



## LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON  
COMMISSIONER

May 28, 2020

The Honorable Patrick Page Cortez  
President, Louisiana State Senate  
P.O. Box 94183  
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION  
[apa.senatepresident@legis.la.gov](mailto:apa.senatepresident@legis.la.gov)

The Honorable Clay Schexnayder  
Speaker, Louisiana House of Representatives  
P.O. Box 94062  
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION  
[apa.housespeaker@legis.la.gov](mailto:apa.housespeaker@legis.la.gov)

The Honorable Kirk Talbot  
Chairman of the Senate Insurance Committee  
P.O. Box 94183  
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION  
[apa.s-ins@legis.la.gov](mailto:apa.s-ins@legis.la.gov)

The Honorable Chad Brown  
Chairman of the House Insurance Committee  
P.O. Box 94062  
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION  
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RE: Summary Report - Rule 4, Interlocal Risk Management Agency

Dear President Cortez, Speaker Schexnayder, Senator Talbot, and Representative Brown:

The Louisiana Department of Insurance (LDI) hereby submits the following summary report required by La. R.S. 49:968(D)(1)(b), and announces its intention to proceed to finalize Rule 4, which was published as a Notice of Intent in the April, 2020 edition of the *Louisiana Register*.

Interested persons were provided an opportunity to submit comments to the LDI on the proposed regulation. The LDI did not receive any written or oral comments by the expiration of the comment period.

Subject to legislative oversight, the LDI would like to finalize Rule 4 and submit the regulation to the Office of the State Register for publication in the July 2020 edition of the Louisiana Register. A copy of the summary report will be placed on the LDI's website in accordance with La. R.S. 49:968(D)(1)(c).

If you have any questions or need any additional information, please contact me at (225) 219-7851, or electronically at [Lisa.Henson@ldi.la.gov](mailto:Lisa.Henson@ldi.la.gov).

Sincerely,

Lisa L. Henson  
Staff Attorney  
Louisiana Department of Insurance

Enclosure: Notice of Intent to Amend Rule 4—Interlocal Risk Management Agency

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Statement**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level Of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The Proposed Amended Regulation Will Have No Effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than May 11, 2020, by 4:30 p.m. and should be addressed to Lisa Henson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632, or emailed to [lisa.henson@ldi.la.gov](mailto:lisa.henson@ldi.la.gov). If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rules incorporate and reference the current editions of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. The current editions of these publications serve as the most current professional guidance for entities regulated by the LA Dept. of Insurance.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will not affect revenue collections for state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes will benefit persons and entities seeking to know which handbooks or guidelines are currently being incorporated by reference to serve as professional guidance for entities under the purview of the LA Dept. of Insurance (LDI). These handbooks and guidelines will be available for public viewing in hardcopy form at the offices of the LDI and Office of State Register and online at the NAIC website.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes will not affect competition or employment.

Denise Brignac  
Chief of Staff  
2004#068

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Insurance Office of the Commissioner**

#### **Rule 4—Interlocal Risk Management Agency (LAC 37:XI.Chapter 3)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:11 et seq., the Department of Insurance hereby gives notice of its intent to amend Rule 4 for the purpose to comport with current law and implement the provisions of R.S. 33:2955.

#### **Title 37**

#### **INSURANCE**

#### **Part XI. Rules**

#### **Chapter 3. Rule 4—Interlocal Risk Management Agency**

#### **§301. Purpose**

A. The purpose of this amendment to Rule 4 is to provide for the expansion of the types of investments in which an Interlocal Risk Management Agency could invest

to include selected investments permitted under R.S. 33:2955 and to adopt provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 Session of the Legislature. This rule is designed to facilitate and implement the provisions of that Act. It is intended to supplement, not alter in any manner, the provisions of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), LR 46:

### **§303. Applicability**

A. These provisions shall be applicable to any and all entities which may be defined as an *interlocal risk management agency* by Act 462 of the 1979 Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), amended LR 46:

### **§305. Authority**

A. Rule 4 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), amended LR 46:

### **§313. Solvency or Risk Management Agencies; Trustee Responsibilities**

A. - A.3. ...

4. the board of trustees or its fiscal agent or administrator shall not utilize any of the monies collected as premiums for any purpose unrelated to workmen's compensation or public liability purposes. Further, it shall not borrow any monies from the fund, or in the name of the fund, without advising the Department of Insurance of the nature and purpose of the loan and obtaining approval. The board of trustees may, at its discretion, invest any surplus monies not needed for current obligations, but such investments shall be limited to:

a. direct United States Treasury obligations, the principal and interest of which are fully guaranteed by the government of the United States;

b. bonds, debentures, notes, or other evidence of the indebtedness issued or guaranteed by federal agencies and provided such obligations are backed by the full faith and credit of the United States of America, which obligations include but are not limited to:

- i. U.S. Export-Import Bank;
- ii. Farmers Home Administration;
- iii. Federal Financing Bank;
- iv. Federal Housing Administration Debentures;

v. General Services Administration;

vi. Government National Mortgage Association—guaranteed mortgage-backed bonds and guaranteed pass-through obligations;

vii. U.S. Maritime Administration—guaranteed Title XI financing;

viii. U.S. Department of Housing and Urban Development.

c. Bonds, debentures, notes, or other evidence of the indebtedness issued or guaranteed by U.S. government instrumentalities, which are federally sponsored, and such obligations include but are not limited to:

- i. Federal Home Loan Bank System;
- ii. Federal Home Loan Mortgage Corporation;
- iii. Federal National Mortgage Association;
- iv. Student Loan Marketing Association;
- v. Resolution Funding Corporation.

d. In no instance shall an interlocal risk management agency invest in obligations in Subparagraphs b and c of this Paragraph which are collateralized mortgage obligations that have been stripped into interest only or principal only obligations, inverse floaters, or structured notes. For the purposes of this Item, *structured notes* shall mean securities of U.S. government agencies, instrumentalities, or government-sponsored enterprises, which have been restructured, modified, and/or reissued by private entities.

e. Bonds, debentures, notes, or other evidence of indebtedness issued by the state of Louisiana or any of its political subdivisions provided that the indebtedness shall have a long-term rating of Baa or higher by Moody's Investors Service, a long-term rating of BBB- or higher by Standard and Poor's or a long-term rating of BBB- or higher by Fitch, Inc. or a short-term rating of MIGI or VMIGI by Moody's Investors Service, a short-term rating of A-1 or A-1+ by Standard and Poor's, or a short-term rating of F1 or F1+ by Fitch, Inc.

f. Direct security repurchase agreements of any federal book entry only securities enumerated in Subparagraphs a, b, and c of this Paragraph. *Direct security repurchase agreement* means an agreement under which political subdivision buys, holds for a specified time, and then sells back those securities and obligations enumerated in Subparagraphs a, b, and c of this Paragraph.

g. Time certificates of deposit of any bank domiciled or having a branch office in the state of Louisiana, savings accounts or shares of savings and loan associations and savings bank, as defined by R.S. 6:703(16) or (17), or share accounts and share certificate accounts of federally or state-chartered credit unions issuing time certificates of deposit. Funds invested herein shall not exceed at any time the amount insured by the Federal Deposit Insurance Corporation in any one banking institution, or in any one savings and loan association, or National Credit Union Administration.

h. Deposits in savings and loan associations and commercial banks shall be limited in this state, except in those instances where higher interest rates paid on deposits by such institutions in other states will provide better investment income and such deposits shall not exceed the federally insured amount in any one account, except that the federally insured amount on any one account may be

exceeded if the amount involved in such an account does not exceed the greater of either of the two factors:

i. 5 percent of the combination of surplus and undivided profits and reserves, as currently reported for each bank in this state of in the banking division annual report of the Financial Institution Office of the Department of Commerce (banking control) or financial reports filed with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve Bank of Atlanta;

ii. \$500,000 per institution.

i. Mutual or trust fund institutions which are registered with the Securities and Exchange Commission under the Securities Act of 1933 and the Investment Act of 1940, and which have underlying investments consisting solely of and limited to securities of the United States government or its agencies. Investment of funds in such mutual or trust fund institutions shall be limited to 25 percent of the monies considered available for investment as provided by this Section.

j. Guaranteed investment contracts issued by a bank, financial institution, insurance company, or other entity having one of the two highest short-term rating categories of either Standard and Poor's Corporation or Moody's Investors Service, provided that no such investment may be made except in connection with a financing program for political subdivisions which financing program is approved by the state Bond Commission and offered by a public trust having the state as its beneficiary, provided further that no such investment shall be for a term longer than 18 months, and provided further that any such guaranteed investment contract shall contain a provision providing that in the event the issuer of the guaranteed investment contract is at any time no longer rated in either of the two highest short-term rating categories of Standard and Poor's Corporation or Moody's Investors Service, the investing unit of local government may either be released from the guaranteed investment contract without penalty, or be entitled to require that the guaranteed investment provider collateralize the guaranteed investment contract with any bonds or other obligations which as to principal and interest constitute direct general obligations of, or are unconditionally guaranteed by, the United States of America, including obligations set forth in Subparagraphs a and b of this Paragraph to the extent unconditionally guaranteed by the United States of America.

k. Investment grade commercial paper issued in the United States, traded in the United States markets, denominated in United States dollars, with a short-term rating of at least A-1 by Standard and Poor's Financial Services LLC or P-1 by Moody's Investor Service, Inc. or the equivalent rating by a Nationally Recognized Statistical Rating Organization (NRSRO).

l. Pre-approved first mortgage loans on commercial real estate owned by the fund administrator, located with the state of Louisiana, and occupied by the Fund or its trustees, administrator, or third [arty administrator.

m. Bonds, debentures, notes, or other indebtedness issued by a state of the United States of America other than Louisiana or any such state's political subdivisions provided that all of the following conditions are met.

i. The indebtedness shall have a long-term rating of A3 or higher by Moody's Investors Service, a long-term rating of A- or higher by Standard and Poor's or a long-term rating of A- or higher by Fitch, Inc., or a short-term rating of MIG1 of VMIG1 by Moody's Investor's Service, a short-term rating of A-1 or A-1+ by Standard & Poor's, or a short-term rating of F1 or F1+ by Fitch, Inc.

ii. Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing interlocal risk management agency retains the services of an investment advisor registered with the United States Securities and Exchange Commission; a trust department of an institution that is insured by the Federal Deposit Insurance Corporation, that exercised trust powers in Louisiana, and that has a main office or a bank branch in Louisiana; or a trust company that has offices in Louisiana, that is regulated by the Office of Financial Institutions or the applicable federal agency, and that owes a fiduciary duty to act solely in the best interest of the political subdivision.

n. Bonds, debentures, notes or other indebtedness issued by domestic United States corporations provided that all of the following conditions are met.

i. The indebtedness shall have a long-term rating of Aa3 or higher by Moody's Investors Service, a long-term rating of AA- or higher by Standard and Poor's, or a long-term rating of AA- or higher by Fitch Ratings, Inc.

ii. Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing interlocal risk management agency retains the services of an investment advisor registered with the United States Securities and Exchange Commission; a trust department of an institution that is insured by the Federal Deposit Insurance Corporation, that exercised trust powers in Louisiana, and that has a main office or a bank branch in Louisiana; or a trust company that has offices in Louisiana, that is regulated by the Office of Financial Institutions or the applicable federal agency, and that owes a fiduciary duty to act solely in the best interest of the political subdivision.

o. All interlocal risk management agencies shall develop and adopt an investment policy that details and clarifies investment objectives and the procedures and constraints necessary to reach those objectives. All such investment policies should:

i. reflect the mandate to manage funds prudently;

ii. place appropriate emphasis on the goals of safety of principal first, liquidity second, and yield third.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), amended LR 46:

### **Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended

regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

#### **Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Small Business Statement**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

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4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The Proposed Amended Regulation Will Have No Effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than May 11, 2020, by 4:30 p.m. and should be addressed to Lisa Henson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632, or emailed to [lisa.henson@ldi.la.gov](mailto:lisa.henson@ldi.la.gov). If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)**

The proposed rule will not result in additional costs or savings for state or local governmental units. The proposed rule provides for the expansion of the types of investments in which an Interlocal Risk Management Agency could invest to include selected investments permitted under La. R.S. 33:2955 and adopts provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 Session of the Legislature.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)**

The proposed rules will not affect revenue collections for state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS. (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. The proposed rule provides for the expansion of the types of investments in which an Interlocal Risk Management Agency