

§1157. Investment in subsidiaries

1. Investment or acquisition. Subject to the limitations contained in subsection 5, an insurer may invest in, or otherwise acquire, subsidiaries engaged or organized to engage in any businesses lawful under the laws of the jurisdictions in which those subsidiaries are organized.

[PL 1987, c. 399, §14 (NEW).]

2. Authorization. Except as provided in section 1153, subsection 3, investments in subsidiaries authorized by this section may not be authorized under any other section of this chapter.

[PL 1987, c. 399, §14 (NEW).]

3. Superintendent; order of disposition. At any time after the acquisition by the insurer of any subsidiary, other than a holding company engaged solely in the ownership or control of other subsidiaries, or a subsidiary referred to in subsection 5, paragraph B, subparagraph (1) or (2), the superintendent may order its disposition if the superintendent finds, after notice and an opportunity to be heard, that its continued retention is materially adverse to the interests of the insurer's policyholders. The insurer has at least 36 months to effect the disposition. If that disposition is not so effected, the subsidiary may not thereafter be allowed as an asset of the insurer.

[RR 2021, c. 2, Pt. A, §69 (COR).]

4. Name. The name of any subsidiary may not be such as to mislead or deceive the public.

[PL 1987, c. 399, §14 (NEW).]

5. Limitations. Subject to the exceptions in paragraph B, investments in subsidiaries of an insurer are limited as follows.

A. Except with the approval of the superintendent, that insurer may not make, directly or indirectly, an investment in any subsidiary if that investment would bring the aggregate net cost of investments in all subsidiaries to an amount in excess of the lesser of 10% of the insurer's total admitted assets or 50% of the insurer's surplus as regards policyholders or if that investment would bring the aggregate net investment in that subsidiary to an amount in excess of 2% of those total admitted assets. [PL 1993, c. 313, §29 (AMD).]

B. Investments made directly or indirectly in the following subsidiaries are not subject to the limitations contained in paragraph A or in section 1155 or 1156, nor are these investments to be counted in determining compliance with those limitations:

(1) Subsidiaries, all of whose stock is owned by one or more insurers, engaged or organized to engage exclusively in the ownership or management of assets authorized under this chapter as investments for the insurer;

(2) Subsidiaries engaged or organized to engage in the kinds of business in which the insurer may engage, provided that the aggregate net cost of the insurer's investments in all such subsidiaries may not exceed 50% of its surplus as to policyholders; and

(3) A subsidiary that is a depository institution, or any company that controls such an institution, that is subject to the federal Gramm-Leach-Bliley Act, Sections 104(c) and 306(2), 113 Stat. 1338, as long as the insurer's total investment in all such subsidiaries does not exceed 5% of the insurer's admitted assets.

An investment described in section 3415 is not considered as an investment in a subsidiary in determining compliance with the limitations of this subsection. [PL 1999, c. 715, §14 (AMD).]

C. Subject to paragraph B, the "net cost of investment" is defined to be the sum of: The total money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of that subsidiary; and all amounts expended in acquiring additional common stock, preferred stock, debt obligations and other securities, and all contributions to the capital or surplus, of a subsidiary

subsequent to its acquisition or formation; less returns of capital, repayments of principal and any other payments reducing the investment in the subsidiary. [PL 1987, c. 399, §14 (NEW).]

D. Investments made or acquired by subsidiaries referred to in paragraph B, subparagraph (1) are considered to be made or acquired directly by the insurer, pro rata, in the case of a subsidiary not wholly owned and, to such extent, are subject to all the provisions and limitations on the making of investments specified in this chapter with respect to investments by the insurer; must be valued in accordance with the provisions of section 901-A and any other applicable provisions of this Title and any applicable rules adopted by the superintendent; and must be located pursuant to section 3408. Those subsidiaries are subject to examination by the superintendent under section 221, subsection 1 and section 222, subsection 1-A. [PL 2013, c. 238, Pt. A, §31 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

E. There shall be excluded from all computations under paragraph A any investment by an insurer in any subsidiary, or by one subsidiary in another subsidiary, to the extent that such investment is reinvested in another subsidiary, but amounts so reinvested shall thereafter be included in such computations unless further excluded or exempted by this chapter. [PL 1987, c. 399, §14 (NEW).]

[PL 2013, c. 238, Pt. A, §31 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

6. Valuation of subsidiary stock. In determining the financial condition of an insurer, all investments made directly or indirectly in the stock of its subsidiaries must be valued in accordance with section 901-A and any rules adopted under that section.

[PL 2001, c. 72, §16 (AMD).]

7. Application of law. Except as provided in section 1155, investments in subsidiaries made pursuant to this section are not subject to any other restrictions or prohibitions contained in this chapter.

[PL 1987, c. 399, §14 (NEW).]

SECTION HISTORY

PL 1987, c. 399, §14 (NEW). PL 1993, c. 313, §29 (AMD). PL 1993, c. 502, §3 (AMD). PL 1993, c. 502, §5 (AFF). PL 1999, c. 715, §14 (AMD). PL 2001, c. 72, §§15, 16 (AMD). PL 2013, c. 238, Pt. A, §31 (AMD). PL 2013, c. 238, Pt. A, §34 (AFF). RR 2021, c. 1, Pt. B, §191 (COR). RR 2021, c. 2, Pt. A, §69 (COR).

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