

Subpart B. SECURITIES AND STOCK TRANSACTIONS

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CHAPTER 21. STOCK OWNERSHIP STATEMENTS

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Authority

The provisions of this Chapter 21 issued under section 302.1(8) of The Insurance Company Law of 1921 (40 P. S. § 422.1(8)), unless otherwise noted.

Source

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Subchapter A. GENERAL PROVISIONS

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§ 21.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Insurance Company Law of 1921 (40 P. S. § 361 et seq.).

Class—All securities of an insurer which are of substantially similar character, and the holders of which enjoy substantially similar rights and privileges.

Department—The Insurance Department of the Commonwealth.

Equity security—Any stock or similar security, or any voting trust certificate or certificate of deposit for such a security. The term includes any security with or without consideration, which is convertible into a stock or similar security, or carrying any warrant or right to subscribe to or purchase such a security, or any such warrant or right.

Insurer—Any domestic stock insurance company with an equity security subject to the provisions of section 302.1 of act of May 17, 1921 (P. L. 682) (40 P. S. § 422.1), and not exempt under these provisions.

Officer—A president, vice president, treasurer, actuary, secretary, controller or any other person who performs for the insurer functions corresponding to those performed by such officers.

Securities held of record—For the purpose of determining whether the equity securities of an insurer are held of record by 100 or more persons, securities shall be deemed to be “held of record” by each person who is identified as the owner of such securities on records of security holders maintained by or on behalf of the insurer, subject to § 21.2 (relating to securities held of record).

Cross References

This section cited in 31 Pa. Code § 21.22 (relating to certain stock options and acquisitions).

§ 21.2. Securities held of record.

(a) Securities held of record shall be subject to all of the following:

(1) In any case where the records of security holders have not been maintained in accordance with accepted practice, any additional person who would be identified as an owner on such records if the records had been maintained in accordance with accepted practice shall be included as a holder of record.

(2) Securities identified as held of record by a corporation, a partnership, a trust, whether or not the trustees are named, or any other organizations shall be included as held by one person.

(3) Securities identified as held of record by one or more persons as trustees, executors, guardians, custodians or in other fiduciary capacities with respect to a single trust, estate or account shall be included as held of record by one person.

(4) Securities held by two or more persons as co-owners shall be included as held by one person.

(5) Each outstanding unregistered or bearer certificate shall be included as held of record by a separate person, except to the extent that the insurer can establish that if the securities were registered they would be held of record, under this chapter, by a lesser number of persons.

(6) Securities registered in substantially similar names, where the insurer has reason to believe because of the address or other indications that the names represent the same person, may be included as held of record by one person.

(b) Notwithstanding subsection (a), the following additional requirements shall apply to securities held of record:

(1) Securities held, to the knowledge of the insurer, subject to a voting trust, deposit agreement, or similar arrangement shall be included as held of record by the record holders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in these securities. The insurer may rely in good faith on whatever information is received in response to its request from a nonaffiliated insurer of the certificates or evidences of interest.

(2) If the insurer knows or has reason to know that the form of holding securities of record is used primarily to circumvent the act the beneficial owners of the securities shall be deemed to be the record owners thereof.

Cross References

This section cited in 31 Pa. Code § 21.1 (relating to definitions).

§ 21.3. Transactions exempted by time.

Any acquisition or disposition or any equity security by a director or officer of an insurer within 6 months prior to the date on which the act first becomes applicable with respect to such insurer's equity securities, shall not be subject to the operation of section 302.1(2) of the act (40 P. S. § 422.1(2)).

Subchapter B. INITIAL STATEMENTS OF BENEFICIAL OWNERSHIP

Sec.

- 21.11. Filing of statements.
- 21.12. Ownership of over 10% of equity securities.
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- 21.14. Persons not required to file a statement.
- 21.15. Exemptions for purchases and sales by odd-lot dealers.
- 21.16. Transactions necessitating filing.
- 21.17. Ownership of securities held in trust.
- 21.18. Exemptions for small transactions.
- 21.19. Double exemptions.

§ 21.11. Filing of statements.

(a) Initial statements of beneficial ownership of equity securities required by section 302.1 of the act (40 P. S. § 422.1) shall be filed on IDIT-001 (Form 1) as shown in Subchapter F (relating to statement forms).

(b) Statements of changes in such beneficial ownership required by section 302.1(1) of the act (40 P. S. § 422.1) shall be filed on IDIT-002 (Form 2) as shown in Subchapter F.

(c) All the statements shall be prepared and filed in accordance with the requirements of the applicable forms.

§ 21.12. Ownership of over 10% of equity securities.

(a) In determining, for the purpose of section 302.1(1) of the act (40 P. S. § 422.1(1)), whether a person is the beneficial owner directly or indirectly of more than 10% of any class of any equity security, that class shall be deemed to consist of the total amount of the class outstanding, exclusive of any securities of the class held by or for the account of the insurer or a subsidiary of the insurer, except that for the purpose of determining percentage ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of the outstanding securities have been so deposited.

(b) For the purpose of subsection (a), a person acting in good faith may rely on the information contained in the latest Convention Form Statement filed with the Department with respect to the amount of securities of a class outstanding or, in the case of voting trust certificates or certificates of deposit, the amount issuable thereof.

(c) In determining, for the purpose of section 302.1(1) of the act whether a person is the beneficial owner, directly or indirectly, of more than 10% of any class of equity securities, the person shall be deemed to be the beneficial owner of securities of the class which the person has the right to acquire through the exercise of presently exercisable options, warrants or rights or through the conversion of presently convertible securities. The securities subject to the options, warrants, rights or conversion privileges held by a person shall be deemed to be outstanding for the purpose of computing, in accordance with subsection (a), the percentage of outstanding securities of the class owned by the person but shall not be deemed outstanding for the purpose of computing the percentage of the class owned by any other person. This subsection shall not be construed to relieve any person of any duty to comply with section 302.1(1) of the act with respect to any equity securities consisting of options, warrants, rights, or convertible securities which are otherwise subject as a class to that section of the act.

§ 21.13. Disclaimer of beneficial ownership.

Any person filing a statement may expressly declare therein that the filing of the statement shall not be construed as an admission that the person is, for the purpose of the act, the beneficial owner of any equity securities covered by the statement.

§ 21.14. Persons not required to file a statement.

(a) During a period of 12 months following the appointment and qualification of the following persons, securities held by the persons shall be exempt from section 302.1(1) and (2) of the act (40 P. S. § 422.1(1) and (2)):

- (1) Executors or administrators of the estate of a decedent.
- (2) Guardians or committees for an incompetent.
- (3) Receivers, trustees in bankruptcy, assignees for the benefit of creditors, conservators, liquidating agents and other similar persons duly authorized by law to administer the estate or assets of other persons.

(b) If the estate being administered is a beneficial owner of more than 10% of any class of equity security of an insurer subject to the act, the persons named in subsection (a) shall, upon completion of the 12-month period, file statements with respect to the securities held by the estates which they administer as required by section 302.1(1) of the act. They shall also be liable for profits realized from trading in the securities under section 302.1(1) of the act.

(c) Securities reacquired by or for the account of an insurer and held by it for its account shall be exempt from section 302.1(1) and (2) of the act during the time they are held by the insurer.

§ 21.15. Exemptions for purchases and sales by odd-lot dealers.

Securities purchased or sold by odd-lot dealers in odd lots, so far as reasonably necessary to carry on odd-lot transactions, or in round lots to offset odd-lot transactions previously or simultaneously executed or reasonably anticipated in the usual course of business, shall be exempt from the provisions of the act with respect to participation by the odd-lot dealer in the transactions.

§ 21.16. Transactions necessitating filing.

(a) The acquisition or disposition of any transferable option, put, call, spread or straddle shall be deemed such a change in the beneficial ownership of the security to which the privilege relates as to require the filing of a statement reflecting the acquisition or disposition of the privilege, as required by section 302.1(1) of the act (40 P. S. § 422.1(1)).

(b) Nothing in subsection (a) shall exempt any person from filing the statements required upon the exercise of the option, put, call, spread or straddle.

§ 21.17. Ownership of securities held in trust.

(a) Beneficial ownership of a security for the purpose of section 302.1(1) of the act (40 P. S. § 422.1(1)) shall include all of the following:

- (1) Ownership of securities as a trustee where either the trustee or members of his immediate family have a vested interest in the income or corpus of the trust.
- (2) Ownership of a vested beneficial interest in a trust.

(3) Ownership of securities as a settlor of a trust in which the settlor has the power to revoke the trust without obtaining the consent of all the beneficiaries.

(b) Except as provided in subsection (c), beneficial ownership of securities solely as a settlor or beneficiary of a trust shall be exempt from the provisions of section 302.1(1) of the act where less than 20% in market value of the securities having a readily ascertainable market value held by the trust, determined as of the end of the preceding fiscal year of the trust, consists of equity securities with respect to which statements would otherwise be required. An exemption shall likewise be accorded from section 302.1(1) of the act with respect to any obligation which would otherwise be imposed solely by reason of ownership as settlor or beneficiary of securities held in trust where the ownership, acquisition, or disposition of such securities by the trust is made without prior approval by the settlor or beneficiary. No exemption under this subsection shall, however, be acquired or lost solely as a result of changes in the value of the trust assets during any fiscal year or during any time when there is no transaction by the trust in the securities otherwise subject to the reporting requirements of section 302.1(1) of the act.

(c) In the event that 10% of any class of any equity security of an insurer is held in a trust, such trust and the trustees thereof shall be deemed a person required to file the statements specified in section 302.1(1) of the act.

(d) Not more than one statement need be filed to report any holdings or with respect to any transaction in securities held by a trust, regardless of the number of officers, directors or 10% stockholders who are either trustees, settlors or beneficiaries of a trust, if the statement filed discloses the names of all trustees, settlors and beneficiaries who are officers, directors, or 10% stockholders. A person having an interest only as a beneficiary of a trust shall not be required to file the statement so long as he relies in good faith upon an understanding that the trustee of the trust shall file whatever statements might otherwise be required of the beneficiary.

(e) As used in this section, the term “immediate family” of a trustee shall mean:

- (1) A son or daughter of the trustee, or a descendant of either.
- (2) A stepson or stepdaughter of the trustee.
- (3) The father or mother of the trustee, or an ancestor of either.
- (4) A stepfather or stepmother of the trustee.
- (5) A spouse of the trustee.

(6) For the purpose of determining whether any of the relations listed in paragraphs (1)—(5) exist, a legally adopted child of a person shall be considered a child of that person by blood.

(f) In determining, for the purposes of section 302.1(1) of the act, whether a person is the beneficial owner, directly or indirectly, of more than 10% of any

class of an equity security, the interest of the person in the remainder of a trust shall be excluded from the computation.

(g) No statement shall be required by any person, whether or not otherwise subject to the requirements of filing statements under the act, with respect to his indirect interest in portfolio securities held by one of the following:

(1) A pension or retirement plan holding securities of an insurer whose employees generally are the beneficiaries of the plan.

(2) A business trust with over 25 beneficiaries.

(h) Nothing in this section shall be deemed to impose any duties or liabilities with respect to reporting any transaction or holding prior to its effective date.

§ 21.18. Exemptions for small transactions.

(a) Any acquisition of securities shall be exempt from section 302.1(1) of the act (40 P. S. § 422.1(1)) if the person effecting the acquisition does not:

(1) Within 6 months thereafter effect any disposition, otherwise than by way of gift, of securities of the same class.

(2) Participate in acquisitions or in dispositions of securities of the same class having a total market value in excess of \$3,000 for any 6-month period during which the acquisition occurs.

(b) Any acquisition or disposition of securities by way of gift, if the total amount of the gifts does not exceed \$3,000 in market value for any 6-month period, shall be exempt from section 302.1(1) of the act, and may be excluded from the computations prescribed in subsection (a)(2) of this section.

(c) Any person exempted by subsection (a) or (b) shall include in the first statement filed by him after a transaction within the exemption a statement showing his acquisitions and dispositions for each 6-month period or portion thereof which has elapsed since his last filing.

§ 21.19. Double exemptions.

Any transaction which has been or shall be exempted from the requirements of section 302.1(1) of the act (40 P. S. § 422.1) shall be likewise exempted from section 302.1(2) of the act.

Subchapter C. EXEMPTIONS UNDER SECTION 302.1(2) OF THE ACT

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21.31.	Distribution transactions.
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21.34.	Long-term profits incident to options.
21.35.	Acquisitions and dispositions pursuant to mergers and consolidations.
21.36.	Deposit or withdrawal of equity securities.
21.37.	Conversion of equity securities.

- 21.38. Transactions involving sale of subscription rights.
21.39. Qualified or restricted stock options; acceptance of general tender offers.

§ 21.31. Distribution transactions.

(a) Any transaction of purchase and sale, or sale and purchase, of a security which is effected in connection with the distribution of a substantial block of securities, shall be exempt from the provisions of section 302.1(2) of the act (40 P. S. § 422.1(2)) to the extent specified in this section upon the following conditions:

(1) The person effecting the transaction shall be engaged in the business of distributing securities and shall be participating in good faith in the ordinary course of the business in the distribution of the block of securities.

(2) The security involved in the transaction shall be one of the following:

(i) A part of the block of securities, and shall be acquired by the person effecting the transaction with a view to the distribution thereof, from the insurer or other person on whose behalf the securities are being distributed or from a person who is participating in good faith in the distribution of the block of securities.

(ii) A security purchased in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over-allotment or other short position created in connection with the distribution.

(3) Other persons not within the purview of section 302.1(2) of the act shall participate in the distribution of the block of securities on terms at least as favorable as those on which the person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the act by this section. The performance of the functions of manager of a distributing group, however, and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this section.

(b) The exemption of a transaction under subsection (a) with respect to participation of one party thereto, may not render that transaction exempt with respect to participation of any other party therein unless the other party also meets the conditions of this section.

§ 21.32. Certain stock options and acquisitions.

(a) *General.* Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant, or right) under a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan, or any acquisition of a qualified or restricted stock option under a qualified or a restricted stock option plan, or a stock option under an employe stock purchase plan by a director or

officer of an insurer issuing the stock or stock option, shall be exempt from the operation of section 302.1(2) of the act (40 P. S. § 422.1(2)) if the plan conforms with all of the following:

(1) *Approval.* The plan shall be approved directly or indirectly by the affirmative votes of the holders of a majority of the securities of the insurer present, or represented and entitled to vote at a meeting duly held in accordance with the applicable laws of the Commonwealth, or by the written consent of the holders of a majority of the securities of the insurer entitled to vote. This method of approval shall be valid, provided that if the vote or written consent was not solicited substantially in accordance with the proxy rules and regulations prescribed by the National Association of Insurance Commissioners, if any, in effect at the time of the vote or written consent, the insurer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially the same information concerning the plan which would be required by any the rules and regulations so prescribed and in effect at the time the information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the date the act first applies to the insurer, or the acquisition of an equity security for which exemption is claimed, whichever is later. The written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of mailing. Four copies of the written information shall be filed with, or mailed for filing to, the Insurance Commissioner not later than the date on which it is first sent or given to security holders of the insurer. For the purpose of this paragraph, the term “insurer” includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the insurer in connection with the succession.

(2) *Discretion.* If the selection of any director or officer of the insurer to whom stock may be allocated or to whom qualified, restricted or employe stock purchase plan stock options may be granted under the plan, or the determination of the number or maximum number of shares of stock which may be allocated to the director or officer or which may be covered by qualified, restricted or employe stock purchase plan stock options granted to the director or officer, is subject to the discretion of any person, then the discretion shall be exercised only as follows:

(i) With respect to the participation of directors, in any of the following ways:

(A) By the board of directors of the insurer, a majority of which board and a majority of the directors acting in the matter are disinterested persons.

(B) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons.

(C) In accordance with the plan, if the plan does one of the following:

(I) Specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to qualified, restricted or employe stock purchase plan stock options granted to directors and the terms upon which, and the times at which, or the periods within which, the stock may be acquired or the options may be acquired and exercised.

(II) Sets forth, by formula or otherwise, effective and determinable limitations with respect to the number of shares of stock specified in subclause (I) based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors.

(ii) With respect to the participation of officers who are not directors, in any of the following ways:

(A) By the board of directors of the insurer or a committee of three or more directors.

(B) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons.

(iii) For the purpose of this paragraph, a director or committee member shall be deemed to be a disinterested person only if he is not at the time he exercises his discretion eligible, and has not at any time within 1 year prior thereto been eligible, for selection as a person to whom stock may be allocated, or to whom qualified, restricted, or employe stock purchase plan stock options may be granted under the plan or any other plan of the insurer or any of its affiliates entitling the participants therein to acquire stock or qualified, restricted, or employe stock purchase plan stock options of the insurer or any of its affiliates.

(iv) The provisions of this paragraph shall not apply with respect to any option granted, or other equity security acquired, prior to the date that section 302.1(1)—(3) of the act first became applicable with respect to any class of equity securities of any insurer.

(3) *Limitations.* As to each participant or as to all participants, the plan shall effectively limit the aggregate dollar amount or the aggregate number of shares of stock which may be allocated, or which may be subject to qualified, restricted or employe stock purchase plan stock options granted, under the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date, and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to

time, or similar factors which shall result in an effective and determinable limitation. The limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

(b) *Definitions.* Unless the context clearly indicates otherwise, all terms used in this section shall have the same meanings as those in the act and in § 21.1 (relating to definitions). In addition, the following words and terms, as used in this section, have the following meanings:

Plan—Any plan, whether or not set forth in any formal written document or documents and whether or not approved in its entirety at one time.

Qualified stock option, employe stock purchase plan—The definition in sections 422 and 423 of the Internal Revenue Code of 1954, as amended.

Restricted stock option—The definition in section 424(b) of the Internal Revenue Code of 1954, as amended. For the purpose of this section, however, an option which meets all of the conditions of that section other than the date of issuance shall be deemed to be a “restricted stock option.”

(c) *Exercise of an option, warrant, or right.* As used in this section, the term “exercise of an option, warrant, or right” does not include any of the following:

(1) The making of any election to receive under any plan an award of compensation in the form of stock or credits therefor, provided that the election is made prior to the making of the award, and provided further that the election is irrevocable until at least 6 months after termination of employment.

(2) The subsequent crediting of the stock.

(3) The making of any election as to a time for delivery of the stock after termination of employment, provided that such election is made at least 6 months prior to any such delivery.

(4) The fulfillment of any condition to the absolute right to receive the stock.

(5) The acceptance of certificates for shares of the stock.

§ 21.33. Securities received by redeeming other securities.

Any acquisition of an equity security, other than a convertible security of right to purchase a security director or officer of the insurer issuing the security shall be exempt from the operation of section 302.1(2) of the act (40 P. S. § 422.1(2)) provided all of the following apply:

(1) The equity security is acquired by way of redemption of another security of an insurer substantially all of whose assets other than cash (or Government bonds) consist of securities of the insurer issuing the equity security so acquired, and which:

(i) Represented substantially and in practical effect a stated or readily ascertainable amount of such equity security.

(ii) Had a value which was substantially determined by the value of such equity security.

(iii) Conferred upon the holder the right to receive the equity security without the payment of any consideration other than the security redeemed.

(2) No security of the same class as the security redeemed was acquired by the director or officer within 6 months prior to the redemption or is acquired within 6 months after the redemption.

(3) The insurer issuing the equity security acquired has recognized the applicability of paragraph (1) by appropriate corporate action.

§ 21.34. Long-term profits incident to options.

(a) The following provisions apply to long-term profits incident to options:

(1) To the extent specified in subsection (b), the Insurance Commissioner exempts as not comprehended within the purposes of section 302.1(2) of the act (40 P. S. § 422.1(2)) any transaction or transactions involving the purchase and sale, or sale and purchase, of any equity security if such purchase is pursuant to the exercise of an option or similar right acquired more than six months before its exercise, or acquired pursuant to the terms of an employment contract entered into more than 6 months before its exercise.

(2) The profits inuring to the insurer in the transactions may not exceed the difference between the proceeds of sale and the lowest market price of any security of the same class within 6 months before or after the date of sale.

(3) Nothing in this subsection shall be deemed to enlarge the amount of profit which would inure to the insurer in the absence of this section.

(b) Also exempted from section 302.1(2) of the act shall be the disposition of a security purchased in a transaction specified in subsection (a) under a plan or agreement for merger or consolidation, or reclassification of the insurer's securities, or for the exchange of its securities for the securities of another person which has acquired its assets, or which is in control, as defined in section 368(c) of the Internal Revenue Code of 1954, as amended, of a person which has acquired its assets, if the terms of the plan or agreement are binding upon all stockholders of the insurer except to the extent that dissenting stockholders may be entitled, under statutory provisions or provisions contained in the certificate of incorporation, to receive the appraised or fair value of their holdings.

(c) The exemptions provided by subsections (a) and (b) do not apply to any transaction made unlawful by section 302.1(3) of the act (40 P. S. § 422.1(3)), or by any rules and regulations thereunder.

(d) The burden of establishing the market price of a security for the purpose of this section shall rest upon the person claiming the exemption.

§ 21.35. Acquisitions and dispositions pursuant to mergers and consolidations.

(a) As used in this section, the term “merger” shall include the sale or purchase of substantially all the assets of one insurer by another in exchange for stock which is then distributed to the security holders of the insurer which sold its assets.

(b) The following transactions shall be exempt from section 302.1(2) of the act (40 P. S. § 422.1(2)):

(1) The acquisition of a security of an insurer under a merger or consolidation and in exchange for a security of a company which prior to the merger or consolidation owned 85% or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company.

(2) The disposition of a security under a merger or consolidation of an insurer which prior to the merger or consolidation owned 85% or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company.

(3) The acquisition of a security of an insurer pursuant to a merger or consolidation and in exchange for a security of a company which prior to such merger or consolidation held over 85% of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to the merger or consolidation, as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

(4) The disposition of a security under a merger or consolidation of an insurer which prior to the merger or consolidation held 85% or more of the equity securities of all other companies involved in the merger or consolidation according to their book value prior to merger or consolidation, as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

(c) Notwithstanding subsection (a), if an officer, director or stockholder makes any purchase (other than a purchase exempted by this section) of a security in any company involved in the merger or consolidation and any sale (other than a sale exempted by this section) of a security in any other company involved in the merger or consolidation within any period of less than 6 months during which the merger or consolidation took place, the exemption provided by this section shall be available to that officer, director or stockholder to the extent of the purchase and sale.

§ 21.36. Deposit or withdrawal of equity securities.

Any acquisition or disposition of an equity security involved in the deposit of the security under, or the withdrawal of the security from, a voting trust or

deposit agreement, and the acquisition or disposition in connection therewith of the certificate representing the security, shall be exempt from the operation of section 302.1(2) of the act (40 P. S. § 422.1(2)), if substantially all of the assets held under the voting trust or deposit agreement immediately after the deposit or immediately prior to the withdrawal, as the case may be, consisted of equity securities of the same class as the security deposited or withdrawn, provided that this section does not apply to the extent that there shall have been either a purchase of an equity security of the class deposited and a sale or any certificate representing an equity security of the class, or a sale of an equity security of the class deposited and purchase of any certificate representing an equity security of the class (otherwise than in a transaction involved in the deposit or withdrawal or in a transaction exempted by another provision of the regulations under section 302.1(2) of the act within a period of less than 6 months, which includes the date of the deposit or withdrawal.

§ 21.37. Conversion of equity securities.

(a) *Acquisition and disposition.* For the purpose of this section, an equity security may not be deemed to be acquired or disposed of upon conversion of an equity security if the terms of the equity security converted require the payment or entail the receipt, in connection with such conversion, of cash or other property (other than equity securities involved in the conversion) equal in value at the time of conversion to more than 15% of the value of the equity security issued upon conversion.

(b) *Exemption.* Any acquisition or disposition of an equity security involved in the conversion of an equity security which by its terms or pursuant to the terms of the insurer's charter or other governing instruments, is convertible immediately or after a stated period of time into another equity security of the same insurer, shall be exempt from the operation of section 302.1(2) of the act. This exemption, however, shall not apply to the extent that there shall have been either of the following:

(1) A purchase of an equity of the class convertible (including any acquisition of or change in a conversion privilege) and a sale of any equity security of the class issuable upon conversion.

(2) A sale of any equity security of the class convertible and any purchase of any equity security issuable upon conversion (otherwise than in a transaction involved in the conversion or in a transaction exempted by any other provision of the regulations under section 302.1(2) of the act within a period of less than 6 months including the date of conversion.

(c) *Convertible securities.* For the purpose of this section, an equity security shall be deemed convertible if it is convertible at the option of the holder or of some other person or by operation of the terms of the security or the governing instruments. The period of 6 months in subsection (a) shall include the date of conversion.

§ 21.38. Transactions involving sale of subscription rights.

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Beneficiary security—A security registered pursuant to section 12 of the Securities Exchange Act (15 U.S.C.A. § 771), to the holders of which a subscription right is granted.

Subscription right—Any warrant or certificate evidencing a right to subscribe to or otherwise acquire an equity security.

Subscription security—A security which is the subject of a subscription right.

(b) *Exemptions from section 302.1(2) of the act (40 P. S. § 422.1(2)).* Any sale of a subscription right to acquire any subject security of the same insurer shall be exempt from the provisions of section 302.1(2) of the act, to the extent prescribed in this section, if any of the following occur:

(1) The subscription right is acquired, directly or indirectly, from the insurer without the payment of consideration.

(2) The subscription right by its term expires within 45 days after the issuance thereof.

(3) The subscription right by its terms is issued on a pro rata basis to all holders of the beneficiary security of the insurer.

(4) A registration statement under the Securities Act of 1933 (15 U.S.C.A. § 77a et seq.) is in effect as to each subject security, or the applicable terms of any exemption from such registration have been met in respect to each subject security.

(c) *Exception.* Notwithstanding anything contained in this section to the contrary, if a person purchases subscription rights for cash or other consideration, a sale by such person of subscription rights otherwise exempted by this section will not be so exempted to the extent of such purchases within a 6-month period preceding or following the sale.

§ 21.39. Qualified or restricted stock options; acceptance of general tender offers.

The disposition of an equity security acquired under a qualified or restricted stock option by means of the acceptance of a tender offer made to all stockholders of the company generally shall not be considered the sale of an equity security for the purposes of section 302.1(2) of the act (40 P. S. § 422.1(2)).

Subchapter D. EXEMPTIONS UNDER SECTION 302.1(3) OF THE ACT

Sec.	
21.51.	Certain securities.
21.52.	Transactions effected in connection with distribution.
21.53.	Sales of securities to be acquired.

§ 21.51. Certain securities.

Any security shall be exempt from the operation of section 302.1(3) of the act (40 P. S. § 422.1(3)) to the extent necessary to render lawful under the section execution by brokers of an order for an account in which the broker has no direct or indirect interest.

§ 21.52. Transactions effected in connection with distribution.

Any security shall be exempt from the operation of section 302.1(3) of the act (40 P. S. § 422.1(3)) to the extent necessary to render lawful under the section any sale made by or on behalf of the dealer in connection with a distribution of a substantial block of securities upon the following conditions:

(1) The sale shall be represented by an over-allotment in which the dealer participates as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling, or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders of some other class of persons.

(2) Other persons not within the purview of section 302.1(3) of the act shall participate in the distribution of such block of securities on terms at least as favorable as those on which the dealer is participating, and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of section 302.1(3) of the act by this section. The performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions, however, shall not preclude an exemption which would otherwise be available under this section.

§ 21.53. Sales of securities to be acquired.

(a) If any person is entitled, as an incident to his ownership of an issued security and without the payment of consideration, to receive another security "when issued" or "when distributed," the security to be acquired shall be exempt from the operation of section 302.1(3) of the act (40 P. S. § 422.1(3)) if the following conditions are met:

(1) The sale shall be made subject to the same conditions as those attaching to the right of acquisition.

(2) The person shall exercise reasonable diligence to deliver the security to the purchaser promptly after his right of acquisition matures.

(3) The person shall report the sale on the appropriate form for reporting transactions by persons subject to section 302.1(1) of the act (40 P. S. § 422.1).

(b) Subsection (a) of this section shall not be construed as exempting transactions involving both a sale of a security “when issued” or “when distributed” and a sale of the security by virtue of which the seller expects to receive the “when issued” or “when distributed” security, if the two transactions combined result in a sale of more units than the aggregate of those owned by the seller, plus those to be received by him pursuant to his right of acquisition.

Subchapter E. ARBITRAGE TRANSACTIONS

Sec.
21.61. Inclusion in statements.

§ 21.61. Inclusion in statements.

(a) It shall be unlawful for any director or officer of an insurer to effect any foreign or domestic arbitrage transaction in any equity security of the insurer, unless he includes the transaction in the statements required by section 302.1(1) of the act (40 P. S. § 422.1(1)) and accounts to the insurer for the profits arising from the transaction as provided in section 302.1(2) of the act (40 P. S. § 422.1).

(b) The provisions of section 302.1(3) of the act (40 P. S. § 422.1) shall not apply to the arbitrage transactions.

(c) The provisions of the act shall not apply to any bona fide foreign or domestic arbitrage transaction insofar as it is effected by any person other than a director or officer of the insurer.

Subchapter F. STATEMENT FORMS

FORM 1—STATEMENT OF BENEFICIAL OWNERSHIP

Sec.
21.71. Sample copy.
21.72. Persons required to file statements.
21.73. Filing date.
21.74. Filing location.
21.75. Separate statements.
21.76. Reporting person.
21.77. Information as to beneficial ownership.
21.78. Title of security.
21.79. Nature of ownership.
21.80. Statement of amount owned.

21.81. Signature.

FORM 2—CHANGES IN BENEFICIAL OWNERSHIP

- 21.91. Sample form.
- 21.92. Persons required to file statements.
- 21.93. Filing date.
- 21.94. Filing location.
- 21.95. Separate statements.
- 21.96. Reporting person.
- 21.97. Transactions and holdings to be reported.
- 21.98. Title of security.
- 21.99. Date of transaction.
- 21.100. Nature of ownership.
- 21.101. Statement of amount owned.
- 21.102. Character of the transaction.
- 21.103. Signature.

Cross References

This Subchapter cited in 31 Pa. Code § 21.11 (relating to filing of statements).

FORM 1—STATEMENT OF BENEFICIAL OWNERSHIP

§ 21.71. Sample copy.

Attached hereto as Exhibit A and made a part of this regulation is a sample copy of Form 1.

**EXHIBIT A
COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT
HARRISBURG**

FORM 1

INITIAL STATEMENT OF BENEFICIAL OWNERSHIP OF SECURITIES
FILED PURSUANT TO ACT 329 OF THE 1965 SESSION OF THE GENERAL
ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA,
APPROVED NOVEMBER 9, 1965, ADDING SECTION 302.1 TO THE ACT
OF MAY 17, 1921, P. L. 682.

(Name of insurance company)

(Name of person whose ownership is reported)

(Business address of such person; street, city, state, zip)

(Relationship of such person to company named above)(See Instruction 5)

(Date of event which requires the filing of this statement) (See Instruction 6)

SECURITIES BENEFICIALLY OWNED

Title of Security (See Instruction 7)	Nature of Ownership (See Instruction 8)	Amount Owned Beneficially (See Instruction 9)

REMARKS:

Date of Statement _____ I affirm under penalty of perjury that
the foregoing is full, true, and correct.

Signed at: _____
(City) (State) (Signature)

§ 21.72. Persons required to file statements.

Form 1 shall be filed with the Department by every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such a company.

Cross References

This section cited in 31 Pa. Code § 21.53 (relating to filing date); and 31 Pa. Code § 21.57 (relating to information as to beneficial ownership).

§ 21.73. Filing date.

(a) Persons who hold any of the relationships specified in § 21.52 (relating to persons required to file statements) shall file a statement on or before July 1, 1966, or within ten days after assuming such a relationship, whichever date occurs later.

(b) Statements shall not be deemed to have been filed with the Department until they have actually been received by it.

§ 21.74. Filing location.

One signed copy of each statement shall be filed with the Insurance Commissioner, Pennsylvania Department of Insurance, Room 108, Finance Building, Harrisburg, Pennsylvania 17120.

§ 21.75. Separate statements.

A separate statement shall be filed with respect to the securities of each company.

§ 21.76. Reporting person.

The relationship of the reporting person to the company shall be clearly indicated, such as, "Director," "Director and Vice President," or "Beneficial owner of more than 10% of the company's common stock."

§ 21.77. Information as to beneficial ownership.

The information as to beneficial ownership of securities shall be given as of January 1, 1966, or in the case of persons who subsequently assume any of the relationships specified in § 21.52 (relating to persons required to file statements), on the date such relationship was assumed.

§ 21.78. Title of security.

The statement of the title of a security shall clearly identify the security even though there may be only one class.

§ 21.79. Nature of ownership.

(a) Under “Nature of Ownership” on the form, it shall be stated whether ownership of the securities is “direct” or “indirect.”

(b) If the ownership is indirect, that is, through a partnership, corporation, trust, or other entity, the name or identity of the medium through which the securities are indirectly owned shall be indicated, in a footnote or some other appropriate manner.

(c) The fact that securities are held in the name of a broker or other nominee does not of itself constitute indirect ownership.

(d) Securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership.

§ 21.80. Statement of amount owned.

(a) When stating the amount of securities owned beneficially, the par value of the securities and the number of shares or other units of securities shall be given.

(b) If securities are indirectly owned, the entire amount of securities owned by the entity shall be stated.

§ 21.81. Signature.

If the statement is filed for a corporation, partnership, trust, or the like, the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement.

FORM 2—CHANGES IN BENEFICIAL OWNERSHIP**§ 21.91. Sample form.**

Attached hereto as Exhibit B and made a part of this regulation is a sample copy of Form 2.

EXHIBIT B
COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT
HARRISBURG
FORM 2

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES FILED PURSUANT TO ACT 329 OF THE 1965 SESSION OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, APPROVED NOVEMBER 9, 1965, ADDING SECTION 302.1 TO THE ACT OF MAY 17, 1921, P. L. 682.

(Name of insurance company)

(Name of person whose ownership is reported)

(Business address of such person; street, city, state, zip)

(Relationship of such person to company named above)(See Instruction 5)

Statement for Calendar Month of _____. 19 ____
CHANGES DURING MONTH AND MONTH-END OWNERSHIP
(See Instruction 6)

Title of Security (See Instruction 7)	Date of Transaction (See Instruction 8)	Amount Bought or otherwise Acquired (See Instruction 9)	Amount Sold or otherwise Disposed of (See Instruction 9)	Nature of Ownership (See Instruction 10)	Amount Owned at End of Month (See Instruction 9)
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REMARKS:

Date of Statement _____ I affirm under penalty of perjury that the foregoing is full, true, and correct.

Signed at: _____
(City) (State) (Signature)

§ 21.92. Persons required to file statements.

Statements on Form 2 shall be filed with the Department by every person who at any time during any calendar month was directly or indirectly the beneficial owner of more than 10% of any class of equity security of a domestic stock insurance company, or a director or officer of any company which is the issuer of such securities, and who during such month had any change in his beneficial ownership of any class of equity security of such company.

§ 21.93. Filing date.

(a) Statements shall be filed on or before the tenth day after the end of each month in which any change in beneficial ownership has occurred.

(b) Statements shall not be deemed to have been filed with the Department until they have actually been received by it.

§ 21.94. Filing location.

One signed copy of each statement shall be filed with the Insurance Commissioner, Pennsylvania Department of Insurance, Room 108, Finance Building, Harrisburg, Pennsylvania 17120.

§ 21.95. Separate statements.

A separate statement shall be filed with respect to the securities of each company.

§ 21.96. Reporting person.

The relationship of the reporting person to the company shall be clearly indicated, such as, "Director," "Director and Vice President," or "Beneficial owner of more than 10% of the company's common stock."

§ 21.97. Transactions and holdings to be reported.

(a) Each transaction shall be reported even though purchases and sales during the month are equal or the change involves only the nature of ownership, for example, from direct to indirect ownership.

(b) Beneficial ownership at the end of the month of all classes of securities required to be reported shall be shown even though there has been no change during the month in the ownership of securities of one or more classes.

§ 21.98. Title of security.

The statement of the title of the security shall clearly identify the security even though there may be only one class, for example, "Class A, Common Stock," "Six-Dollar Convertible Preferred Stock" or the like.

§ 21.99. Date of transaction.

The exact date, specifying the month, day, and year of each transaction, shall be stated opposite the amount involved in the transaction.

§ 21.100. Nature of ownership.

(a) Under "Nature of Ownership" on the form, it shall be stated whether ownership of the securities is "direct" or "indirect."

(b) If the ownership is indirect, that is, through a partnership, corporation, trust, or other entity, the name or identity of the medium through which the securities are indirectly owned shall be indicated, in a footnote or some other appropriate manner.

(c) The fact that securities are held in the name of a broker or other nominee does not of itself constitute indirect ownership.

(d) Securities owned indirectly shall be reported on separate lines from those owned directly and from those owned through a different type of indirect ownership.

§ 21.101. Statement of amount owned.

(a) When stating the amount of securities acquired, disposed of, or beneficially owned, the par value of the securities and the number of shares or other units of securities shall be given.

(b) If securities are indirectly owned, that is, through a partnership, corporation, trust, or some other entity, the entire amount of securities involved in the transaction or owned by the partnership, corporation, trust, or other entity shall be stated.

§ 21.102. Character of the transaction.

(a) If the transaction involved was with the issuer of the securities, that fact shall be stated.

(b) If the transaction involved the purchase of securities through the exercise of options, that fact and the exercise price per share shall be stated.

(c) If any other purchase or sale was effected otherwise than on the open market, that fact shall be indicated.

(d) If the transaction was not a purchase or sale, its character shall be indicated.

(e) The information required by subsections (a)—(d) may be set forth in the table or under "Remarks" or by a separate sheet affixed to Form 2.

§ 21.103. Signature.

If the statement is filed for a corporation, partnership, trust, or the like, the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement.

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