

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	05/05/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 6/13/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

31 05 08 .02 - 28

3. Name of Promulgating Authority

Maryland Insurance Administration

4. Name of Regulations Coordinator

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5. Name of Person to Call About this Document

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6. Check applicable items:

X- New Regulations

X- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: April 24, 2014.

X- Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes **X-** No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Phoebe Pappas, Assistant Attorney General, (telephone #410-468-2032) on May 2, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Therese M. Goldsmith

Title

Insurance Commissioner

Telephone No.

410-468-2090

Date

May 2, 2014

MARYLAND INSURANCE ADMINISTRATION

Subtitle 05 ASSETS, LIABILITIES, RESERVES, AND INVESTMENTS OF INSURERS

31.05.08 Credit for Reinsurance

Authority: Insurance Article, §§1-101(jj), 2-109, 2-205, 2-209, and 5-901—[5-905] 5-916, Annotated Code of Maryland

Notice of Proposed Action

□

The Insurance Commissioner proposes to amend Regulations .02 -.05, .07-.10, .12, .14 -.20, and .23; add Regulations .25 - .28; and repeal .13, .21 and .24 under COMAR 31.05.08 Credit for Reinsurance.

Statement of Purpose

The purpose of this action is to implement changes made to Title 5, Subtitle 9 of the Insurance Article, Annotated Code of Maryland by Chapter 321, Laws of Maryland, 2013 Session of the Maryland General Assembly and are based upon recent amendments to model law and regulation developed by the National Association of Insurance Commissioners entitled “Credit for Reinsurance Model Law” (No. 785) and “Credit for Reinsurance Regulation” (No. 786), respectively.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Katrina Lawhorn, Regulations Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, or call 410-468-2450, or email to katrina.lawhorn@maryland.gov, or fax to 410-468-2020. Comments will be accepted through July 14, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

The bill's requirements can be handled with existing budgeted resources.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

The regulations provide the standards for a licensed ceding insurer to receive credit for reinsurance ceded to a certified reinsurer as a reduction of collateral requirements and include provisions that establish:

- eligibility requirements to be considered for certification as a certified reinsurer;
- eligibility requirements of a jurisdiction in which an assuming insurer may be domiciled to be considered a qualified jurisdiction;
- eligibility requirements to be considered for approval as an accredited reinsurer;
- a rating method to be used in the certification process; and
- a sliding scale with the level of required collateral varying from 0% to 100% of ceded liabilities based on the certified reinsurer's rating.

Other provisions of the proposed regulations include new contractual provisions, secured obligations in certain manners and forms, annual reporting by the certified reinsurer and notification if reinsurance recoverables or ceded reinsurance when thresholds are met.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 05 ASSETS, LIABILITIES, RESERVES, AND INVESTMENTS OF INSURERS

Chapter 08 Credit for Reinsurance

Authority: Insurance Article, §§1-101(jj), 2-109, 2-205, 2-209, and 5-901—[5-905] 5-916, Annotated Code of Maryland

.01 Applicability.
(text unchanged)

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Accredited reinsurer" means an unauthorized insurer who is accepted by the Commissioner to act as a reinsurer in the State under Insurance Article, [§5-905]§ 5-906, Annotated Code of Maryland.

(2) "Beneficiary" means:

(a) — (b) (text unchanged)

(3) Grantor.

(a) (text unchanged)

(b) When established in conjunction with a reinsurance [agreement] *contract*, the grantor is the unauthorized unaccredited assuming insurer.

(4) "Liabilities", as used in Regulations .08—.11 *of this chapter*, means the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers that are not otherwise secured by acceptable means, and shall include:

(a) (text unchanged)

(b) (text unchanged)

(5) "Mortgage-related security", as used in Regulation .10 *of this chapter*, means an obligation that is rated AA or higher (or the equivalent) by a [securities rating agency recognized] *nationally recognized statistical rating organization approved by the Securities Valuation Office* and that either:

(a) — (b) (text unchanged)

(6) "NAIC" means *National Association of Insurance Commissioners*.

[(6)] (7) — [(7)] (8) (text unchanged)

(9) "Qualified jurisdiction" has the meaning set forth in Insurance Article, § 5-901(d), Annotated Code of Maryland.

[(8)] (10) (text unchanged)

(11) "Reinsurance intermediary" has the meaning set forth in Insurance Article, § 8-501(e), Annotated Code of Maryland.

[(9)] (12) "Securities Valuation Office" refers to the Securities Valuation Office of the [National Association of Insurance Commissioners (NAIC)] NAIC.

.03 Credit for Reinsurance.

The Commissioner shall allow a domestic authorized insurer credit as an asset or deduction from liability for reinsurance that the insurer obtains, if the reinsurance is obtained:

A. — C. (text unchanged)

D. When required by law pursuant to Regulation .12 of this chapter; [or]

E. From an unauthorized reinsurer pursuant to Regulations .14—.23 of this chapter[.]; *or*

F. *From a certified reinsurer pursuant to Regulations .25, .26, and .28 of this chapter.*

.04 Approval Required for Accreditation of Reinsurer.

An unauthorized insurer may not act as an accredited reinsurer in the State, unless the Commissioner accepts the insurer as a reinsurer under Insurance Article, [§5-905]§ 5-906, Annotated Code of Maryland.

.05 Requirements for Accredited Reinsurer.

A. *The Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in this State as of the date on which statutory financial statement credit for reinsurance is claimed.*

[A.] B. [For approval] *For initial eligibility as an accredited reinsurer, an applicant shall [by May 30 of each year an applicant shall] file with the Commissioner:*

(1) [A certified copy of its annual statement for the preceding calendar year] *An appointment of the Commissioner as its attorney to receive legal process issued against the applicant in the State on a form approved by the Commissioner;*

(2) [Evidence that the insurer is licensed to transact insurance or reinsurance in at least one state or, in the case of a U.S. branch of an alien insurer, is entered through and licensed to transact insurance or reinsurance in at least one state] *A properly executed NAIC Form AR-1 Certificate of Assuming Insurer as evidence that the applicant agrees to submit to the jurisdiction of the State and to the Commissioner's authority to examine its books and records;*

(3) (text unchanged)

(4) [An appointment of the Commissioner as its attorney to receive legal process issued against the applicant in the State on a form approved by the Commissioner;

(5) An audited financial report for the preceding calendar year prepared by an independent certified public accountant;

(6) A certificate of deposit issued by the official custodian of deposits of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer;

- (7) A copy of the report of the last examination made of the applicant by the insurance regulatory agency of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer;
- (8) A properly executed Form AR-1 (see Regulation .24 of this chapter), as evidence that the applicant agrees to submit to the jurisdiction of the State and to the State's authority to examine its books and records;
- (9) An annual statement fee [of \$1,000; and] pursuant to Insurance Article, § 2-112(a)(8), Annotated Code of Maryland and an annual fraud prevention fee pursuant to Insurance Article, § 6-203(a), Annotated Code of Maryland;
- (5) Maryland Insurance Administration Reinsurance Application; and
- (6) Upon request of the Commissioner:
- (a) A certified copy of its annual statement for the preceding calendar year;
- (b) Evidence that the insurer is licensed to transact insurance or reinsurance in at least one state or, in the case of a U.S. branch of an alien insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
- (c) An audited financial report for the preceding calendar year prepared by an independent certified public accountant;
- (d) A certificate of deposit issued by the official custodian of deposits of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer;
- (e) A copy of the report of the last examination made of the applicant by the insurance regulatory agency of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer; and
- (f) Any other document or information that the Commissioner considers necessary to determine eligibility to act as an accredited reinsurer.
- [(10) Any other document or information that the Commissioner considers necessary for acceptance to act as an accredited reinsurer.]

C. For continued eligibility as an accredited reinsurer, an applicant shall, by May 30 of each year, file with the Commissioner:

- (1) A properly executed NAIC Form AR-1 Certificate of Assuming Insurer as evidence that the applicant agrees to submit to the jurisdiction of the State and to the Commissioner's authority to examine its books and records;
- (2) If reinsuring a life insurer, a certificate of valuation issued by the insurance regulatory agency of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer;
- (3) An annual statement fee pursuant to Insurance Article, § 2-112(a)(8), Annotated Code of Maryland and an annual fraud prevention fee pursuant to Insurance Article, § 6-203(a), Annotated Code of Maryland;
- (4) A Maryland Insurance Administration Reinsurance Application; and
- (5) Upon request of the Commissioner:
- (a) A certified copy of its annual statement for the preceding calendar year;
- (b) Evidence that the insurer is licensed to transact insurance or reinsurance in at least one state or, in the case of a U.S. branch of an alien insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
- (c) An audited financial report for the preceding calendar year prepared by an independent certified public accountant;
- (d) A certificate of deposit issued by the official custodian of deposits of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer;
- (e) A copy of the report of the last examination made of the applicant by the insurance regulatory agency of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer; and
- (f) Any other document or information that the Commissioner considers necessary to determine continued eligibility to act as an accredited reinsurer.

[B.] (D) Surplus.

[(1)] An [applicant] accredited reinsurer shall maintain a surplus as regards [policyholder] policyholders [surplus] in an amount not less than \$20,000,000. [and shall have its accreditation approved by the Commissioner in order to be accepted as an accredited reinsurer.

(2) Once accepted as an accredited reinsurer, the insurer shall thereafter maintain policyholder surplus in an amount not less than \$20,000,000 as a condition of continuing as an accredited reinsurer.

(3) An insurer that is designated by the Commissioner as an accredited reinsurer as of the effective date of this regulation and whose policyholder surplus is below \$20,000,000 shall have until December 31, 2007, to meet that requirement, and shall maintain that minimum policyholder surplus thereafter as a condition of continuing as an accredited reinsurer.]

.06 Examination of Accredited Reinsurer.

(text unchanged)

.07 Suspension or Revocation of Accreditation.

[After a notice and hearing, if the Commissioner revokes the accreditation of a reinsurer, an authorized insurer may not be allowed credit for reinsurance obtained from the reinsurer.] *Contracts not qualifying for credit after suspension or revocation beyond secured obligations:*

A. While a reinsurer's accreditation or certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent the reinsurer's obligations under the contract are secured in accordance with Insurance Article § 5-914, Annotated Code of Maryland.

B. If a reinsurer's accreditation or certification is revoked, credit for reinsurance may not be granted after the effective of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Insurance Article, § 5-911 or § 5-914, Annotated Code of Maryland.

.08 Credit for Reinsurance—Reinsurers Maintaining Trust Funds for Multiple Cedents—General Requirements.

A. (text unchanged)

B. The assuming insurer shall report annually to the Commissioner substantially the same information as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by [licensed] *authorized* insurers, to enable the Commissioner to determine the sufficiency of the trust fund.

C. Categories of Assuming Insurer.

(1) The requirements of this section apply to the categories of assuming insurer described *in this section*.

(2) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by U.S. domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus in excess of the assuming insurer's obligations of not less than \$20,000,000 *except as provided in subsection (3) of this section*.

(3) *At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the insurance regulatory agency with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust.*

[(3)] (4) Trust Funds for Groups—General Requirements.

(a) The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:

(i) For reinsurance ceded under reinsurance [agreements] *contracts* with an inception, amendment, or renewal date on or after [August 1, 1995]*January 1, 1993*, funds in trust in an amount not less than the [group's]*respective underwriters'* several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any [member] *underwriter* of the group;

(ii) For reinsurance ceded under reinsurance [agreements] *contracts* with an inception date on or before [July 31, 1995]*December 31, 1992*, and not amended or renewed after that date, notwithstanding the other provisions of this regulation, funds in trust in an amount not less than the [group's] *respective underwriters'* several insurance and reinsurance liabilities attributable to business written in the United States; and

(iii) (text unchanged)

.09 Credit for Reinsurance—Reinsurers Maintaining Trust Funds for Multiple Cedents—Trusts.

A. Credit for reinsurance may not be granted unless the form of the trust and any amendments to the trust have been approved by either the [commissioner] *insurance regulatory agency* of the state where the trust is domiciled or the [commissioner] *insurance regulatory agency* of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the [commissioner] *insurance regulatory agency* of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that:

(1) — (3) (text unchanged)

(4) The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance [agreements] *contracts* subject to the trust; and

(5) (text unchanged)

B. Inadequate Trust Funds.

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by Regulation .08C of this chapter or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the [commissioner] *insurance regulatory agency* with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the [commissioner] *insurance regulatory agency* with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

(2) The assets shall be distributed by and claims shall be filed with and valued by the [commissioner] *insurance regulatory agency* with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

(3) If the [commissioner] *insurance regulatory agency* with regulatory oversight over the trust determines that the assets of the trust fund or any part of the assets are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the [commissioner] *insurance regulatory agency* with regulatory oversight over the trust shall return the assets, or any part of the assets, to the trustee for distribution in accordance with the trust agreement.

(4) (text unchanged)

.10 Credit for Reinsurance—Reinsurers Maintaining Trust Funds for Multiple Cedents—Assets Deposited in the Trust.

A. Assets deposited in the trust shall be valued according to their *current* fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a qualified U.S. financial institution, clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified U.S. financial institution, and investments of the type specified in this regulation, but investments in or issued by an entity controlling, controlled by, or under common control with either the grantor or beneficiary of the trust may not exceed 5 percent of total investments.

B. — C. (text unchanged)

D. The assets of a trust established to satisfy the requirements of Regulations .08—.11 of this chapter shall be invested only as follows:

(1) Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed, or guaranteed by:

(a) — (d) (text unchanged)

(e) The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a [rating agency recognized] *nationally recognized statistical rating organization approved* by the Securities Valuation Office;

(2) Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company), or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:

(a) Are rated A or higher (or the equivalent) by a [securities rating agency recognized] *nationally recognized statistical rating organization approved* by the Securities Valuation Office, or, if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;

(b) Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary, or affiliate of the investing insurer) licensed to insure obligations in this State and, after considering the insurance, are rated AAA (or the equivalent) by a [securities rating agency recognized] *nationally recognized statistical rating organization approved* by the Securities Valuation Office; or

(c) (text unchanged)

(3) Obligations issued, assumed, or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development, or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a [rating agency recognized] *nationally recognized statistical rating organization approved* by the Securities Valuation Office;

(4) (text unchanged)

E. Equity Interests.

(1) Investments in common shares or partnership interests of a solvent U.S. institution are permissible if:

(a) (text unchanged)

(b) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. §§78a to 78kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the [National Association of Securities Dealers, Inc.] *Financial Industry Regulatory Authority or successor organization*; and

(c) (text unchanged)

(2) Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development are permissible if:

(a) All its obligations are rated A or higher, or the equivalent, by a [rating agency recognized] *nationally recognized statistical rating organization approved* by the Securities Valuation Office; and

(b) (text unchanged)

(3) (text unchanged)

F. Obligations issued, assumed, or guaranteed by a multinational development bank are permissible investments, provided the obligations are rated A or higher, or the equivalent, by [rating agency recognized] *nationally recognized statistical rating organization approved* by the Securities Valuation Office.

G. (text unchanged)

H. (text unchanged)

.11 Credit for Reinsurance—Reinsurers Maintaining Trust Funds for Multiple Cedents—Additional Security.
(text unchanged)

.12 Credit for Reinsurance Required by Law.

A. (text unchanged)

B. The Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Regulations [.03, .04, and .08—.14] .03-.05, .08-.11, .14, and .25-.28 of this chapter, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction.

.14 Reduction from Liability for Reinsurance

A. — B. (text unchanged)

C. Forms of Security Under Reinsurance Contract.

(1) The Commissioner shall accept the following as security under a reinsurance contract:

(a) — (b) (text unchanged)

(c) Any security that qualifies as an admitted asset and is listed by the Securities Valuation Office[;], *including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office;* or

(d) (text unchanged)

(2) (text unchanged)

D. Standards of Acceptability for Letters of Credit.

(1) For acceptance as security under a reinsurance contract, a letter of credit shall:

(a) (text unchanged)

(b) Be issued or confirmed by a qualified U.S. financial institution authorized to issue letters of credit, pursuant to Regulation [.02B(8)(b)] .02B(9)(b) of this chapter, and effective on or before December 31 of the year for which the annual statement filing is made;

(c) Be in the possession of or in trust for the ceding insurer on or before the date for filing its annual statement;

(d) — (e) (text unchanged)

(2) — (8) (text unchanged)

(9) The letter of credit shall state whether it is subject to and governed by the laws of this State or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce [(Publication 500)] *Publication 600 (UCP 600), International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)*, or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the U. S. of a qualified U. S. financial institution.

(10) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce [(Publication 500)] *Publication 600 (UCP 600), International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)*, or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 17 of Publication 500, or any other successor publication, occur.

(11) If the letter of credit is issued by a [qualified U.S.] financial institution authorized to issue letters of credit, other than a qualified U. S. financial institution as described in Regulation [.02B(8)(b)] .02B(9)(b) of this chapter, then the following additional requirements shall be met:

(a) The issuing [qualified U.S.] financial institution shall formally designate the confirming qualified U.S. financial institution as its agent for the receipt and payment of the drafts; and

(b) (text unchanged)

E. Standards of Acceptability for Letters of Credit—Reinsurance [Agreement] *Contract* Provisions.

(1) The reinsurance [agreement] *contract* in conjunction with which the letter of credit is obtained may contain provisions that:

(a) (text unchanged)

(b) Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance [agreement] *contract* may be drawn upon at any time, notwithstanding any other provisions in the [agreement] *contract* and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

(i) To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance [agreement] *contract* of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance [agreement] *contract* on account of cancellations of the policies;

(ii) To pay or reimburse the ceding insurer for the assuming insurer's share, under the specific reinsurance [agreement] *contract* of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance [agreement] *contract*;

(iii) — (iv) (text unchanged)

.15 Required Standards for Trust Agreements Under Regulation .14.

A. — F. (text unchanged)

G. When Grantor [is] Is Declared Insolvent or Placed into Receivership, Rehabilitation, or Liquidation.

(1) Notwithstanding any other provision in a trust agreement, if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the [commissioner] *insurance regulatory agency* with regulatory oversight of the trust or court of competent jurisdiction directing the trustee to transfer to the [commissioner] *insurance regulatory agency* with regulatory oversight or other designated receiver all of the assets of the trust fund.

(2) (text unchanged)

(3) If the [commissioner] *insurance regulatory agency* with regulatory oversight determines that the assets of the trust fund or any part of the assets are not necessary to satisfy claims of the U.S. beneficiaries of the trust, the assets or any part of the assets shall be returned to the trustee for distribution in accordance with the trust agreement.

H. (text unchanged)

I. *Valuation and Form of Assets.*

(1) *Either the reinsurance contract or the trust agreement must stipulate that assets deposited in the trust account shall:*

(a) *be valued according to their current fair market value; and*

(b) *consist only of :*

(i) *cash in U.S. dollars;*

(ii) *certificates of deposit issued by a U.S. bank and payable in U.S. dollars;*

(iii) *investments permitted by the Insurance Article, Annotated Code of Maryland; or*

(iv) *any combination of items (i)—(iii) of this paragraph.*

(2) *Investments in or issued by an entity controlling, controlled by, or under common control with the grantor or the beneficiary of the trust may not exceed 5 percent of total investments.*

(3) *A trust agreement may specify the types of investments to be deposited in the trust account.*

(4) *If a trust agreement is entered into in conjunction with a reinsurance contract covering life, annuities, or accident and health, then the reinsurance contract must contain the provisions required by this section.*

.16 Permitted Conditions for Trust Agreements.

A. — C. (text unchanged)

D. Investment and Substitution.

(1) (text unchanged)

(2) The trustee may not make an investment or substitution without prior approval of the beneficiary unless the trust agreement:

(a) (text unchanged)

(b) Authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in *current fair* market value to the assets withdrawn, and that are consistent with the restrictions in Regulation [.19B].15 of this chapter.

E. (text unchanged)

.17 Trust Agreement Established in Conjunction with Reinsurance [Agreement] Contracts Covering Risks Other than Life, Annuities, and Accident and Health.

A. Use of Amounts Drawn on Trust Account. Notwithstanding any provision of Regulation .15 of this chapter, when a trust agreement is established to meet the requirements of Regulation .14 of this chapter in conjunction with a reinsurance [agreement] *contract* covering risks other than life, annuities, or accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may allow the ceding insurer to use amounts drawn on the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the purposes listed in this regulation.

B. To Pay or Reimburse Ceding Insurer. A trust agreement may allow the ceding insurer to use amounts drawn on the trust account to pay or reimburse the ceding insurer for:

(1) The assuming insurer's share under the specific reinsurance [agreement] *contract* regarding any losses and loss adjustment expenses paid by the ceding insurer but not recovered from the assuming insurer; and

(2) (text unchanged)

C. Payment to Assuming Insurer. A trust agreement may allow the ceding insurer to use amounts drawn on the trust account to make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance [agreement] *contract*.

D. On Termination of Trust Account.

(1) A trust agreement may allow the ceding insurer to withdraw amounts equal to the assuming insurer's entire obligations under the reinsurance [agreement] *contract* and deposit those amounts in a separate account in accordance with §D(2) of this regulation in trust for the uses specified in §§B and C of this regulation if the:

(a) (text unchanged)

(b) Assuming insurer's entire obligations under the reinsurance [agreement] *contract* remain unliquidated and undischarged 10 days before the termination date.

(2) (text unchanged)

.18 Trust Agreement Established in Conjunction with Reinsurance [Agreement] Contracts Covering Life, Annuities, or Accident and Health Risks.

A. Use of Amounts Drawn on Trust Account. Notwithstanding any provision of Regulation .15 of this chapter, when a trust agreement is established to meet the requirements of Regulation .14 of this chapter in conjunction with a reinsurance [agreement] *contract* covering life, annuities, or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may allow the ceding insurer to use amounts drawn on the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the purposes listed in this regulation.

B. To Pay or Reimburse Ceding Insurer. A trust agreement may allow the ceding insurer to use amounts drawn on the trust account to pay or reimburse the ceding insurer for the assuming insurer's share under the:

(1) Reinsurance [agreement] *contract* of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the insurance [agreement] *contract* on account of cancellations of the policies; and

(2) Specific reinsurance [agreement] *contract* of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance [agreement] *contract*.

C. (text unchanged)

D. On Termination of Trust Account.

(1) A trust agreement may allow the ceding insurer to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account in accordance with §D(2) of this regulation in trust for the uses and purposes specified in §§B and C of this regulation if the:

(a) (text unchanged)

(b) Assuming insurer's entire obligations under the specific reinsurance [agreement] *contract* remain unliquidated and undischarged 10 days before the termination date.

(2) (text unchanged)

.19 Permitted Conditions Applicable to Reinsurance [Agreements] Contracts.

A. Trust Agreement. A reinsurance [agreement] *contract* may:

(1) — (3) (text unchanged)

B. [Valuation and Form of Assets.

(1) A reinsurance agreement may:

(a) Specify the types of investments to be deposited in the trust account; and

(b) Subject to §B(2) of this regulation, stipulate that assets deposited in the trust account be valued according to their current fair market value and consist only of:

(i) Cash in United States dollars;

(ii) Certificates of deposit issued by a United States bank and payable in United States dollars;

(iii) Investments permitted by the Insurance Article, Annotated Code of Maryland; or

(iv) Any combination of items in §B(1)(b)(i)—(iii) of this regulation.

(2) Investments in or issued by an entity controlling, controlled by, or under common control with the grantor or the beneficiary of the trust may not exceed 5 percent of total investments.

(3) If a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, the trust agreement may contain the provisions allowed by this section in place of including the provision in the reinsurance agreement.]

[C.] B. Execution of Assignments or Endorsements. To allow the ceding insurer, or the trustee on the direction of the ceding insurer, to negotiate assets whenever necessary without consent or signature from the assuming insurer or any other entity, a reinsurance agreement may require the assuming insurer, before depositing assets with the trustee, to:

(1) Execute assignments or endorsements in blank; or

(2) Transfer legal title to the trustee of all shares, obligations, or any other assets requiring assignments.

[D.] C. Settlements of Account in Cash or Equivalent. A reinsurance [agreement] *contract* may require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent.

[E.] D. Withdrawal of Assets. A reinsurance [agreement] *contract* may stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established under the provisions of the reinsurance [agreement] *contract*, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance [agreement] *contract*, and may be used by the ceding insurer or its successors in interest by operation of law, including any liquidator, rehabilitator, receiver, or conservator of the company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, for the following purposes:

(1) To pay or reimburse the ceding insurer for:

(a) The assuming insurer's share under the specific reinsurance [agreement] *contract* of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance [agreement] *contract* because of cancellations of the policies;

(b) The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the provisions of the policies reinsured under the reinsurance [agreement] *contract*; or

(c) (text unchanged)

(2) (text unchanged)

[F.] *E. Transfer of Assets to Assuming Insurer.* A reinsurance [agreement] *contract* may allow the assuming insurer to seek approval from the ceding insurer, which may not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, if:

(1) At the time of withdrawal, the assuming insurer replaces the withdrawn assets with other qualified assets that have a *current fair* market value equal to the market value of the withdrawn assets to maintain at all times the deposit in the required amount; or

(2) After withdrawal and transfer, the *current fair* market value of the trust account is not less than 102 percent of the required amount.

[G.] *F. Return of Amount Withdrawn; Interest.* A reinsurance [agreement] *contract* may provide for:

(1) The return of any amount withdrawn in excess of the actual amounts required for [§E]§ D of this regulation; and

(2) Interest payments at a rate not in excess of the prime rate of interest on [the] *such* amounts held pursuant to [§E]§ D of this regulation.

[H.] *Arbitration Panel or Court-Award of Expenses.* A reinsurance [agreement] *contract* may allow the award by an arbitration panel or court of competent jurisdiction of:

(1) Interest at a rate different from that provided in [§G]§ F of this regulation;

(2) — (4) (text unchanged)

.20 Financial Reporting.

A. (text unchanged)

B. *Amount of Reduction.* A reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but the reduction may not exceed the specific obligations under the reinsurance [agreement] *contract* that the trust account was established to secure.

.22 Other Security.

(text unchanged)

.23 Reinsurance Contract.

Credit for reinsurance may not be allowed by the Commissioner as an admitted asset or deduction from liability to any ceding insurer for a reinsurance contract entered into with a reinsurer under this chapter after the adoption of this regulation unless the reinsurance contract includes:

A. An insolvency clause [pursuant to], *in accordance with* Insurance Article, [§5-904]§ 5-905(a), Annotated Code of Maryland; and

B. (text unchanged)

C. *Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.*

.25 Credit for Reinsurance – Certified Reinsurers.

A. *The Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this State at all times for which statutory financial statement credit for reinsurance is claimed under this regulation.*

B. *The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the Commissioner.*

C. *The security shall be in a form consistent with Insurance Article, §§ 5-911 and 5-914, Annotated Code of Maryland and this chapter.*

D. *The amount of security required in order for full credit to be allowed shall correspond with the following requirements:*

(1) Certification Ratings	Security Required
Secure - 1	0%
Secure - 2	10%
Secure - 3	20%
Secure - 4	50%
Secure - 5	75%
Vulnerable - 6	100%

(2) *Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.*

(3) *The Commissioner shall require the certified reinsurer to post 100 percent security, for the benefit of the ceding insurer or its estate, upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.*

(4) *Relating to Catastrophic Occurrence:*

(a) *A certified reinsurer may defer posting security for catastrophe recoverables for a period of up to one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a catastrophic occurrence that is likely to result in significant insured losses as recognized by the Commissioner.*

(b) *The deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner as determined by the Commissioner.*

(c) *Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:*

(i) *Line 1: Fire*

(ii) *Line 2: Allied Lines*

(iii) *Line 3: Farmowners multiple peril*

(iv) *Line 4: Homeowners multiple peril*

(v) *Line 5: Commercial multiple peril*

(vi) *Line 9: Inland Marine*

(vii) *Line 12: Earthquake*

(viii) *Line 21: Auto physical damage*

(5) *Credit for reinsurance under this regulation shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this regulation with respect to losses incurred and reserves reported on or after the effective date of the amendment or new contract.*

(6) *Nothing in this section shall prohibit the parties to a reinsurance contract from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.*

E. Certification Eligibility Requirements. In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(1) *The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the Commissioner pursuant to Regulation .27 of this chapter.*

(2) *The assuming insurer must maintain capital and surplus, or its equivalent, of no less than \$250,000,000 calculated in accordance with Section F(2)(h) of this regulation. This requirement may also be satisfied by a group including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000.*

(3) *The assuming insurer must have financial strength ratings from two or more of the following rating agencies:*

(a) *Standard & Poor's;*

(b) *Moody's Investors Service;*

(c) *Fitch Ratings;*

(d) *A.M. Best Company; or*

(e) *A nationally recognized statistical rating organization deemed acceptable by the Commissioner.*

(4) *Any other requirements the Commissioner deems necessary.*

(5) *If an applicant for certification has been certified as a reinsurer by the insurance regulatory agency of a state accredited by the NAIC, the Commissioner may use information provided by that insurance regulatory agency to designate the assuming insurer as a certified reinsurer in this State.*

F. Certified Reinsurers – Certification Rating.

(1) *The Commissioner shall rate each certified reinsurer on a legal entity basis and with due consideration being given to a group rating where appropriate, except that a group including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating.*

(2) *Factors that may be considered as part of the certification rating process include, but are not limited to:*

(a) *The certified reinsurer's financial strength rating from an acceptable rating agency pursuant to Section E(3) of this regulation;*

(i) *A certified reinsurer shall not be eligible for a certification rating higher than the rating corresponding with the financial strength ratings set forth in subparagraph (iii) below.*

(ii) *The Commissioner shall use the lowest financial strength rating received from an acceptable rating agency in establishing the maximum certification rating of a certified reinsurer;*

(iii) *Financial strength rating chart*

<i>RATINGS</i>	<i>BEST</i>	<i>S&P</i>	<i>MOODY'S</i>	<i>FITCH</i>
<i>Secure – 1</i>	<i>A++</i>	<i>AAA</i>	<i>Aaa</i>	<i>AAA</i>
<i>Secure – 2</i>	<i>A+</i>	<i>AA+, AA, AA-</i>	<i>Aa1, Aa2, Aa3</i>	<i>AA+, AA, AA-</i>
<i>Secure – 3</i>	<i>A</i>	<i>A+, A</i>	<i>A1, A2</i>	<i>A+, A</i>
<i>Secure – 4</i>	<i>A-</i>	<i>A-</i>	<i>A3</i>	<i>A-</i>
<i>Secure – 5</i>	<i>B++, B+</i>	<i>BBB+, BBB, BBB-</i>	<i>Baa1, Baa2, Baa3</i>	<i>BBB+, BBB, BBB-</i>
<i>Vulnerable – 6</i>	<i>B, B-C++, C+, C, C-, D, E, F</i>	<i>BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R</i>	<i>Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C</i>	<i>BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD</i>

(b) *The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;*

(c) *For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);*

(d) *For certified reinsurers not domiciled in the U.S., a review annually of the Maryland Insurance Administration Reinsurance Application and NAIC Form CR-F Assumed Reinsurance (for Property/Casualty Reinsurers) or NAIC Form CR-S Reinsurance Assumed (for Life and Health Reinsurers);*

(e) *The history of the certified reinsurer for prompt payment of claims under reinsurance contracts, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;*

(f) *Regulatory actions against the certified reinsurer;*

(g) *The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in paragraph (h) below;*

(h) *For certified reinsurers not domiciled in the U.S., audited financial statements (audited U.S. Generally Accepted Accounting Principles (GAAP) basis if available, audited International Financial Reporting standards (IFRS) are allowed but must include an audited footnote reconciling equity and net income to U.S. GAAP basis, or, with the prior written permission of the Commissioner, IFRS are allowed with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings and actuarial opinions (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the Commissioner may consider audited financial statements for the last 3 years filed with its non-U.S. jurisdiction supervisor;*

(i) *The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;*

(j) *A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The Commissioner shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and*

(k) *Any other information deemed relevant by the Commissioner.*

(l) *If an applicant for certification has been certified as a reinsurer by the insurance regulatory agency of a state accredited by the NAIC, the Commissioner may use information provided by that insurance regulatory agency to assign a rating to the assuming insurer.*

(3) *The Commissioner shall issue written notice to an assuming insurer that has been approved as a certified reinsurer. Included in such notice shall be the certification rating assigned the certified reinsurer in accordance with subsection (2) of this regulation.*

(4) *The Commissioner shall publish a list of all certified reinsurers and their ratings.*

(G) *Certification Rating and Security Adjustment. Based on the analysis conducted under Section F(2) of this regulation of a certified reinsurer's history of prompt payment of claims, the Commissioner may adjust the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers provided that the Commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one certification rating level pursuant to Section F(2)(a)(iii) if the Commissioner finds that:*

(1) *more than 15 percent of the certified reinsurer's ceding insurers have overdue reinsurance recoverables on paid losses of 90 calendar days or more which are not in dispute and which exceed \$100,000 for each ceding; or*

(2) *the aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by 90 calendar days or more exceeds \$50,000,000.*

(H) The Commissioner may not certify any assuming insurer that is domiciled in a jurisdiction that the Commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

(I) For initial eligibility as a certified reinsurer, an applicant shall file with the Commissioner:

(1) A properly executed NAIC Form CR-F Assumed Reinsurance (for Property/Casualty Reinsurers) or NAIC Form CR-S Reinsurance Assumed (for Life and Health Reinsurers), as applicable as evidence that the applicant agrees to submit to the jurisdiction of the State and to the Commissioner's authority to examine its books and records;

(2) A Maryland Insurance Administration Reinsurance Application;

(3) An updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers; and

(4) Upon request of the Commissioner:

(a) The report of the independent auditor on the financial statements of the insurance enterprise and the audited financial statements, (audited U.S. Generally Accepted Accounting Principles (GAAP) basis if available, audited International Financial Reporting standards (IFRS) are allowed but must include an audited footnote reconciling equity and net income to U.S. GAAP basis, or, with the prior written permission of the Commissioner, IFRS are allowed with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings and actuarial opinions (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the Commissioner may consider audited financial statements for the last 3 years filed with its non-U.S. jurisdiction supervisor;

(b) A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

(c) Any other document or information that the Commissioner considers necessary to determine eligibility to act as a certified reinsurer.

(5) A properly executed NAIC Form CR-1 Certificate of Certified Reinsurer as evidence that the applicant agrees to:

(a) Submit to the jurisdiction of the State;

(b) The Appointment of the Commissioner as an agent for service of process in this State; and

(c) Provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment.

(6) The Commissioner may not certify any assuming insurer that is domiciled in a jurisdiction that the Commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

J. For continued eligibility as a certified reinsurer, an applicant shall by May 30 of each year, file with the Commissioner:

(1) A properly executed NAIC Form CR-F Assumed Reinsurance (for Property/Casualty Reinsurers) or NAIC Form CR-S Reinsurance Assumed (for Life and Health Reinsurers), as applicable as evidence that the applicant agrees to submit to the jurisdiction of the State and to the Commissioner's authority to examine its books and records;

(2) A Maryland Insurance Administration Reinsurance Application;

(3) An updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers; and

(4) Upon request of the Commissioner:

(a) The report of the independent auditor on the financial statements of the insurance enterprise and the audited financial statements, (audited U.S. Generally Accepted Accounting Principles (GAAP) basis if available, audited International Financial Reporting standards (IFRS) are allowed but must include an audited footnote reconciling equity and net income to U.S. GAAP basis, or, with the prior written permission of the Commissioner, IFRS are allowed with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings and actuarial opinions (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the Commissioner may consider audited financial statements for the last 3 years filed with its non-U.S. jurisdiction supervisor;

(b) A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level;

(c) Any other document or information that the Commissioner considers necessary to determine continued eligibility to act as a certified reinsurer.

(5) A properly executed NAIC Form CR-1 Certificate of Certified Reinsurer as evidence that the applicant agrees to:

(a) Submit to the jurisdiction of the State;

(b) The Appointment of the Commissioner as an agent for service of process in this State; and

(c) Provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment.

(6) The Commissioner may not certify any assuming insurer that is domiciled in a jurisdiction that the Commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

K. Notification of the Commissioner by the Certified Reinsurer. In order to obtain or maintain a certification, a certified reinsurer must agree to notify and provide a written statement describing the changes and the reasons therefore in writing to the Commissioner within 10 business days of:

- (1) any regulatory actions taken against the certified reinsurer;
- (2) any change in the provisions of its domiciliary license; or
- (3) any change in rating by an acceptable rating agency pursuant to Section E(3) of this regulation.

.26 Change in Certification Rating or Suspension or Revocation of Certification.

A. Change in Certification Rating.

(1) In the case of a downgrade of a financial strength rating by a rating agency, or other change in circumstance, the Commissioner shall upon written notice to the certified reinsurer assign a new certification rating to the certified reinsurer in accordance with the requirements of Regulation .25 of this chapter. If the Commissioner downgrades the certified reinsurer's certification rating, the certified reinsurer shall meet the security requirements applicable to its new certification rating for all business it has assumed as a certified reinsurer.

(2) If the Commissioner upgrades a certified reinsurer's certification rating, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating.

B. Authority to Suspend or Revoke. The Commissioner may upon written notice and opportunity for a hearing pursuant to Insurance Article, § 2-210, Annotated Code of Maryland, suspend or revoke a certified reinsurer's certification at any time if:

- (1) the certified reinsurer fails to meet its obligations or security requirements under this chapter; or
- (2) other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the Commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations; or
- (3) the certified reinsurer ceases to meet other requirements for certification.

C. Suspension or Revocation of the Certification of a Certified Reinsurer.

(1) While a reinsurer's certification is suspended, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent the reinsurer's obligations under the contract are secured in accordance with Insurance Article, § 5-914, Annotated Code of Maryland.

(2) If a reinsurer's certification is revoked, credit for reinsurance may not be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with Insurance Article, § 5-911, Annotated Code of Maryland or Insurance Article, § 5-914, Annotated Code of Maryland.

D. Notwithstanding the change of a certified reinsurer's certification rating or suspension or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of 3 months for all reinsurance ceded to that certified reinsurer, unless the Commissioner finds that the reinsurance is found to be at high risk of uncollectibility.

.27 Qualified Jurisdictions.

A. (1) The Commissioner shall maintain and publish a list of qualified jurisdictions under which an assuming insurer, licensed and domiciled in that jurisdiction, is eligible to be considered for certification by the Commissioner as a certified reinsurer.

(2) In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commissioner shall:

(a) Evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis;

(b) Consider the rights, benefits and extent of reciprocal recognition afforded by a non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S.;

(c) Consider any additional factors that the Commissioner deems appropriate, which may include:

- (i) The framework under which the assuming insurer is regulated;
- (ii) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance;
- (iii) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction;
- (iv) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used for purposes of those reports;
- (v) The domiciliary regulator's cooperation with U.S. regulators, including the Commissioner;
- (vi) The history of performance by assuming insurers in the domiciliary jurisdiction;
- (vii) Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization; and
- (viii) Any other matters deemed relevant by the Commissioner.

(3) The Commissioner may not recognize a jurisdiction as a qualified jurisdiction unless the Commissioner has determined that the jurisdiction adequately and promptly enforces final U.S. judgments or arbitration awards.

(4) A qualified jurisdiction shall agree in writing to share information and cooperate with the Commissioner with respect to all certified reinsurers domiciled within that jurisdiction.

B. (1) The Commissioner shall consider the list of qualified jurisdictions published through the NAIC Committee Process in determining qualified jurisdictions in this State.

(2) In determining whether a jurisdiction is a qualified jurisdiction, the Commissioner shall consider the NAIC's list:

(a) when the jurisdiction has been evaluated for inclusion on the list; and

(b) whenever the list is amended.

(3) If the Commissioner approves a jurisdiction as qualified that does not appear on the NAIC's list of qualified jurisdictions, the Commissioner shall provide to the NAIC, upon written request, information relating to such determination pursuant to the requirements in Section A of this regulation.

(4) The Commissioner shall recognize as a qualified jurisdiction in this State any state that meets the requirements for accreditation under the NAIC's financial standards and accreditation program.

(5) The Commissioner shall withdraw recognition of those jurisdictions that are no longer qualified.

(6) The Commissioner shall publish notice of jurisdictions that have qualified or are no longer qualified to be recognized as a qualified jurisdiction.

.28 Mandatory Funding Clause.

In addition to the requirements of Regulations .14-.18 of this chapter, reinsurance contracts entered into or renewed under Regulations .25 - .27 of this chapter shall include a funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any unfavorable financial statement accounting treatment on the ceding insurer under this chapter for reinsurance ceded to the certified reinsurer.