

DETERMINING WHETHER PREMIUMS WERE UNJUSTIFIABLY LOWER THAN THOSE PREVAILING IN THE MARKET, THE COMMISSIONER SHALL TAKE INTO CONSIDERATION APPLICABLE INDUSTRY OR ACTUARIAL STANDARDS AT THE TIME THE BUSINESS WAS WRITTEN; ~~OR~~

- (2) FAIL TO ESTABLISH UNDERWRITING PROCEDURES ~~OR~~; OR
- (3) DEVIATE FROM ITS UNDERWRITING PROCEDURES.

(B) THE CONTROLLING BROKER SHALL MAINTAIN RECORDS SUFFICIENT:

(1) TO DEMONSTRATE THAT THE BROKER'S DEALINGS WITH ITS CONTROLLED INSURER WERE FAIR, EQUITABLE, AND IN COMPLIANCE WITH SUBTITLE 32 OF THIS ARTICLE; AND

(2) TO ACCURATELY DISCLOSE THE NATURE AND DETAILS OF ITS TRANSACTIONS WITH THE CONTROLLED INSURER, INCLUDING SUCH INFORMATION AS IS NECESSARY TO SUPPORT THE CHARGES OR FEES TO THE RESPECTIVE PARTIES.

(C) A CONTROLLED INSURER'S CAPITALIZATION AT THE TIME BUSINESS IS PLACED BY A CONTROLLING BROKER AND WITH RESPECT TO SUCH BUSINESS SHALL BE IN COMPLIANCE WITH CRITERIA ESTABLISHED BY THE COMMISSIONER AND WITH ALL APPLICABLE INSURANCE LAWS.

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(A) A BROKER WHICH HAS CONTROL OF AN AUTHORIZED INSURER MAY NOT DIRECTLY OR INDIRECTLY PLACE BUSINESS WITH SUCH INSURER IN ANY TRANSACTION IN WHICH THE BROKER, AT THE TIME THE BUSINESS IS PLACED, IS ACTING ON BEHALF OF THE INSURED FOR ANY COMPENSATION, COMMISSION, OR OTHER THING OF VALUE, UNLESS:

(1) THERE IS A WRITTEN CONTRACT BETWEEN THE CONTROLLING BROKER AND THE INSURER, WHICH HAS BEEN APPROVED BY THE BOARD OF DIRECTORS OF THE INSURER;

(2) (I) PRIOR TO THE EFFECTIVE DATE OF THE POLICY, THE BROKER DELIVERS WRITTEN NOTICE TO THE PROSPECTIVE INSURED DISCLOSING THE RELATIONSHIP BETWEEN THE BROKER AND THE CONTROLLED INSURER. THE DISCLOSURE SHALL BE SIGNED BY THE INSURED AND RETAINED IN THE UNDERWRITING FILE UNTIL THE FILING OF THE EXAMINATION REPORT COVERING THE PERIOD IN WHICH THE COVERAGE IS IN EFFECT; OR

(II) IF BUSINESS IS PLACED THROUGH A SUBBROKER WHO IS NOT A CONTROLLING BROKER, THE CONTROLLING BROKER SHALL RETAIN IN HIS RECORDS A SIGNED STATEMENT FROM THE ~~BROKER~~ SUBBROKER THAT: