 1.32 What is a retrocession agreement?	1-13

Chapter 2 State-Based Regulation of Insurance

Basis for State Regulation	2-3
Q 2.1 Why is insurance in the United States regulated by the states?	2-3
Q 2.2 What is the Federal Insurance Office and what does it do?.....	2-3
Q 2.3 Doesn't the Federal Reserve also regulate insurance companies?	2-4
NAIC	2-5
Q 2.4 Given the fact that each state regulates the business of insurance, as permitted under McCarran-Ferguson, what does it mean to say that the United States has a “national system of state-based regulation”?	2-5

Table of Contents

<i>Model Laws and Regulations</i>	2-6
Q 2.5 How does the system of promulgating NAIC Model Laws and Regulations actually work to effectuate uniform state statutes and regulations?	2-6
Q 2.6 Do the states adopt the NAIC Models in a form that is word-for-word the same as the Model which the NAIC approved?	2-7
Q 2.7 Does the NAIC have any power to influence which Model Laws and Regulations are adopted by the states?	2-7
Q 2.8 Which states are accredited by the NAIC?	2-8
Q 2.9 What are the NAIC Model Laws and Regulations that states are required to adopt in order to be accredited by the NAIC?	2-8
<i>Other NAIC Accreditation Standards</i>	2-9
Q 2.10 Are there any additional provisions that states are required to adopt in order to be accredited by the NAIC?	2-9
<i>Accounting Practices and Procedures</i>	2-11
Q 2.11 How does the NAIC accounting system work?	2-11
Q 2.12 Is SAP different from Generally Accepted Accounting Principles, or GAAP?	2-12
<i>Securities Valuation Office</i>	2-12
Q 2.13 How does the SVO affect insurance companies?	2-12
<i>Risk-Based Capital</i>	2-13
Q 2.14 What is risk-based capital, or RBC, for insurance companies?	2-13
Q 2.15 How does RBC for insurance companies work?	2-13
<i>Enterprise Risk</i>	2-15
Q 2.16 Is there regulation of enterprise risk across insurance holding companies?	2-15
Q 2.17 What is the NAIC doing to communicate and coordinate with insurance regulators in other countries?	2-16

Chapter 3 Form of Insurer

Stock Insurance Companies	3-2
Q 3.1 What is a stock insurance company?	3-2
Q 3.2 Can a stock insurer be a public company?	3-2

Mutual Insurance Companies	3-3
Q 3.3 What is a mutual insurance company?.....	3-3
Q 3.4 How does a mutual insurance company elect directors if there are no stockholders?	3-3
Q 3.5 Other than ownership and election of directors, are there other differences between stock and mutual companies?.....	3-3
Demutualization	3-4
Q 3.6 Can a mutual insurer become a stock insurer?	3-4
Q 3.7 Why would a mutual company demutualize?.....	3-4
Q 3.8 Why might a company prefer to remain a mutual?.....	3-4
Q 3.9 What happens in a demutualization?.....	3-5
Q 3.10 Do stock companies ever mutualize?	3-6
Mutual Holding Companies	3-6
Q 3.11 Are there any other forms of conversion involving mutual insurers?	3-6
Q 3.12 What are the advantages and disadvantages of converting to an MHC structure?	3-6
Reciprocal Insurance Exchanges	3-7
Q 3.13 What is a reciprocal insurance exchange?.....	3-7
Fraternal Benefit Societies	3-9
Q 3.14 What is a fraternal benefit society?.....	3-9
Q 3.14.1 Are fraternal benefit societies subject to federal income taxation?	3-10
Lloyd's of London	3-10
Q 3.15 What is Lloyd's?.....	3-10
Q 3.16 Who are the Members of Lloyd's?.....	3-10
Q 3.16.1 Do Members have capital and surplus?	3-10
Q 3.17 How is Lloyd's regulated?.....	3-11
Q 3.18 Given that the Members underwrite insurance on a strictly several, not joint, basis, what would happen if a Member is unable to pay losses on its business?.....	3-11
<i>Lloyd's in the United States</i>	3-12
Q 3.19 Does Lloyd's operate in the United States?	3-12
Q 3.20 Who is the lead regulator of Lloyd's in the United States?	3-12
Q 3.21 What is Lloyd's status in the United States?.....	3-12

Table of Contents

Q 3.22	Does Lloyd's or do the Members maintain trust deposits in the United States?	3-13
Q 3.23	United States insurers in Texas and some other states have some version of the word "Lloyd's" in their names. Are these insurers affiliated with Lloyd's?	3-14
Risk Retention Groups and Risk Purchasing Groups		3-14
Q 3.24	What are risk retention groups (RRGs) and risk purchasing groups (RPGs)?	3-14
Q 3.25	How may RRGs and RPGs be formed and conduct business?	3-15
Q 3.26	What are the benefits of forming an RRG or RPG?	3-16
Q 3.27	Are RRGs and RPGs regulated on a federal level?	3-16
Q 3.28	Are RRGs covered by state guaranty funds?	3-17
Q 3.29	Can RRGs and RPGs handle any kind of insurance?	3-17
Q 3.30	Are there any restrictions on ownership?	3-18

Chapter 4 Captive Insurance Companies and Special Purpose Reinsurers

Types of Captives	4-2	
Q 4.1	What types of captives are there?	4-2
Tax Issues	4-4	
Q 4.2	What are the tax issues applicable to captives?	4-4

Chapter 5 Licensing of Insurance Companies

Basis for License Requirement	5-2	
Q 5.1	Why is it necessary for insurance companies to be licensed?	5-2
Q 5.2	How do the states define "transaction of insurance"?	5-3
Q 5.3	How do insurance companies obtain licenses in the states in which they seek to transact insurance?	5-4
Q 5.4	Does the insurer have to repeat this licensing process in each state in which it wishes to transact insurance?	5-5
Q 5.4.1	How long does it take to become licensed in all states?	5-5

“Seasoning” Rules	5-5
Q 5.5 What are “seasoning” rules?	5-5
Q 5.6 Can seasoning requirements ever be waived?.....	5-6
Penalties and Taxes	5-7
Q 5.7 Do insurance regulators penalize insurers that fail to comply with licensing requirements?.....	5-7
Q 5.8 Do state insurance laws impose specific taxes on insurance premiums derived within the state?	5-7
Ownership Restrictions and Prohibitions	5-8
Q 5.9 Do state insurance laws impose restrictions on who may own or control an insurance company licensed in the state?.....	5-8
Q 5.10 Are there restrictions on government ownership of insurers?	5-8

Chapter 6 Nonadmitted Insurance

Introduction	6-2
Q 6.1 What is nonadmitted insurance and how does it differ from admitted insurance?	6-2
Q 6.2 How is nonadmitted insurance regulated?	6-2
Q 6.3 What does it mean to “transact insurance” in the state?.....	6-3
Q 6.4 Can producers who place business with, or otherwise aid, nonadmitted insurers also be charged with a violation of law?	6-4
Q 6.5 What sanctions can be imposed for violations?.....	6-4
Surplus Lines Law	6-5
Q 6.6 What is the “surplus lines law”? Why does it exist?	6-5
Q 6.7 Can any nonadmitted insurer write surplus lines insurance or does the insurer need to qualify in some way?	6-5
Q 6.8 Are surplus lines insurers subject to the same rate and form requirements as licensed insurers?	6-7
Q 6.9 Are there any limits on the products that can be sold under the surplus lines law?	6-7
Q 6.10 Are the policies obtained through the surplus lines market covered by state guaranty funds and are surplus lines insurers subject to guaranty fund assessments?	6-8
Q 6.11 Do surplus lines insurers compete against licensed insurers?	6-8
Q 6.11.1 What is a “diligent effort” or the “diligent search” test?	6-9
Q 6.11.2 Is the diligent search test always required?	6-9

Table of Contents

Q 6.12	Besides an eligible or approved insurer and the diligent search, are there any more requirements or restrictions?	6-11
Exemptions from the Doing Business Prohibitions		6-11
Q 6.13	Are there specific exceptions to the general doing business prohibitions that are available for sophisticated buyers of insurance?	6-11
Q 6.14	Are there other express exemptions from the doing business prohibitions for nonadmitted insurers?.....	6-12
Q 6.15	Do the prohibitions against nonadmitted insurers transacting insurance in the state apply to reinsurance?.....	6-12
Q 6.16	Can an insured procure insurance directly from a nonadmitted insurer?	6-13
Tax on Nonadmitted Insurance		6-13
Q 6.17	Are insurance premiums taxed on nonadmitted insurance?.....	6-13
Multi-State Risks		6-15
Q 6.18	Which state's law applies to the placement of multi-state risks?	6-15

Chapter 7 Regulation of Producers and Other Distribution Channels

Insurance Agents, Brokers, and Producers		7-2
Q 7.1	What requirements apply to an insurance "producer"?.....	7-2
Q 7.2	What requirements apply to an insurance "agent"?	7-2
Q 7.3	What requirements apply to an insurance "broker"?	7-3
License Requirements and Activities Permitted Without a License		7-3
Q 7.4	What types of licenses are insurance producers, agents, and brokers required to have in order to transact business within a state?.....	7-3
Q 7.4.1	Can business entities obtain producer licenses?.....	7-4
Q 7.4.2	How burdensome is it for a producer to become licensed in all states?	7-4
Q 7.5	Is there a special license for producers to place insurance with approved unauthorized, or surplus lines, insurers?	7-6

Q 7.6	What can happen if a person engages in activities that are considered to be the activities of an insurance producer, or broker without a license in the state?	7-6
Q 7.6.1	What types of activities constitute “soliciting” or “marketing” insurance products within a state?	7-7
Q 7.7	Can licensed producers, agents, and brokers assist insureds and insurers in handling and settling claims under insurance policies?	7-7
Q 7.8	Is it possible to assist in the handling and settling of insurance claims if one is not a licensed insurance producer, agent, or broker?	7-7
Adjusters	7-8
Q 7.9	What is an “insurance adjuster”?	7-8
Q 7.9.1	What is a “public adjuster”? What is an “independent adjuster”?	7-8
Other Intermediaries	7-9
Q 7.10	What requirements apply to a “third-party administrator” (TPA)?	7-9
Q 7.11	What requirements apply to a “managing general agent” (MGA)?	7-9
Q 7.12	What requirements apply to a “reinsurance intermediary”?	7-10

Chapter 8 Regulation of Insurance Holding Company Systems

Insurance Holding Company Acts	8-3
Q 8.1	How does the Insurance Holding Company Act (HCA) of the various states regulate insurance companies and insurance groups?	8-3
Q 8.2	What is “commercial domicile”?	8-4
Acquisition of Control	8-5
Q 8.3	To determine whether an “acquisition of control” would occur, how does the HCA define “control”?	8-5
Q 8.4	Is it possible for an investor to own more than 10% of the voting securities of an insurance company or an insurance holding company and not be viewed as “controlling” the insurance company?	8-7

Table of Contents

Q 8.5	Under what circumstances would an investor with more than 10% of the shares of an insurance company or insurance holding company seek to rebut the presumption of control?	8-7
Q 8.6	How does the investor seek a determination of non-control from the insurance regulator?	8-8
Q 8.7	Do all states presume control to exist at the level of 10% of the shares?	8-8
Q 8.8	Is a holding company that divests its ownership of an insurance company shares required to obtain regulatory approval?.....	8-8
Form A Applications for Approval to Acquire Control		8-9
Q 8.9	At what point must a potential acquiror of an insurance company file the Form A application for approval to acquire control?.....	8-9
Q 8.10	In what states must the Form A be filed?	8-10
Q 8.11	What are the exemption provisions under the HCA for filing a Form A?	8-11
Q 8.12	Are there statutory standards for approval of the Form A?	8-11
Q 8.13	What information is required in a Form A?.....	8-12
Q 8.13.1	Is the information provided on a Form A publicly available?.....	8-14
Q 8.14	Is a public hearing on a Form A required?	8-14
Q 8.15	How long does the process of obtaining Form A approval take?.....	8-15
Registration of Insurance Companies.....		8-15
Q 8.16	What types of rules or restrictions does a state's HCA impose on transactions involving an insurer and members of its holding company system?	8-15
Q 8.17	What other types of filings does the HCA require?.....	8-17
Q 8.18	Are there restrictions on the ability of an insurer to pay dividends to its stockholder(s)?.....	8-19
Penalties for Violating the HCA		8-19
Q 8.19	What are the consequences of violating the HCA?	8-19
Enterprise Risk and Own Risk and Solvency Assessment (ORSA).....		8-20
Q 8.20	What is an Enterprise Risk Report?	8-20
Q 8.21	What is an ORSA?	8-21

Group Supervision of IAIGs	8-22
Q 8.22 What is an “internationally active insurance group”?	8-22
Q 8.23 What are the responsibilities of a group-wide supervisor?	8-22
Q 8.24 How do regulators decide which regulator will serve as group-wide supervisor for an internationally active insurance group?	8-24

Chapter 9 Regulation of Life and Annuity Insurers

Licensing	9-2
Q 9.1 How does a life insurance company become licensed to transact insurance in a particular state?	9-2
Q 9.2 What lines of insurance are life insurers authorized to transact?	9-3
Types of Life Insurance	9-4
Q 9.3 What is the definition of life insurance?	9-4
Q 9.4 Are there different types of life insurance?	9-4
Annuities	9-6
Q 9.5 What is the definition of annuity?	9-6
Q 9.6 Are there different types of annuities?	9-6
Rules Common to Life Insurance Policies and Annuity Contracts	9-8
Q 9.7 Are life insurance policies and annuity contracts issued only to individuals?	9-8
<i>Tax</i>	9-9
Q 9.8 How are life insurance and annuity contracts taxed?	9-9
<i>Marketing and Advertising</i>	9-9
Q 9.9 What restrictions exist on the marketing and advertising of life insurance and annuity products?	9-9
<i>Federal Securities Laws</i>	9-11
Q 9.10 Are life and annuity products regulated under the federal securities laws?	9-11

Table of Contents

Commission Restrictions	9-12
Q 9.11 Are there restrictions on permissible commissions for insurance agents and brokers?.....	9-12
Q 9.12 Are life insurers required to file their rates and forms?.....	9-12
Interstate Compact	9-12
Q 9.13 What is the Interstate Insurance Compact?.....	9-12
Q 9.14 How many states have adopted and entered into the Interstate Compact?.....	9-13
Q 9.15 What is the practical effect for companies in the states in which the Interstate Compact has been adopted?	9-13

Chapter 10 Regulation of Property and Casualty Insurers

Licensing	10-2
Q 10.1 How does a property and casualty insurer become licensed to transact insurance in a particular state?	10-2
Q 10.2 What lines of insurance are property and casualty insurers authorized to transact?	10-2
Q 10.3 Can an insurer be authorized to transact all lines of property and casualty insurance?.....	10-4
Q 10.4 In order to write a specific line of property and casualty insurance in a state, must an insurer be specifically licensed for that line in that state?	10-4
Personal and Commercial Lines of Insurance	10-4
Q 10.5 What is the difference between “personal lines” and “commercial lines” of insurance?.....	10-4
Filing of Rates and Forms	10-5
Q 10.6 How are property and casualty insurance products regulated?.....	10-5
Q 10.7 What is commercial lines deregulation?.....	10-6

Chapter 11 Regulation of Title, Mortgage and Financial Guaranty Insurance

Types of Insurers That Are Considered “Monoline”	11-2
Q 11.1 Are financial guaranty insurers, mortgage insurers, and title insurers regulated differently than other insurers?.....	11-2
Financial Guaranty Insurance	11-3
Q 11.2 What activities constitute the business of “financial guaranty insurance”?	11-3
Q 11.3 What minimum capitalization is required for financial guaranty insurers?.....	11-6
Q 11.4 Are financial guaranty insurers subject to reserving requirements in addition to those generally imposed on property/casualty insurance companies?.....	11-6
Q 11.5 Are financial guaranty insurers subject to single risk limitations?.....	11-7
Q 11.6 Are financial guaranty insurers subject to aggregate risk limitations?.....	11-7
Q 11.7 Are financial guaranty insurers subject to requirements pertaining to ceded reinsurance that differ from those generally imposed on property/casualty insurance companies?	11-8
Mortgage Guaranty Insurance	11-8
Q 11.8 What activities constitute the business of “mortgage guaranty insurance”?	11-8
Q 11.9 What minimum capitalization is required for mortgage insurers?	11-10
Q 11.10 Are mortgage insurers subject to reserving requirements in addition to those generally imposed on property/casualty insurance companies?	11-10
Q 11.11 Are mortgage insurers subject to single risk limitations?.....	11-11
Q 11.12 Are mortgage insurers subject to aggregate risk limitations?	11-11
Q 11.13 Are mortgage insurers subject to requirements pertaining to ceded reinsurance that differ from those generally imposed on property/casualty insurance companies?	11-12
Q 11.14 Are there any reform efforts directed at the current regulatory system with regard to mortgage guaranty insurance?	11-12

Table of Contents

Title Insurance	11-13
Q 11.15 What activities constitute the business of “title insurance”?	11-13
Q 11.16 What minimum capitalization is required for title insurers?.....	11-15
Q 11.17 Are title insurance companies subject to reserving requirements in addition to those generally imposed on property/casualty insurance companies?.....	11-15
Q 11.18 Are title insurance companies subject to single risk limitations?.....	11-16
Q 11.19 Are title insurance companies subject to requirements pertaining to ceded reinsurance that differ from those generally imposed on property/casualty insurance companies?	11-16

Chapter 12 Regulation of Reinsurance

Introduction	12-2
Q 12.1 What is reinsurance?.....	12-2
Q 12.2 Who are the parties to a reinsurance contract?.....	12-2
Regulation and Licensing	12-3
Q 12.3 Are reinsurance contracts regulated?	12-3
Q 12.4 Are reinsurers regulated?.....	12-4
Q 12.5 Do states require reinsurers to be licensed or authorized in order to transact reinsurance business in the state?.....	12-5
Credit for Reinsurance	12-5
Q 12.6 Why would a reinsurer want to be licensed in a state if reinsurance is generally exempt from the licensing requirement? Why would reinsurers want to be licensed in more states than their state of domicile?	12-5
Q 12.7 If a reinsurer is not licensed in the state of domicile of its ceding insurer, is there any other way for the ceding insurer to obtain credit for the reinsurance?	12-6
Collateral	12-7
Q 12.8 What rules govern collateral in these circumstances?.....	12-7
Q 12.9 Are there circumstances in which a ceding insurer may take credit for reinsurance ceded to an unauthorized reinsurer without the reinsurer providing 100% collateral?.....	12-8

Multibeneficiary Trusts.....12-11

Q 12.10 Are there other mechanisms pursuant to which a ceding insurer is allowed to take financial statement credit for the amount of reinsurance that it expects to recover from an unlicensed reinsurer?12-11

Chapter 13 Regulation of Health Insurers and Health Maintenance Organizations

Licensing and Regulation13-2

Q 13.1 How are health insurance companies organized and licensed?13-2

Q 13.2 Can a life insurer or a property and casualty insurer be licensed to transact health insurance?.....13-2

Q 13.3 Do health insurance policies have to be filed with the Insurance Commissioner?13-3

Q 13.4 Are rates of health insurers filed with the Insurance Commissioner?13-3

Group and Individual Products13-4

Q 13.5 What kinds of products do health insurers provide?13-4

Q 13.6 What are some of these rules for products issued to a group?13-4

 Q 13.6.1 Does a group have to consist of an employer/employee group?13-5

Q 13.7 What is individual insurance?.....13-6

Q 13.8 Are there advantages to being insured under a group versus an individual health insurance policy?.....13-6

Other Categories of Health Insurance.....13-6

Q 13.9 What other categories define health insurance offerings in the United States?.....13-6

Q 13.10 What about less comprehensive health insurance products?.....13-7

Q 13.11 What are HMOs and how are they regulated?13-7

ACA Provisions.....13-8

Q 13.12 How has the ACA affected the state regulation of health care insurance?13-8

Q 13.13 What are some of these changes affecting health care insurance?13-8

Table of Contents

<i>“Essential Health Benefits”</i>	13-8
Q 13.14 What does “essential health benefits” mean?.....	13-8
Q 13.15 Are there any other requirements that these “essential health benefits” must provide?.....	13-9
Q 13.16 Which insurance companies are required to provide these “essential health benefits”?.....	13-9
Q 13.17 How does the ACA use the terms “group” coverage and “individual” coverage for these purposes? Do the terms mean the same things as they do under state rules relating to group and individual health insurance coverage?	13-9
Q 13.18 What other insurance market reforms are currently required by the ACA?	13-10
Q 13.18.1 What does “minimum essential coverage” mean for purposes of satisfying the individual mandate?.....	13-11
<i>Provisions Effective Shortly After the Implementation of the ACA</i>	13-12
Q 13.19 What types of reforms were insurers required to comply with by September 23, 2010?	13-12
<i>Provisions Effective January 1, 2011</i>	13-13
Q 13.20 What types of provisions are required effective January 1, 2011?.....	13-13
<i>“Excepted Benefits”</i>	13-14
Q 13.21 What is the definition of “excepted benefits” that fall outside the scope of the various reforms contained in ACA?	13-14
<i>Powers of the States</i>	13-16
Q 13.22 How will the ACA affect the cost of health insurance?.....	13-16
Q 13.23 Will the state Insurance Departments continue to be involved in the regulation of health insurance and health insurers?	13-16

Chapter 14 Registered Life and Annuity Products

Types of Registered Products	14-2
Q 14.1 What types of insurance products must be registered under the federal securities laws?.....	14-2
Q 14.2 Why are these types of insurance products “securities” under the federal securities laws?	14-3
Q 14.3 How are variable life insurance and variable annuity products generally designed?	14-4
Separate Accounts	14-4
Q 14.4 Why must the separate account supporting a variable contract be registered under the 1940 Act?.....	14-4
Q 14.5 How are separate accounts structured under the 1940 Act?.....	14-5
SEC Registration	14-6
Q 14.6 How are variable contracts, and the separate accounts that support them, registered with the SEC?.....	14-6
Q 14.7 What is the relationship between the separate account and the insurer for purposes of the registration statement?	14-7
Q 14.8 Does the registration statement need to be updated?	14-7
Q 14.9 What disclosure materials must be provided to investors?	14-9
Charges and Fees	14-10
Q 14.10 How do the federal securities laws regulate the charges associated with registered variable life and annuity products?.....	14-10
Q 14.11 What are the various types of fees and charges under variable products?	14-11
Sale of Variable Products	14-15
Q 14.12 Other than the reasonableness requirement for aggregate charges, what other SEC conditions must be met to sell variable insurance contracts?.....	14-15
Q 14.13 How does the 1940 Act regulate the operations of registered variable contracts?	14-16
Q 14.14 What requirements apply to calculation of the cash value?.....	14-17
Q 14.15 How are fees and charges deducted?	14-18
Q 14.16 How does the daily pricing requirement generally apply to contract owner transactions?.....	14-19

Table of Contents

Q 14.17	How must new applications and premiums be processed under the 1940 Act?	14-20
Q 14.18	How does the “free look” period affect processing of new applications and premium?.....	14-21
Operation of Variable Products		14-22
Q 14.19	How are withdrawals and surrenders regulated under the 1940 Act?	14-22
Q 14.20	How are transfers among investment options (and exchanges of variable contracts) regulated under the 1940 Act?.....	14-24
Q 14.21	How do death benefits work under variable insurance products?.....	14-25
Q 14.22	What are “good order” requirements?.....	14-27
Q 14.23	What are “living benefits”?	14-28
Q 14.24	How do the 1940 Act start-up requirements apply?	14-28
Q 14.25	What are “combination contracts”?.....	14-29
Other SEC Registered Insurance Products		14-29
Q 14.26	What kinds of insurance products, other than variable products, are or could be SEC-registered securities?.....	14-29
Q 14.27	Is the insurance company or separate account subject to any periodic reporting requirements?.....	14-33
Q 14.28	What other materials must be filed with the SEC?.....	14-34
Other Requirements		14-34
Q 14.29	What other federal securities laws requirements apply to registered variable life and annuity products? Is a securities compliance program required?	14-34
Q 14.30	Are there substantive SEC or FINRA requirements applicable to marketing materials for insurance securities products?.....	14-35
Q 14.31	Are registered variable life and annuity products exempt from state securities and insurance regulation?	14-36
Q 14.32	What special federal income tax considerations apply to variable annuity and life insurance contracts?	14-37

Chapter 15 Impact of Other Regulators on Insurance Regulation

Introduction	15-2
Q 15.1 If federal law leaves to the states the regulation of the business of insurance, how can any governmental agencies, other than state Insurance Departments, affect the regulation of insurance?	15-2
Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010	15-3
Q 15.2 How does Dodd-Frank affect insurance regulation?	15-3
<i>Federal Insurance Officer</i>	15-3
Q 15.3 What does Dodd-Frank say about FIO?.....	15-3
Q 15.3.1 What recommendations were made in the FIO modernization report?.....	15-4
Q 15.3.2 What recommendations were made in the FIO reinsurance report?	15-6
Q 15.4 Beyond these monitoring and data analysis functions, does FIO have any substantive responsibilities under Dodd-Frank?	15-7
<i>Nonadmitted and Reinsurance Reform Act</i>	15-8
Q 15.5 How does Dodd-Frank affect the regulation of reinsurance and surplus lines insurance?	15-8
Q 15.5.1 How does NRRA affect the regulation of reinsurance?.....	15-8
Q 15.5.2 How does NRRA affect the regulation of surplus lines insurance?	15-9
<i>Other Provisions</i>	15-10
Q 15.6 Are there any other ways in which Dodd-Frank could affect insurance companies?.....	15-10
Securities and Exchange Commission	15-14
Q 15.7 Chapter 9, regarding the regulation of life and annuity insurers, noted that certain products offered by annuity and life insurance writers must be registered with the SEC; are there other ways in which the SEC regulates insurance companies?	15-14

Table of Contents

State Attorneys General	15-14
Q 15.8 Do state attorneys general have authority to enforce insurance laws?	15-14
Federal Antitrust Laws	15-15
Q 15.9 Are insurance companies subject to antitrust laws?	15-15
Q 15.9.1 Can the “business of insurance” ever be subject to federal antitrust laws?	15-16
Q 15.9.2 Aside from the exemptions mentioned above, can we assume that the federal antitrust laws never apply?.....	15-16
Q 15.10 Why do the federal antitrust authorities support a repeal of the McCarran-Ferguson Act?	15-17
Q 15.11 As a practical matter, what does the McCarran-Ferguson exemption allow?.....	15-17
Q 15.12 Are there any other important antitrust exemptions?	15-17
Q 15.13 Do federal and state antitrust laws affect market concentration in the industry?.....	15-18
Other Laws Affecting Insurance Companies	15-19
Q 15.14 Are there other federal laws that affect the regulation of insurance companies?	15-19

Chapter 16 Regulation of Insurance Company Financial Condition

Minimum Capital and Surplus Requirements	16-2
Q 16.1 What requirements do the insurance laws impose on the minimum amount of capital an insurance company is required to have and maintain?.....	16-2
Q 16.2 What is the practical effect of these minimum capital and surplus requirements for insurance companies?.....	16-3
Q 16.3 Are paid-in capital and paid-in surplus the only ways in which insurers can receive operating capital?.....	16-3
Q 16.3.1 What is a surplus note?	16-3

Dividends, Reserves and Statutory Accounting	16-4
Q 16.4 Are shareholder dividends by insurance companies regulated?	16-4
Q 16.5 How do Insurance Commissioners monitor and regulate the insurance liabilities of insurance companies?	16-5
Q 16.6 How does the state-based system of insurance regulation assure that insurance company financial statements are prepared in accordance with consistent and uniform standards?	16-5
Q 16.6.1 Are there any state variants from these uniform practices?	16-6
Corporate Governance Annual Disclosure	16-6
Q 16.7 What is a Corporate Governance Annual Disclosure?	16-6
Risk Based Capital (RBC)	16-7
Q 16.8 How is RBC used by regulators to determine the financial condition of insurance companies?	16-7
Q 16.9 Are there any other filings that supplement RBC as a tool for regulators to determine the financial conditions of insurance companies?	16-7
Examinations	16-8
Q 16.10 What laws govern financial examinations?	16-8
Q 16.11 How often may Insurance Departments conduct financial condition examinations?	16-8
Q 16.12 How do different states work together on examinations?	16-9
Q 16.13 What type of information or documents must the insurer under examination make available for inspection to the examiners?	16-9
Q 16.14 Who bears the cost of an examination?	16-10
<i>Insurance Commissioner's Powers</i>	16-10
Q 16.15 Do the Insurance Commissioner's examination powers extend beyond the licensed insurer?	16-10
Q 16.16 Does the Insurance Commissioner have the power to take testimony in connection with a financial examination?	16-10
Q 16.17 Is the financial examination conducted strictly by insurance regulators, or can the Insurance Commissioner retain other individuals to assist with the examination?	16-11

Table of Contents

<i>Examination Reports</i>	16-11
Q 16.18 What type of information typically appears in the examination report that is prepared by the examiners?.....	16-11
Q 16.19 Are examination reports available to the public?.....	16-12
Q 16.20 Does the insurer see the examination report before it is issued?	16-12
Q 16.21 Can an insurer contest the findings that appear in a report on examination?	16-12
Q 16.22 Is the insurer required to accept the report?	16-13
Regulatory Reform Related to Insurance Company Financial Condition	16-13
Q 16.23 What international regulatory reform developments are impacting the regulation of insurance companies' financial condition?	16-13
Q 16.24 What state or federal regulatory reform developments are impacting the regulation of insurance companies' financial condition?	16-14

Chapter 17 Insolvency and Restructuring

Federal Bankruptcy Laws	17-2
Q 17.1 Are insurance companies subject to federal bankruptcy law?	17-2
Q 17.2 Can federal bankruptcy law ever apply to insurance companies?	17-3
Q 17.3 Does this exemption extend to the parents or affiliates of insurance companies?	17-3
Q 17.4 Are corporations licensed as insurance agents, brokers, etc. also exempt from federal bankruptcy?.....	17-4
State Insurance Rehabilitation, Liquidation, and Receivership Laws	17-4
Q 17.5 What happens to an insurance company that is in financial difficulty if Chapter 11 and Chapter 7 of the federal bankruptcy law are not available?	17-4
<i>Delinquency Proceedings</i>	17-5
Q 17.6 What is a “delinquency proceeding” under state insurance insolvency law?.....	17-5

Q 17.7	What are the grounds upon which the Insurance Commissioner may seek an order to liquidate, rehabilitate, or conserve an insurer?.....	17-5
Q 17.8	Are there statutory limits on these grounds for initiating delinquency proceedings against an insurer?	17-6
Q 17.9	What happens when the Insurance Commissioner obtains a finding from state court that an insurer must be placed into delinquency proceedings?	17-6
	<i>Conservation</i>	17-7
Q 17.10	What does it mean for the Insurance Commissioner to be granted an order of “conservation” over an insurer?.....	17-7
	<i>Supervision</i>	17-7
Q 17.11	What does it mean to place an insurer under supervision?	17-7
	<i>Rehabilitation</i>	17-8
Q 17.12	What does it mean to place an insurer into rehabilitation?.....	17-8
	<i>Liquidation</i>	17-9
Q 17.13	What determines whether an Insurance Commissioner will seek an order to liquidate an insurer?	17-9
Q 17.14	What does the Insurance Commissioner as liquidator of an insurer do?	17-9
Q 17.15	What happens to policyholder claims in liquidation?.....	17-9
	State Insurance Guaranty Funds	17-10
Q 17.16	Do policyholders have any other recourse for payment of their policy claims?	17-10
Q 17.17	Who provides the funds that are administered by the guaranty associations?	17-10

Chapter 18 Regulation of Investments by Insurance Companies

	State Insurance Laws	18-2
Q 18.1	Why do state insurance laws regulate investments made by insurers?	18-2
Q 18.2	How do state insurance laws regulate investments made by insurers?	18-2

Table of Contents

NAIC Model Investment Laws	18-3
Q 18.3 Is there an NAIC model law on insurance company investments?	18-3
Q 18.4 Which version of the NAIC model law in investments do most states follow?.....	18-3
New York Insurance Laws	18-4
Q 18.5 How does New York impose its investment law on non-domestic insurers?	18-4
Q 18.6 If the insurer is not domiciled in New York, how can that state impose its rules, even with a statute that requires “substantial compliance” with the New York laws?.....	18-4
Q 18.7 What types of rules on insurer investments are imposed by New York law?.....	18-5
Q 18.8 What is the difference between “admitted” and “permitted” assets?	18-5
Derivatives, NAIC Securities Valuation Office, and Risk-Based Capital	18-6
Q 18.9 Do insurer investment statutes authorize insurers to engage in derivatives transactions?.....	18-6
Q 18.10 How are investments valued for purposes of annual financial statement filing?.....	18-6
Q 18.11 What impact does an insurer’s investments have on its risk-based capital?.....	18-7

Chapter 19 Regulation of Market Conduct and Trade Practices

Market Conduct Examinations	19-2
Q 19.1 What laws govern market regulation?	19-2
Q 19.2 What do market conduct examinations and enforcement actions typically focus on?.....	19-3
Q 19.3 What type of information or documents must the insurer that is being examined make available to the examiners for inspection?	19-3
Q 19.4 What do Insurance Commissioners do with their findings?	19-3
Q 19.5 Can the examination findings be contested?	19-4

Unfair Trade Practices	19-4
Q 19.6 Is there a NAIC model law on unfair trade practices?	19-4
Q 19.7 What types of practices typically constitute “unfair trade practices” in the business of insurance?.....	19-4
Q 19.8 Do rules relating to unfair trade practices apply only to insurers?	19-5
Q 19.9 What are the consequences if the Insurance Commissioner finds that an insurer or person has engaged in an unfair trade practice?	19-5
Unfair Claims Practices	19-6
Q 19.10 Is there a model NAIC law on unfair claims practices?	19-6
Q 19.11 What types of practices typically constitute “unfair claims practices” in the business of insurance?.....	19-6
Q 19.12 What are the consequences if the Insurance Commissioner finds that an insurer or other person has engaged in an unfair claims practice?	19-7

Chapter 20 Unclaimed Property

State Unclaimed Property Laws	20-2
Q 20.1 What types of property are subject to state unclaimed property laws?	20-2
Q 20.2 What are the Uniform Unclaimed Property Acts?	20-2
Q 20.3 What obligations do state unclaimed property laws impose on holders?	20-3
Q 20.4 Who regulates unclaimed property?.....	20-4
Q 20.5 What is the dormancy period?	20-4
Q 20.6 When does the dormancy period begin to run?.....	20-5
Life Insurance and Annuities	20-5
Q 20.7 When do life insurance proceeds become unclaimed property?	20-5
Q 20.8 What is the Social Security Death Master File, why is it important, and do life insurers have a duty to search the Death Master File?.....	20-7
Q 20.9 How can unclaimed death benefits lead to false claims act (FCA) lawsuits?.....	20-9
Q 20.10 How do unclaimed property laws apply to property held in IRAs?.....	20-9

Table of Contents

Property & Casualty and Other Types of Insurance	20-10
Q 20.11 How do unclaimed property laws apply to insurers other than life insurers?.....	20-10
Q 20.12 What is involved in an unclaimed property audit?.....	20-10
Q 20.13 What are offers of settlement and are they unclaimed property?.....	20-12
Custody	20-12
Q 20.14 Which state is entitled to take custody of unclaimed funds?	20-12
 Chapter 21 Privacy and Cybersecurity	
Gramm-Leach-Bliley Act	21-2
Q 21.1 What is the legal framework in the United States governing data privacy in the insurance industry?.....	21-2
Q 21.2 What are the general requirements under GLB?.....	21-4
Model Privacy and Safeguarding	21-5
Q 21.3 How many states have adopted the Model Privacy Act and what are the basic requirements?.....	21-5
Q 21.4 How many states have adopted the Model Privacy Regulation and what are the basic requirements?.....	21-6
Q 21.5 How many states have adopted the Model Safeguarding Regulation and what are the basic requirements?.....	21-7
Model Data Security Law	21-7
Q 21.6 What is the NAIC Model Data Security Law?	21-7
Q 21.7 How many states have adopted the Model Data Security Law?	21-8
Other State Privacy Laws	21-8
Q 21.8 What are the requirements for insurance companies under the NY DFS Cybersecurity Regulation?	21-8
Q 21.9 What are the requirements for insurance companies under the California Consumer Privacy Act?	21-9
Q 21.10 What are the requirements for insurance companies under the California Privacy Rights Act?	21-12
Q 21.11 What are the requirements for insurance companies under the Virginia Consumer Data Protection Act?.....	21-12

Other State Privacy and Cybersecurity Laws and Regulations	21-15
Q 21.12 What are the requirements under state breach notification laws?.....	21-15
Q 21.13 What other state laws govern information privacy and security?	21-17
Q 21.14 What does the New York Cybersecurity Regulation require of Department of Financial Services (DFS) regulated institutions?	21-19
Q 21.15 What are the special requirements with respect to affiliate-sharing under FCRA and in California?	21-21
Federal Privacy Laws and Regulations	21-22
Q 21.16 What are the information privacy requirements under HIPAA?.....	21-22
Q 21.17 Are there federal breach notification requirements?	21-23
Q 21.18 What other federal laws and regulations address information privacy and security?	21-24
Q 21.19 How are social media, cloud computing, mobile marketing and other emerging technologies services affecting information privacy risks for insurance companies?	21-25
Select International Privacy Laws and Regulations	21-27
Q 21.20 What additional privacy issues should be considered by U.S. insurance organizations doing business abroad?	21-27

Chapter 22 International Regulation Affecting U.S. Insurers

Memorandum of Understanding Between U.S. States and Foreign Governments	22-2
Q 22.1 How do U.S. insurance regulators work and exchange information with regulators in other nations?	22-2
IAIS	22-4
Q 22.2 What is the IAIS and how does it affect insurance regulation in the United States?	22-4
Q 22.3 What form of regulatory guidance does the IAIS issue?.....	22-5
Q 22.4 How is the United States involved in IAIS activities?.....	22-5

Table of Contents

Q 22.5	What is ComFrame and how is the United States involved in ComFrame?	22-6
Q 22.6	What is the Holistic Framework?.....	22-7
Solvency II		22-8
Q 22.7	What is Solvency II?	22-8
Q 22.8	What impact could Solvency II have on U.S. insurers?.....	22-9
	“Equivalence”	22-10
Q 22.9	Who makes the “equivalence” determination and what is the process for making that determination?	22-10
Q 22.10	Will the United States be assessed for “equivalence”?.....	22-10

Chapter 23 Emerging Issues

Cannabis		23-2
Q 23.1	What are the risks associated with insuring cannabis businesses?	23-2
Best Interest/Fiduciary Rule		23-4
Q 23.2	How has the Dodd-Frank Act impacted the standard of care for life insurance and annuity sales?	23-4
Artificial Intelligence, Algorithmic Underwriting and Biometrics		23-5
Q 23.3	What impact will Artificial Intelligence (AI) have on the insurance industry and its regulation?.....	23-5
Q 23.4	What is algorithmic underwriting?	23-6
Q 23.5	What data is used in algorithmic underwriting?	23-7
Q 23.6	Who is using algorithmic underwriting and why?	23-7
Q 23.7	What laws apply to algorithmic underwriting?	23-8
Q 23.8	Are regulators interested in algorithmic underwriting?.....	23-8
Q 23.9	How are biometrics used being used by insurers?	23-9
Q 23.10	How is the use of biometrics regulated?	23-9
Blockchain		23-10
Q 23.11	What is blockchain?	23-10
Q 23.12	How is blockchain being used in insurance?.....	23-10
Q 23.13	What legal risks do blockchain-based solutions pose?	23-11

INSURANCE REGULATION ANSWER BOOK 2022

Legacy Portfolio Transfers.....23-11

Q 23.14 What are portfolio transfers?.....23-11

Q 23.15 What are insurance business transfers?23-12

Q 23.16 How do insurance company division laws work?23-13

Index.....I-1