

## **FREQUENTLY ASKED QUESTIONS**

### **Industry Questions:**

**Question 1:** Suitcase Mutual Insurance Company, a Texas domestic wants to apply for a Certificate of Authority in Kansas. Which application package should it use?

**Answer:** Expansion Application

**Question 2:** Pretzel Insurance Company, a Florida domestic wants to redomesticate to Indiana. Which application package should it use?

**Answer:** Primary Application

**Question 3:** The firm of Dewey, Cheetam & Howe would like to form a new insurer. Which application package should it use?

**Answer:** Primary Application

**Question 4:** Offshore Insurance Company, an alien insurer would like to utilize New York as a port of entry, which application package should it use?

**Answer:** Primary Application

**Question 5:** Can I submit the UCAA Application even though it is not complete? We expect the independent verification of the NAIC Biographical Affidavits within three to four weeks.

**Answer:** If an application is received with a letter indicating the NAIC Biographical Affidavits with independent verification have been mailed by a verification service, a reasonable amount of time should be allowed for the receipt of those documents. The reason for this allowance is that they are submitted directly to the regulator by the independent third party. Therefore, it is sometimes difficult to coordinate delivery of documents when sent from two different locations.

**Question 6:** How should I organize the UCAA application?

**Answer:** There are directions on the UCAA web site and manual under “How to File”. If it isn’t prepared in accordance with those instructions, the application will be returned to you.

**Question 7:** Regarding the Questionnaire, there are several questions that require a detailed explanation. Can I respond by saying, “Refer to the Narrative to the Plan of Operation”?

**Answer:** The goal of a Uniform State is to process a UCAA application within a specified timeframe. The timeframes vary depending on the type of UCAA application. Much time is lost when the reviewing state has to search for an answer to a very specific

question. Please respond to these specific questions by attaching a written explanation to the Questionnaire, which references the item number in the Questionnaire.

**Question 8:** XYZ Insurance Company is part of a Holding Company whose stock is traded on NYSE or NASDAQ. According to the Proxy Statement of the Holding Company an unaffiliated corporate entity owns 10% or more of the shares of stock of the Holding Company. How do I file their biographicals?

**Answer:** A company has two choices, either biographicals have to be obtained from each of the officers and directors of the unaffiliated corporation owning the shares or the company can approach the unaffiliated corporation owning 10% or more of the shares and ask them to file a Disclaimer of Affiliation/Control. This disclaimer generally consists of disclosing 1) the number of authorized, issued and outstanding voting securities of the Holding Company, 2) the number and percentage of shares of the Holding Company's voting securities which are held of record or known to be beneficially owned by the person (or corporation) disclaiming control and all affiliates, and the number of such shares concerning which there is a right to acquire, directly or indirectly, 3) all relationships and bases for affiliation between the Holding Company and the person (or corporation) disclaiming control and all affiliates of such person and 4) a statement explaining why such person should not be considered to control the Holding Company. This information may also have been previously filed with the company's domiciliary state as it relates to their Holding Company registration statement.

**Question 9:** Can a company reference another Affiliate Company's UCAA for biographicals or other documents in common with applicant?

**Answer:** One of the goals of the UCAA and the speed with which the states will review the application is to have a complete application in front of them. Each state is different with respect to how they store their files and it sometimes becomes too cumbersome to track down an affiliate company's application. In addition, biographicals and background checks greater than 12 months old are not acceptable and must be completed with a current date. You might ask the state if the biographicals are less than 12 months old whether a photocopy of the biographical for the current application would suffice, so long as the previous affiliate who filed for admission filed original copies. In addition you can ask the entity that prepared the background checks on officers and directors to forward copies to additional states. Again the entity that prepared the background check will only be able to provide this additional service if the information is less than 6- 12 months old. Some of these entities will not forward copies beyond 6 months when based on existing data.

**Question 10:** How does a Prescription Drug Plan Sponsor become licensed?

**Answer:** In order to become licensed, the PDP's must complete a primary application and file the appropriate forms in hard copy to their Department of Insurance. The requirements for each state may be located on our web site.

[http://www.naic.org/industry\\_ucaa.htm](http://www.naic.org/industry_ucaa.htm)

For state specific questions on Prescription Drug Plan licensure please contact the state directly.

**Question 11:** Who must submit the NAIC Biographical Affidavit?

**Answer:** The NAIC Biographical Affidavit is required to be submitted by an applicant in connection with pending or future application(s) for licensure or a permit to organize with a department of insurance in one or more states. The NAIC Biographical Affidavit must be submitted on behalf of all officers, directors and key managerial personnel of the applicant and individuals with a ten percent (10%) or more beneficial ownership in the applicant or the applicant's ultimate controlling parent ("Affiant").

**Question 12:** What type of information is requested in the NAIC Biographical Affidavit?

**Answer:** The NAIC Biographical Affidavit requests information with respect to your employment history, education, personal information and character. The NAIC Biographical Affidavit also includes the Disclosure and Authorization Concerning Background Reports (the "Disclosure & Authorization Form"). The Disclosure & Authorization Form permits a background investigation to be conducted on the Affiant by an Independent Third Party (as defined in paragraph (i)).

**Question 13:** Which Disclosure & Authorization Form should be utilized?

**Answer:** The NAIC Biographical Affidavit includes three types of Disclosure & Authorization Form. There are three different Disclosure & Authorization Forms since certain state laws; regulations and rules require different kinds of disclosures and wording within such form. An Affiant must sign the corresponding Disclosure & Authorization Form(s) for the respective state(s) where the affiant has lived or worked within the last ten years. Refer to the Disclosure & Authorization Forms for further information.

**Question 14:** Why is the NAIC Biographical Affidavit necessary?

**Answer:** The NAIC Biographical Affidavit is used to evaluate the suitability of the Affiant in connection with an applicant's pending or future application(s) for licensure or a permit to organize with a department of insurance in one or more states.

The information contained in the NAIC Biographical Affidavit is used as a tool to perform a background investigation where certain items must be verified. The background investigation may contain information bearing on the Affiant's character, general reputation, personal characteristics, mode of living and credit standing. The background investigation shall be utilized to create a background report (the "Background Report").

**Question 15:** How long is the Disclosure & Authorization Form valid?

**Answer:** The Disclosure & Authorization Form is valid for a maximum of one year and, in certain instances, only valid for one pending application. Additionally, an Affiant may revoke the authorization at any time by delivering a written revocation to the applicant. Refer to the Disclosure & Authorization Form for further information.

**Question 16:** Are the Background Reports subject to the Fair Credit Reporting Act?

**Answer:** The Background Reports are subject to the Fair Credit Reporting Act (“FCRA”). Pursuant to FCRA, the state departments of insurance and an applicant who is seeking admission are considered “users” of consumer reports. The FCRA requires that the Affiant be provided with a copy of the “Summary of your Rights Under the Fair Credit Reporting Act.” Applicants should provide a copy of the Summary of your Rights under the Fair Credit Reporting Act to each Affiant. This summary can be found at the Federal Trade Commission (“FTC”) website at <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre35.pdf>

Applicants and state departments of insurance are required to comply with FCRA, especially as it relates to confidentiality of the information contained in such consumer reports. To the extent required by law, the Background Reports procured under the Disclosure & Authorization Form should be maintained as confidential. A copy of FCRA can be found at <http://www.ftc.gov/os/statutes/031224fcra.pdf>

**Question 17:** Who is permitted to receive a copy of the Background Report?

**Answer:** The Background Report may be received by a department of insurance in any state where an applicant files or intends to file an application, and to the applicant. Affiants, who desire a copy of their Background Report, may request a copy from the applicant or the CRA as indicated on the Disclosure & Authorization Form. Refer to the Disclosure & Authorization Form for further information.

**Question 18:** Is any other information or documentation required to be submitted to a state department of insurance?

**Answer:** Please check state specific requirements in the chart referenced below for those states that require additional background information, such as fingerprints, in place of or in addition to, NAIC Biographical Affidavits. If applying in one of those states, necessary fingerprint cards and processing fees should be included.

Original NAIC Biographical Affidavits, which contain the Disclosure & Authorization Form, should be submitted to the State Department(s) of Insurance as Item 13 of your application.

Click here for Fingerprint and Biographical Affidavit information [[PDF](#)]

**Question 19:** What is an Independent Third Party?

Independent Third Party is defined as:

- (a) A consumer reporting agency (“CRA”) by the Federal Trade Commission (“FTC”) and therefore subject to the FCRA,
- (b) Has the ability to perform international background investigations,

- (c) One whose officers and directors have no material affiliation with the applicant other than stock ownership amounting to less than 1% of total stock outstanding, unless prior approval is given by the department of insurance to which application is being made, and
- (d) **Has agreed to comply with the NAIC Background Reporting Best Practices and Guidelines.**

**Question 20:** Is it necessary to submit the NAIC Biographical Affidavit for a new officer, director or key managerial position?

**Answer:** Some states require the NAIC Biographical Affidavit for a change in key managerial positions or for a new officer or director. Please refer to the chart located on the NAIC Web site for Fingerprint and Biographical Affidavit Requirements. Requirements after licensure are listed on the right hand side of the chart.

**Question 21:** Does it matter which agency, listed on the Third-Party Vendors chart, I use for obtaining an independent third party background report?

**Answer:** Some states require specific agencies for conducting the independent review. It is the applicant's responsibility to choose an appropriate agency when a state specifies a specific agency. It is also the applicant's responsibility to choose an agency that is capable of performing international searches when appropriate. If the state rejects the background report, for insufficient information, it is the applicant's responsibility to obtain another agency for an acceptable report.

**Question 22:** The NAIC Biographical Affidavit was recently amended, will the state's still accept the previous version or will I need to redo all previously completed biographical affidavits?

**Answer:** The Uniform states are aware that from time to time the forms may be amended by the National Treatment and Coordination (E) Working Group and that a transition period is necessary when affiants are in the process of submitting an application and affidavit's were completed prior to the revision date. The states should accept the old version of the form up to 12 months from the revision date, when applications are in process or submitted prior to the revision date. For newly completed applications the new form is required.

Refer to the UCAA website for a list of independent third party vendors/CRA's.

**ADDITIONAL QUESTIONS AND ANSWERS FOR BIOGRAPHICAL AFFIDAVITS.**