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§ 11:2-28.1 Purpose and scope

(a) The purpose of these rules is to implement the provisions of N.J.S.A. 17:51B-1 et seq. by establishing procedures to be employed by insurers which cede risks to appropriate reinsurers and which assume the risk from the ceding insurers to whom these rules apply.

(b) This subchapter applies to all insurers which transact business in this State, except as described in (b)2 below, including insurers which are domiciled in this State. This subchapter also applies to insurers which are either licensed to transact business in this State or are eligible to write surplus lines insurance in this State, and which in either case are domiciled in a state or country which does not employ standards regarding credit for reinsurance substantially similar to the standards set forth herein.

1. For a life and health ceding insurer to qualify for a credit for reinsurance in accordance with this subchapter, the ceding insurer shall also comply with the requirements of N.J.S.A. 17:51B-1 et seq. and all administrative rules promulgated thereunder concerning the regulation of life and health reinsurance contracts.
2. Where an insurer which is either licensed to transact business in this State or is an eligible surplus lines insurer in this State and in either case the state in which it is domiciled is accredited by the NAIC or employs standards regarding credit for reinsurance as determined by the Commissioner to be substantially similar to the standards set forth in these rules, the insurer shall comply with the rules regarding credit for reinsurance in its state of domicile.

History

HISTORY:

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

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§ 11:2-28.2 Definitions

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

"Annual statement" means a statement showing an insurer's financial condition at the close of business on December 31 of the preceding year and its business for that year in the form adopted by the NAIC, prepared in accordance with the annual statement instructions and the Accounting Practices and Procedures Manual adopted by the NAIC and all applicable provisions of law.

"Assuming insurer" or "reinsurer" means any person which engages in the activity of insuring part or all of an insurance risk from an originating or ceding insurer.

"Authorized officer" means the president of the company whose signature is attested to by the secretary of the company or any such equivalent officers or individuals.

"Beneficiary":

1. As used in N.J.A.C. 11:2-28.9 means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. Where a court of competent jurisdiction appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver, conservator, rehabilitator or liquidator; or
2. As used in N.J.A.C. 11:2-28.10 means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. Where a court of competent jurisdiction appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver, conservator, rehabilitator or liquidator.

"Ceding insurer" means an insurer which procures indemnification for itself from an assuming insurer with respect to all or part of an insurance risk associated with one or more policies which it issued should losses be sustained.

"Certificate of Authority" means a certificate issued by the Commissioner under the authority of...

"Certificate of eligibility" means a certificate issued by the Commissioner evidencing the authority of an unauthorized insurer to transact the business of surplus lines insurance in this State.

"Clean and unconditional letter of credit" or "clean and unconditional confirmation" means a letter of credit or confirmation which:

1. Makes no reference to any other agreement, document or entity;
2. Provides that a beneficiary need only draw a sight draft under the letter of credit or confirmation and present it to promptly obtain funds and that no other document need be presented; and
3. Indicates that it is not subject to any conditions or qualifications outside of the letter of credit.

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Date of the ceding insurer's statutory financial statement" means the period ending date for which the statutory financial statement is rendered.

"Delinquency proceeding" means, for the purpose of this subchapter, any proceeding commenced against a reinsurer for the purpose of liquidating, rehabilitating, reorganizing or conserving such reinsurer.

"Department" means the New Jersey Department of Banking and Insurance.

"Domestic insurer" means an insurer formed under the laws of the State of New Jersey.

"Eligible surplus lines insurer" means an unauthorized insurer which is issued a certificate of eligibility to transact the business of insurance in this State and in which insurance coverage is placed or may be placed pursuant to N.J.S.A. 17:22-6.40 et seq.

"Evergreen" means a provision in a letter of credit or its confirmation which prevents the expiration of the letter of credit or its confirmation without due advance written notice to the beneficiary from the issuing or confirming bank or trust company.

"Grantor" as used in connection with the establishment of a trust agreement means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.

"Insurer" means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance pursuant to N.J.S.A. 17:17-1 et seq. or N.J.S.A. 17B-17-1 et seq.; any medical service corporation operating pursuant to N.J.S.A. 17:48A-1 et seq.; any hospital service corporation operating pursuant to N.J.S.A. 17:48-1 et seq.; any health service corporation operating pursuant to N.J.S.A. 17:48E-1 et seq.; or any dental service corporation operating pursuant to N.J.S.A. 17:48C-1 et seq.

"NAIC" means the National Association of Insurance Commissioners.

"Net assets" means an insurer's total admitted assets less its total reserves and other liabilities.

"Obligations" as used in connection with the establishment of a trust agreement means:

1. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
2. Reserves for reinsured losses reported and outstanding;
3. Reserves for reinsured losses incurred but not reported; and
4. Reserves for allocated reinsured loss expenses and unearned premiums.

"Qualified United States financial institution":

1. As used at N.J.A.C. 11:2-28.8(b)3 and 28.10 means an institution that:
 - i. Is organized or, in the case of a branch or agency office of a foreign banking organization in the United States, licensed, under the laws of the United States or any state thereof;
 - ii. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies; and
 - iii. Has been determined by either the Commissioner, or the Securities Valuation Office of the NAIC, to meet

such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commissioner; or

2. As used elsewhere in this subchapter means an institution that:

- I. Is organized or, in the case of a branch or agency office of a foreign banking organization in the United States, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and
- ii. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

"Reinsurance" means a contractual arrangement, as evidenced by a written agreement, whereby an insurer, for some consideration, agrees to indemnify a ceding insurer, for all or part of a loss which the ceding insurer may incur under one or more policies that the ceding insurer has or will issue.

"Reinsurance intermediary" means a reinsurance intermediary-broker or a reinsurance intermediary-manager.

"Reinsurance intermediary-broker" means a person, other than an officer or employee of the ceding insurer, which solicits, negotiates or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of that insurer unless expressly provided in a broker of record letter.

"Reinsurance intermediary-manager" means a person which has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department or underwriting office, and acts as an agent for that reinsurer whether known as a reinsurance intermediary-manager, manager or other similar term, except that the following persons shall not be considered a reinsurance intermediary-manager, with respect to that reinsurer, for the purposes of this subchapter:

1. An employee of the reinsurer;
2. A United States manager of a United States branch of an alien reinsurer;
3. An underwriting manager which, pursuant to contract, manages all or part of the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to N.J.S.A. 17:27A-1 et seq., and whose compensation is not solely based on the volume of premiums written;
4. The manager of a group, association, pool or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance commissioner or other similar regulatory officer of the state in which the manager's principal business office is located;
5. A licensed attorney-at-law who negotiates contracts or provides general financial counsel provided no commission or brokerage fee is provided.

"Substantially similar standards" means standards on credit for reinsurance which the Commissioner determines are equal to or exceed the standards of this subchapter.

"Surplus as regards policyholders" means the net assets of the insurer or assuming insurer.

History

HISTORY:

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

In the definition of "beneficiary" added 2.

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

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§ 11:2-28.3 Reinsurer licensed in New Jersey

An insurer shall be permitted to take a credit for reinsurance ceded to an assuming insurer where the assuming insurer is licensed to transact business in this State as of the date of the ceding insurer's statutory financial statement, except as limited in accordance with N.J.A.C. 11:2-27.

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§ 11:2-28.4 Reinsurer accredited in New Jersey

(a) An insurer shall be permitted to take a credit for reinsurance ceded to an assuming insurer where the assuming insurer is accredited as a reinsurer in this State as of the date of the ceding insurer's statutory financial statement. An accredited reinsurer is one which meets all of the following standards:

1. Files with the Commissioner a letter requesting approval for accreditation and listing the information upon which it will rely and is submitting in connection therewith;
2. Submits a non-refundable filing fee made payable to Treasurer, State of New Jersey, of \$ 1,000 for an initial filing and \$ 1,000 for a renewal filing;
3. Files with the Commissioner a properly executed form AR-1 (incorporated herein by reference as Exhibit 1 in the Appendix) which establishes that it submits to this State's jurisdiction and this State's authority to examine its books and records;
4. Files with the Commissioner a certified copy of a certificate of authority, a certificate of compliance or an equivalent document which has been properly notarized, as evidence that it is currently licensed to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an assuming alien insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
5. Files annually with the Commissioner:
 - i. A copy of its most recent annual statement filed with the insurance department of its state of domicile;
 - ii. Its most recent audited financial statement;
 - iii. A current actuarial opinion which certifies:
 - (1) For a property and casualty insurer, to the adequacy of the loss and loss adjustment expense reserves; or
 - (2) For a life and health assuming insurer that:
 - (A) Its policy reserves are adequate;
 - (B) It satisfies all minimum capital and surplus requirements in all states in which it is licensed to transact business; and
 - (C) That its capital and surplus levels are adequate relative to its distribution by type and level of risk of its invested assets and the business being written, and attaches any and all documents in support thereof; and
 - iv. The quarterly statement for the quarter immediately preceding the application, except for renewals which shall require the quarterly statement due May 15;

shall require the quarterly statement due May 15,

6. Either:

- i.** Maintains a surplus as regards policyholders in an amount not less than \$ 20,000,000 and whose accreditation has not been denied by the Commissioner within 120 days of filing its submission with the Commissioner; or
- ii.** Maintains a surplus as regards policyholders of less than \$ 20,000,000 whose accreditation has been approved by the Commissioner; and

7. Provides any additional information which may include, but is not limited to, information which the Commissioner deems necessary to ensure that the particular reinsurer's condition and methods of operation are not such as would render its operations hazardous to the public or its policyholders.

(b) The above information shall be filed with the Commissioner at:

Office of Solvency Regulation
Attention: Reinsurance Accreditation
Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, New Jersey 08625-0325

(c) Except for applicants for accreditation that maintain surplus as regards policyholders of less than \$ 20,000,000, an initial application for accreditation shall be deemed approved unless the Commissioner transmits a letter to the filer, within 120 days from the date of the filing of the completed application identifying the reasons upon which the Commissioner has denied the filer's accreditation. Where a filing is deemed approved, the initial approval shall be valid until August 31. If the initial approval is issued after June 1, it shall be deemed valid until August 31, of the following year.

(d) A reinsurer shall apply for renewal of its accreditation annually at the address in (b) above, to the attention of "Renewal Reinsurance Accreditation." The reinsurer shall file its application for renewal no later than June 1 of any year in which it seeks to continue its accreditation and shall submit updated information as required in (a) above.

(e) A renewal filed in accordance with the above shall be deemed approved unless denied by the Commissioner prior to August 31.

(f) An accredited reinsurer shall notify the Commissioner within 30 days of the occurrence of any of the following actions taken against it by any state or jurisdiction:

- 1.** Any limitation on its ability to write new or renewal business;
- 2.** Any delinquency proceedings;
- 3.** The suspension, revocation or nonrenewal of its certificate of authority in any state or jurisdiction;
- 4.** An order or any action by any state or jurisdiction which requires it to cease writing new or renewal business; or
- 5.** Any action by any state or jurisdiction requiring that the reinsurer file a plan or any document to increase its capital, for example, a risk based capital plan.

(g) Where the Commissioner determines that an assuming insurer has failed to maintain any of the qualifications set forth in (a)1 through 7 and (f) above, after written notice and opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the Commissioner may revoke or refuse to renew the assuming insurer's accreditation.

(h) The Department shall maintain and publish a current list of accredited reinsurers on the Department's website: www.dobi.nj.gov.

(i) An insurer shall be prohibited from reporting a credit with respect to reinsurance ceded after 90 days from the date an assuming insurer has had its accreditation denied, revoked or nonrenewed.

History

HISTORY:

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Public Notice: List of accredited reinsurers.

See: 26 N.J.R. 4836(a).

Public Notice: List of accredited reinsurers.

See: 27 N.J.R. 5058(a).

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

Public Notice: List of accredited reinsurers.

See: 29 N.J.R. 5339(a).

Public Notice: List of accredited reinsurers.

See: 31 N.J.R. 80(a).

Public Notice: List of accredited reinsurers.

See: 32 N.J.R. 608(a).

Public Notice: List of accredited reinsurers.

See: 32 N.J.R. 4314(a).

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Public Notice: List of accredited reinsurers.

See: 34 N.J.R. 315(b).

Public Notice: List of Accredited Reinsurers.

See: 35 N.J.R. 278(a), 5624(a).

Public Notice: List of Accredited reinsurers.

See: 37 N.J.R. 363(a).

Public Notice: List of Accredited Reinsurers.

See: 38 N.J.R. 1352(a), 5419(a).

Public Notice: List of Accredited Reinsurers.

See: 40 N.J.R. 818(a).

Amended by R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

In the address in (b), substituted "Solvency Regulation" for "Financial Examinations"; and rewrote (h).

Amended by R.2018 d.147, effective August 6, 2018.

See: 49 N.J.R. 3650(a), 50 N.J.R. 1815(b)

In (h), updated the website address.

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§ 11:2-28.5 Reinsurer domiciled and licensed in another state or jurisdiction which employs substantially similar standards to this subchapter

(a) An insurer shall be permitted to take a credit for reinsurance ceded to an assuming insurer which, as of the date of the ceding insurer's statutory financial statement:

1. Is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed in, a state which employs substantially similar standards regarding credit for reinsurance to those set forth in this subchapter;
2. Submits a non-refundable filing fee of \$ 250.00 made payable to Treasurer, State of New Jersey;
3. Files with the Commissioner a certified copy of a certificate of authority, a certificate of compliance or an equivalent document which has been properly notarized as evidence that it is licensed to transact insurance or reinsurance in its state of domicile or, in the case of a United States branch of an assuming alien insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
4. Files with the Commissioner a properly executed form AR-1 (see Appendix) as evidence that it submits to this State's jurisdiction and authority to examine its books and records;
5. Files with the Commissioner a certification executed by an authorized officer of the reinsurer which certifies that the reinsurer's condition and method of operations are financially sound and will not render its operations hazardous to the public or its policyholders as determined by the factors set forth at N.J.A.C. 11:2-27.3. The officer shall certify that:
 - i. For a life and health assuming insurer, that:
 - (1) Its policy reserves are adequate; and
 - (2) It satisfies all minimum capital and surplus requirements in all states in which it is licensed to transact business; and
 - (3) Its capital and surplus levels are adequate relative to its distribution by type and level of risk of its invested assets and the business being written, and attaches any and all documents in support thereof;
 - ii. For a property and casualty assuming insurer, that net premium written to surplus as to policyholders does not exceed a 3:1 premium to surplus ratio and loss and loss adjustment expense reserve liability to surplus

does not exceed a 4:1 ratio as of the date of the certified balance sheet from its most recent annual statement;
and

iii. Except for reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system, that it maintains a surplus as regards policyholders in an amount not less than \$ 20,000,000;

6. A reinsurer shall append to the certification set forth in (a)5 above, a certified balance sheet from the reinsurer's most recent annual statement;

7. Within 90 days from the date of receipt of the completed filing, the filing shall either be deemed approved or the Commissioner shall transmit a letter to the filer which identifies the reasons upon which the Commissioner has found that either the reinsurer's state or jurisdiction of domicile does not employ substantially similar standards or the reinsurer otherwise fails to satisfy the requirements of this subchapter;

8. A reinsurer authorized pursuant to this section shall notify the Commissioner within 30 days of the occurrence of any of the following actions taken against it by any state or jurisdiction:

i. Any limitation on its ability to write new or renewal business;

ii. Any delinquency proceedings;

iii. A suspension, revocation or nonrenewal of its certificate of authority in any state or jurisdiction;

iv. An order or any action by any state or jurisdiction which requires it to cease writing new or renewal business; or

v. Any action, by any state or jurisdiction, requiring that the reinsurer file a plan or any document to increase its capital, for example, a risk based capital plan.

9. The above information shall be filed with the Commissioner at:

Office of Financial Examinations
Attention: Reinsurance--Similar Standards
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, New Jersey 08625-0325

History

HISTORY:

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

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§ 11:2-28.6 Reinsurer maintaining trust funds

(a) An insurer shall be permitted to take a credit for reinsurance ceded to an assuming insurer where as of the date of the ceding insurer's statutory financial statement the assuming insurer meets the standards set forth in (a)1 and 2 below, in accordance with the procedures set forth in (a)3 through 8 below:

1. The assuming insurer maintains a trust fund in an amount prescribed in (b) below in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest.

2. The assuming insurer files with the Commissioner a letter requesting authorization to provide reinsurance. The letter shall specify: that the reinsurer seeks authorization based on the fact that it maintains trust funds for the benefit of its ceding insurers and United States policyholders; the location of the trust funds; and a list of documents and information submitted therewith and upon which the assuming insurer shall rely in connection with its request for authorization. The reinsurer shall submit to the Commissioner the following:

i. A nonrefundable filing fee made payable to Treasurer, State of New Jersey of \$ 1,000 for an initial filing and \$ 1,000 for a renewal filing;

ii. A properly executed form AR-1;

iii. A description of which categories of insurance are effected by the cessions;

iv. A certification executed by an authorized officer of the reinsurer which certifies that the reinsurer's condition and method of operations are financially sound and will not render its operations hazardous to the public or its policyholders as determined in accordance with the factors set forth at N.J.A.C. 11:2-27.3. The officer shall certify:

(1) For a life and health assuming insurer, that:

(A) Its policy reserves are adequate;

(B) It satisfies all minimum capital and surplus requirements in all states in which it is licensed to transact business; and

(C) Its capital and surplus levels are adequate relative to its distribution by type and level of risk of its invested assets and the business being written, together with any and all documents in support thereof;

(2) For a property and casualty assuming insurer, that net premium written to surplus as to policyholders does not exceed a 2:1 premium to surplus ratio and loss and loss adjustment expense reserve liability to surplus

not exceed a 3:1 premium to surplus ratio and loss and loss adjustment expense reserve liability to surplus does not exceed a 4:1 ratio as of the date of the certified balance sheet from its most recent annual statement; and

(3) To the accuracy of the information required by (b) below;

v. A certified balance sheet from the reinsurer's most recent annual statement; and

vi. A list of the assets of the trust certified by the trustee.

3. The information in (a)1 and 2 above shall be filed with the Commissioner at:

Office of Solvency Regulation
Attention: Reinsurance Trust Fund
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, New Jersey 08625-0325

4. A reinsurer shall reapply for authorization annually at the address set forth in (a)3 above no later than June 1 of each year.

5. Within 30 days from receipt of the information in (a)1 and 2 above the Commissioner shall notify the filer of any deficiencies in its submission and the filer shall have 30 days to cure such deficiencies.

6. Within 90 days from the date of receipt of the completed filing, the filing shall either be deemed approved or the Commissioner shall transmit a letter to the filer which identifies the reasons upon which he or she has relied to determine that the filer has not met the requirements of this section and that insurers shall be prohibited from reporting credits for reinsurance for insurance ceded to the filer.

7. A reinsurer authorized pursuant to this section shall notify the Commissioner within 30 days of the occurrence of any of the following actions taken against it by any state or jurisdiction:

i. Any limitation on its new or renewal business;

ii. Any delinquency proceedings;

iii. Its certificate of authority is suspended, revoked or nonrenewed in any state or jurisdiction;

iv. An order has been entered or any action has been taken by any state or jurisdiction which requires it to cease writing new or renewal business; or

v. Any action, by any state or jurisdiction, requiring that the reinsurer file a plan or any document to increase its capital, for example, a risk based capital plan.

8. An assuming insurer shall report annually to the Commissioner substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers to be evaluated by the Commissioner, including, but not limited to: a recent actuarial opinion which certifies to the adequacy of the loss and loss adjustment expense reserve liabilities, and, where applicable, life and health reserve liabilities, in order to determine the sufficiency of the trust fund; and any additional information the Commissioner deems necessary to ensure that the assuming insurer's condition and method of operation are not such as would render its operations hazardous to the public or policyholders in this State.

(b) In order to qualify as a reinsurer as provided in (a) above, an assuming insurer shall establish a trust fund. The trust fund established by the assuming insurer shall meet the following standards based upon the following category of assuming insurer into which it falls:

1. The trust fund for a single assuming insurer shall consist of a trustee account in an amount not less than the assuming insurer's liabilities attributable to business written in the United States, and, in addition, a trustee surplus of not less than \$ 20,000,000, except as provided in (b)1i below.

i. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner 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 United States 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 United States ceding insurers covered by the

trust.

2. The trust fund for a group of insurers, which group includes individual unincorporated underwriters, shall consist of a trustee account in an amount not less than the respective underwriters' aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which not less than \$ 100,000,000 shall be held jointly for the benefit of the United States ceding insurers of any underwriter of the group. The group shall make available to the Commissioner an annual certification of the solvency of each underwriter for the fiscal period immediately preceding, which fiscal period shall not be less than one year, by the group's domiciliary regulator and its certified public accountant.

3. The trust fund for a group of incorporated insurers under common administration which complies with the filing requirements set forth in this section whose members possess aggregate policyholder's surplus of \$ 10,000,000,000, calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the NAIC, and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the group's several liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trustee surplus of which not less than \$ 100,000,000 shall be held jointly and exclusively for the benefit of the United States ceding insurers of any member of the group. The group shall file a properly executed form AR-1 as evidence of its submission to this State's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the Commissioner annual certifications by the members' domiciliary regulators and their independent certified public accountants of the solvency of each member of the group for the fiscal period immediately preceding which fiscal period shall not be less than one year.

(c) The trust required by (b) above shall be established in a form approved by the Commissioner and in compliance with this section, and the content, location, legal currency and financial institutions shall be acceptable to the Commissioner. The trust instrument shall provide that:

- 1.** Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States;
- 2.** Legal title to the assets of the trust shall be vested in the trustees of the trust for the benefit of the grantor's United States policyholders and ceding insurers, their assignees and successors in interest;
- 3.** The trust shall be subject to examination as determined by the Commissioner;
- 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 due under reinsurance agreements subject to the trust;
- 5.** No later than February 28 of each year the trustees of the trust shall report to the Commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year's end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

- 1.** The trust assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender) investments of stocks and bonds listed by the NAIC's Securities Valuation Office or any obligations issued by the State of New Jersey or any of its political subdivisions, or any combination of the above, provided such investments are issued by an institution that is not the grantor, beneficiary, parent, subsidiary or an affiliate of either the grantor or the beneficiary; and
- 6.** No amendment to the trust shall be effective unless filed with and approved in advance by the Commissioner.

History

HISTORY:

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 157(b)

See: 27 N.J.R. 3270(b), 28 N.J.R. 132(b).

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Amended by R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

In the address in (a)3, substituted "Solvency Regulation" for "Financial Examinations"; in the introductory paragraph of (b)1, inserted ", except as provided in (b)1i below"; added (b)1i; and in (b)2, substituted "respective underwriters" for "group's" and "underwriter" for "member".

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§ 11:2-28.7 Credit for reinsurance required by law

(a) An insurer may be permitted to take a credit for reinsurance ceded to an assuming insurer which does not meet any of the requirements set forth at N.J.A.C. 11:2-28.3, 28.4, 28.5, 28.6, 28.7A, or 28.7E, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required or provided by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means any state, district, or territory of the United States and any lawful national government.

(b) A credit may taken for insurance ceded by a ceding insurer to a state owned or controlled insurance or reinsurance company or a ceding company participating in pools, guaranty funds or joint underwriting associations required by statute, regulation or administrative order.

History

HISTORY:

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Amended by R.2022 d.108, effective September 6, 2022.

See: 54 N.J.R. 1004(a), 54 N.J.R. 1735(a).

In (a), updated N.J.A.C. cites, and inserted a comma following "district".

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§ 11:2-28.7A Credit for reinsurance from certified reinsurers

(a) Pursuant to N.J.S.A. 17:51B-2.g, the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements set forth at N.J.A.C. 11:2-28.3, 28.4, 28.5, or 28.6 that has been certified as a reinsurer in this State at all times for which statutory financial statement credit for reinsurance is claimed pursuant to this section. 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 pursuant to this section. The security shall be in a form consistent with the provisions at N.J.S.A. 17:51B-2.g and this subchapter. The amount of security required in order for full credit to be allowed shall correspond with the requirements as set forth at Exhibit A in the Appendix to this subchapter, incorporated herein by reference.

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

(c) 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.

(d) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the Commissioner. The one-year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. 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:

1. Line 1: Fire;
2. Line 2: Allied Lines;
3. Line 3: Farmowners multiple peril;
4. Line 4: Homeowners multiple peril;
5. Line 5: Commercial multiple peril;
6. Line 9: Inland Marine;
7. Line 12: Earthquake; and
8. Line 21: Auto physical damage

6. Line 21. Auto physical damage.

(e) Credit for reinsurance under this section 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 section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

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

(g) In addition to the clauses required under N.J.A.C. 11:2-28.12, reinsurance contracts entered into or renewed under this section through N.J.A.C. 11:2-28.7D shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(h) The Commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

(i) If a certified reinsurer maintains a trust to fully secure its obligations subject to N.J.A.C. 11:2-28.6, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for its obligations subject to N.J.A.C. 11:2-28.6. It shall be a condition to the grant of certification that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

(j) The minimum trustee surplus requirements provided in N.J.A.C. 11:2-28.6 are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this section, except that such trust shall maintain a minimum trustee surplus of \$ 10,000,000.

(k) With respect to obligations incurred by a certified reinsurer under this section, if the security is insufficient, the Commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

History

HISTORY:

New Rule, R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

Amended by R.2022 d.108, effective September 6, 2022.

See: 54 N.J.R. 1004(a), 54 N.J.R. 1735(a).

In (a), updated the N.J.A.C. references throughout, substituted "at" for "in" twice, substituted "pursuant to" for "under", inserted a comma following "ceding insurer" and substituted "at" for "of".

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§ 11:2-28.7B Certification procedure

(a) The Commissioner shall issue a written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with N.J.A.C. 11:2-28.7A. The Department shall publish a list on its website of all certified reinsurers and their ratings.

1. Promptly upon its receipt of an application from an insurer to be designated as a certified reinsurer pursuant to this section, the Department shall post on its website notice of such application. Interested parties may respond in writing to the application within 30 days of the date of such posting, directed to: Chief Insurance Examiner, 20 West State St., PO Box 325, Trenton, NJ 08625-0325, or via e-mail at dobi.reinsurance@dobi.nj.gov

. The Department shall take no action on an application for certification prior to the expiration of the 30-day period referenced above.

(b) 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 under N.J.A.C. 11:2-28.7C;

2. The assuming insurer must maintain capital and surplus, or its equivalent, of no less than \$ 250,000,000 calculated in accordance with this section. This requirement may also be satisfied by an association 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 maintain financial strength ratings from two or more rating agencies approved by the United States Securities and Exchange Commission or other successor regulatory agency. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the Commissioner in determining the rating that is assigned to the assuming insurer. Rating agencies that meet the requirements set forth above include the following:

i. Standard & Poor's;

ii. Moody's Investors Service;

iii. Fitch Ratings;

iii. Other ratings;

iv. A.M. Best Company; and

v. Any other nationally recognized statistical rating organization approved by the United States Securities and Exchange Commission or other successor regulatory agency; and

4. The certified reinsurer must maintain satisfactory evidence that it meets the standards of solvency, including standards for capital adequacy, established by its domestic regulator.

(c) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating, where appropriate, except that an association 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. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

1. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in Exhibit B to the Appendix to this subchapter, incorporated herein by reference. The Commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification;

2. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

3. For certified reinsurers domiciled in the United States, 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);

4. For certified reinsurers not domiciled in the United States, a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (attached as Exhibits C and D, respectively, in the Appendix to this subchapter, incorporated herein by reference);

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

6. Regulatory actions against the certified reinsurer;

7. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in (c)8 below;

8. For certified reinsurers not domiciled in the United States, audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the Commissioner will consider audited financial statements for the last two years filed with its non-United States jurisdiction supervisor;

9. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

10. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States 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

11. Any other information deemed necessary by the Commissioner from a particular filer to enable the Commissioner to determine compliance with this subchapter.

(d) Based on the analysis conducted under (c)5 above of a certified reinsurer's reputation for prompt payment of claims, the Commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the Commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under (c)1 above if the Commissioner finds that:

1. More than 15 percent of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more which are not in dispute and which exceed \$ 100,000 for each cedent; or

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

(e) The assuming insurer shall submit a properly executed Form CR-1 (set forth as Exhibit E in the Appendix to this subchapter, incorporated herein by reference) as evidence of its submission to the jurisdiction of this State,

appointment of the Commissioner as an agent for service of process in this State, and agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The Commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the Commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

(f) The certified reinsurer shall meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers, which is not otherwise public information subject to disclosure shall not be considered a government record subject to public inspection and copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. The applicable information filing requirements are, as follows:

1. Notification within 10 days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefor;
2. Annually, Form CR-F or CR-S, as applicable (per the instructions to be developed by the NAIC);
3. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in (f)4 below;
4. Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon application for initial certification, audited financial statements for the last two years filed with the certified reinsurer's supervisor;
5. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers;
6. 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
7. Any other information that the Commissioner may require from a particular filer to determine compliance with this subchapter.

(g) In the case of a downgrade by a rating agency or other disqualifying circumstance, the Commissioner shall, upon written notice, assign a new rating to the certified reinsurer in accordance with the requirements of (c)1 above.

(h) The Commissioner may suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this subchapter, or if 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.

(i) If the rating of a certified reinsurer is upgraded by the Commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis. 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. If the rating of a certified reinsurer is downgraded by the Commissioner, the Commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(j) Upon revocation of the certification of a certified reinsurer by the Commissioner, the assuming insurer shall be required to post security in accordance with N.J.A.C. 11:2-28.8 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with N.J.A.C. 11:2-28.6, the Commissioner may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating 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 three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the Commissioner to be at high risk of uncollectibility.

History

HISTORY:

New Rule 8 2012 d 154 effective September 4, 2012

NEW RULE, R.2012 d.107, effective September 7, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

Amended by R.2015 d.056, effective April 6, 2015.

See: 46 N.J.R. 674(a), 47 N.J.R. 723(b).

Added (a)1; and in the introductory paragraph of (f), updated the N.J.S.A. reference, and deleted a comma following "are".

Amended by R.2018 d.147, effective August 6, 2018.

See: 49 N.J.R. 3650(a), 50 N.J.R. 1815(b)

In (a)1, substituted "Insurance Examiner" for "of Reinsurance and Surplus Lines", and updated the email address.

Amended by R.2022 d.108, effective September 6, 2022.

See: 54 N.J.R. 1004(a), 54 N.J.R. 1735(a).

In (c), inserted a comma after "rating"; rewrote (c)8; in (f), inserted a comma after "reinsurers" and "are", substituted "pursuant to" for "under"; and rewrote (f)4.

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§ 11:2-28.7C Qualified jurisdictions

(a) If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-United States assuming insurer, the Commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Commissioner shall publish notice and evidence of such recognition on its website. The Commissioner may, after notice and opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, withdraw recognition of any jurisdiction he or she finds is no longer qualified under this subchapter.

(b) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commissioner shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The Commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the Commissioner as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the Commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the Commissioner, include, but are not limited to, the following:

1. The framework under which the assuming insurer is regulated;
2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance;
3. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction;
4. 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;
5. The domiciliary regulator's willingness to cooperate with United States regulators in general and the Commissioner in particular;
6. The history of performance by assuming insurers in the domiciliary jurisdiction;
7. Any documented evidence of substantial problems with the enforcement of final United States judgments in

7. Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the Commissioner has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards;

8. 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

9. Any other matters deemed relevant by the Commissioner in consideration of the factors set forth in (b)1 through 8 above.

(c) A list of qualified jurisdictions shall be published through the NAIC Committee Process. The Commissioner shall consider this list in determining qualified jurisdictions. If the Commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Commissioner shall provide justification with respect to the criteria set forth in (b) above.

(d) United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

History

HISTORY:

New Rule, R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

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§ 11:2-28.7D Recognition of certification issued by an NAIC accredited jurisdiction

(a) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Commissioner may defer to that jurisdiction's certification, and may defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the Commissioner requires to determine compliance with the subchapter. Upon approving such an application, the assuming insurer shall be considered to be a certified reinsurer in this State.

(b) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this State as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the Commissioner of any change in its status or rating within 10 days after receiving notice of the change.

(c) The Commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with N.J.A.C. 11:2-28.7B.

(d) The Commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer, after notice and opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, upon finding that the jurisdiction is no longer qualified under this subchapter. Unless the Commissioner suspends or revokes the certified reinsurer's certification in accordance with N.J.A.C. 11:2-28.7B, the certified reinsurer's certification shall remain in good standing in this State for a period of three months, which shall be extended for good cause if additional time is necessary to consider the assuming insurer's application for certification in this State.

History

HISTORY:

New Rule, R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

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N.J.A.C. 11:2-28.7E

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[NJ - New Jersey Administrative Code](#) [TITLE 11. INSURANCE](#) [CHAPTER 2. INSURANCE](#)
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§ 11:2-28.7E Reciprocal jurisdictions

(a) Pursuant to N.J.S.A. 17:51B-2.e, the Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction, and which meets the other requirements of this section.

(b) A "reciprocal jurisdiction" is a jurisdiction, as designated by the Commissioner pursuant to (d) below, that meets one of the following:

1. A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection, a "covered agreement" is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this State or for allowing the ceding insurer to recognize credit for reinsurance;
2. A U.S. jurisdiction that meets the requirements for accreditation pursuant to the NAIC financial standards and accreditation program; or
3. A qualified jurisdiction, as determined by the Commissioner pursuant to N.J.A.C. 11:2-28.7C, which is not otherwise described at (b)1 or 2 above and which the Commissioner determines meets all of the following additional requirements:
 - i. Provides that an insurer that has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a U.S.- domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;
 - ii. Does not require a U.S.- domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to rules by the non-U.S. jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;
 - iii. Recognizes the U.S. State regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this State or another jurisdiction accredited by the

groups that are domiciled or maintain their headquarters in this State or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision, including worldwide group governance, solvency and capital, and reporting, as applicable, by the Commissioner or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

iv. Provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the Commissioner, in accordance with a memorandum of understanding or similar document between the

Commissioner and such qualified jurisdiction, including, but not limited to, the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

(c) Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this State to an assuming insurer meeting each of the conditions set forth below.

1. The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a reciprocal jurisdiction.

2. The assuming insurer must have and maintain on an ongoing basis, minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth at (c)7 below, according to the methodology of its domiciliary jurisdiction, in the following amounts:

i. No less than \$ 250,000,000; or

ii. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

(1) Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$ 250,000,000; and

(2) A central fund containing a balance of the equivalent of at least \$ 250,000,000.

3. The assuming insurer must have and maintain on an ongoing basis, a minimum solvency or capital ratio, as applicable, as follows:

i. If the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as set forth at (b)1 above, the ratio specified in the applicable covered agreement;

ii. If the assuming insurer is domiciled in a reciprocal jurisdiction as set forth at (b)2 above, a risk-based capital (RBC) ratio of 300 percent of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

iii. If the assuming insurer is domiciled in a reciprocal jurisdiction as set forth at (b)3 above, after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the Commissioner determines to be an effective measure of solvency.

4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1, set forth in the chapter Appendix, Exhibit F, of its agreement to the following:

i. The assuming insurer must agree to provide prompt written notice and explanation to the Commissioner if it falls below the minimum requirements set forth at (c)2 or 3 above, or if any regulatory action is taken against it for serious noncompliance with applicable law.

ii. The assuming insurer must consent, in writing, to the jurisdiction of the courts of this State and to the appointment of the Commissioner as agent for service of process.

(1) The Commissioner may also require that such consent be provided and included in each reinsurance agreement under the Commissioner's jurisdiction.

(2) Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

iii. The assuming insurer must consent, in writing, to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

iv. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable.

v. The assuming insurer must confirm that it is not presently participating in any solvent scheme of

arrangement, which involves this State's ceding insurers, and agrees to notify the ceding insurer and the Commissioner and to provide 100 percent security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions at N.J.S.A. 17:51B-2.g and 17:51B-3 and N.J.A.C. 11:2-28.9, 28.10, or 28.11. For purposes of this section, the term "solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

vi. The assuming insurer must agree, in writing, to meet the applicable information filing requirements as set forth at (c)5 below.

5. The assuming insurer or its legal successor must provide, if requested by the Commissioner, on behalf of itself and any legal predecessors, the following documentation to the Commissioner:

- i.** For the two years preceding entry into the reinsurance agreement, and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;
- ii.** For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;
- iii.** Prior to entry into the reinsurance agreement, and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and
- iv.** Prior to entry into the reinsurance agreement, and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by the ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth at (c)6 below.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:

- i.** More than 15 percent of the reinsurance recoverables from the assuming insurer are overdue and in dispute, as reported to the Commissioner;
- ii.** More than 15 percent of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverables on paid losses of 90 days or more, which are not in dispute, and which exceed for each ceding insurer \$ 100,000, or as otherwise specified in a covered agreement; or
- iii.** The aggregate amount of reinsurance recoverable on paid losses that are not in dispute, but are overdue by 90 days or more, exceeds \$ 50,000,000, or as otherwise specified in a covered agreement.

7. The assuming insurer's supervisory authority must confirm, to the Commissioner, on an annual basis, that the assuming insurer complies with the requirements set forth at (c)2 and 3 above.

8. Nothing in this subsection precludes an assuming insurer from providing the Commissioner with information on a voluntary basis.

(d) The Commissioner shall timely create and publish a list of reciprocal jurisdictions.

1. A list of reciprocal jurisdictions is published through the NAIC Committee Process. The Commissioner's list shall include any reciprocal jurisdiction as defined pursuant to (b)1 and 2 above and shall consider any other reciprocal jurisdiction included on the NAIC list. The Commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions as provided by applicable law, rule, or in accordance with criteria published through the NAIC Committee Process.

2. The Commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law, rule, or in accordance with a process published through the NAIC Committee Process, except that the Commissioner shall not remove from the list a reciprocal jurisdiction as defined pursuant to (b)1 and 2 above. Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to N.J.S.A. 17:51B-1 et seq., or N.J.A.C. 11:2-28.1.

(e) The Commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth at this section and to which cessions shall be granted credit, in accordance with this section.

1. If an NAIC-accredited jurisdiction has determined that the conditions set forth at (c) above have been met,

the Commissioner has the discretion to defer to that jurisdiction's determination and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit, in accordance with this subsection. The Commissioner may accept financial documentation filed with another NAIC-accredited jurisdiction or with the NAIC in satisfaction of the requirements set forth at (c) above.

2. When requesting that the Commissioner defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1, set forth in the chapter Appendix, Exhibit F, and additional information as the Commissioner may require. A state that has received such a request will notify

other states through the NAIC Committee Process and provide relevant information with respect to the determination of eligibility.

(f) If the Commissioner determines that an assuming insurer no longer meets one or more of the requirements under this section, the Commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this section.

1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured, in accordance with N.J.A.C. 11:2-28.8.

2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the Commissioner and consistent with the provisions at N.J.A.C. 11:2-28.8.

(g) Before denying statement credit or imposing a requirement to post security with respect to (f) above or adopting any similar requirement that will have substantially the same regulatory impact as security, the Commissioner shall:

1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed at (c) above;

2. Provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;

3. After the expiration of 90 days or less, as set forth at (g)2 above, if the Commissioner determines that no or insufficient action was taken by the assuming insurer, the Commissioner may impose any of the requirements as set forth in this subsection; and

4. Provide a written explanation to the assuming insurer of any of the requirements set forth in this subsection.

(h) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

History

HISTORY:

New Rule, R.2022 d.108, effective September 6, 2022.

See: 54 N.J.R. 1004(a), 54 N.J.R. 1735(a).

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§ 11:2-28.8 Reduction from liability for reinsurance ceded to an unauthorized assuming insurer

(a) An insurer shall be permitted to take a reduction from liability for reinsurance ceded to an assuming insurer not meeting the requirements at N.J.A.C. 11:2-28.3, 28.4, 28.5, 28.6, 28.7, or 28.7A through 28.7E in an amount which does not exceed the liabilities carried by the ceding insurer. Such reduction shall be in the amount of the funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security shall be held in the United States, subject to withdrawal solely by and under the exclusive control of the ceding insurer, or in the case of a trust held in a qualified United States financial institution, subject to withdrawal solely by and under the exclusive control of the ceding insurer.

(b) The security shall be in the form of:

1. Cash (United States legal tender);
2. Securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualified as admitted assets;
3. Clean, irrevocable, evergreen, unconditional letters of credit issued or confirmed by a qualified United States institution no later than December 31st of the year for which filing is being made, and in the possession of the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming qualified United States financial institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs, unless the issuer has been declared insolvent under applicable statutory or regulatory provisions; or
4. Any other form of security approved by the Commissioner upon formal request.

[History](#)

HISTORY:

Amended by R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

In (b)2, inserted ", including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office,"; and in (b)3, substituted "insurer" for "company" and inserted a comma following "modification".

Amended by R.2022 d.108, effective September 6, 2022.

See: 54 N.J.R. 1004(a), 54 N.J.R. 1735(a).

In (a), substituted "at" for "of", updated the N.J.A.C. cites, and inserted a comma following the first occurrence of "States".

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§ 11:2-28.9 Trust agreements qualified pursuant to N.J.A.C. 11:2-28.8

(a) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to N.J.A.C. 11:2-28.8 shall be permitted only when the requirements set forth below and in N.J.A.C. 11:2-28.10 and 28.11 are met.

1. The beneficiary, the grantor and a trustee shall enter into a trust agreement. The trustee shall be a qualified United States financial institution.
2. The trust agreement shall create a trust account into which the trust's assets shall be deposited.
3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the Commissioner's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the Commissioner approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in 4i below must also be presentable, as a matter of legal right, at the trustee's principal office in the United States. The trust assets shall consist of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), letters of credit (issued by a United States financial institution authorized to issue letters of credit and payable in United States legal tender), investments of stocks and bonds listed by the NAIC's Securities Valuation Office, or any obligations issued by the State of New Jersey or any of its political subdivisions, or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary or an affiliate of either the grantor or the beneficiary.
4. The trust agreement shall provide that:
 - I. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustees;
 - II. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
 - III. It is not subject to any conditions or qualifications outside of the trust agreement; and
 - IV. It shall not contain references to any other agreements or documents except as provided below in (a)11 below.
5. The trust agreement shall be established for the sole benefit of the beneficiary.

5. The trust agreement shall be established for the sole benefit of the beneficiary.

6. The trust agreement shall require the trustee to:

i. Receive assets and hold all assets in a safe place;

ii. Determine that all assets are in such form that the beneficiary or the trustee, upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

iii. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

iv. Notify the grantor and the beneficiary within ten days, of any deposits to or withdrawals from the trust account;

v. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

vi. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of, but with notice to, the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established and shall at minimum conform to the standards set forth in these rules.

9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

10. The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.

11. Notwithstanding other provisions of this subchapter, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer or the inability of the ceding insurer to pay all or any part of a claim, for the following purposes:

i. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid or owed by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

ii. 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; or

iii. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in (a)11i and (a)11ii above as may remain executory after such withdrawal and for any period after the termination date.

12. The trust agreement shall provide that the trustee shall resign upon delivery of a written notice of resignation, effective not less than 90 days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(b) The trust agreement may provide for the following conditions:

1. That the grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends may be either forwarded promptly upon receipt to

the grantor or deposited in a separate account established in the grantor's name;

2. That the trustee may have the authority to invest and accept substitutions of any funds in the account, provided that no investment or substitution may be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in (c)1iii below;

3. The beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets; and

4. Upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

(c) A reinsurance agreement may provide provisions to be included in a trust agreement and the trust account established thereunder.

1. A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

i. The assuming insurer may enter into a trust agreement and may establish a trust account for the benefit of the ceding insurer and specify what the agreement is to cover;

ii. Assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of stocks and bonds listed by the NAIC's Securities Valuation Office or any obligations issued by the State of New Jersey or any of its political subdivisions, or any combination of the above, provided that such investments are issued by an institution that is not the grantor, beneficiary, parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement shall specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement;

iii. The reinsurance agreement entered into in conjunction with the trust agreement may, but need not include the provisions required by (c)1ii above, so long as the conditions required in (a) above are included in the trust agreement.

iv. The assuming insurer, prior to depositing assets with the trustee, shall execute assignments or endorsements in blank, or transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may, whenever necessary, negotiate these assets without consent or signature from the assuming insurer or any other entity;

v. All settlements of account between the ceding insurer and the assuming insurer shall be made in cash or its equivalent; and

vi. The assuming insurer and the ceding insurer shall agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer or the inability of the ceding insurer to pay all or any part of a claim, only for the following purposes:

(1) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(2) To reimburse the ceding insurer or pay an insolvent ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer or owed by an insolvent ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;

(3) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred, including losses incurred but not reported, loss adjustment expenses and unearned premium reserves; and

(4) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

2. The reinsurance agreement may also contain provisions that:

i. The assuming insurer may seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, and the ceding insurer shall not unreasonably or arbitrarily withhold its approval provided:

(1) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as 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 no less than 102 percent of the required amount;

ii. Any amount withdrawn in excess of the actual amounts required for (c)1vi(1), (2) and (3) or in the case of (c)1vi(4) any amounts that are subsequently determined not to be due shall be returned;

iii. Interest shall be paid at a rate not in excess of the prime rate of interest as reported in the Federal Reserve Bulletin, on the amounts held pursuant to subsection (c)1vi(3); and

iv. An award by any arbitration panel or court of competent jurisdiction shall be permitted for:

(1) Interest at a rate different from that provided in iii above;

(2) Court of arbitration costs;

(3) Attorney's fees; and

(4) Any other reasonable expenses.

3. The reinsurance agreement shall contain a provision, if applicable, which requires that a reinsurance intermediary shall hold any and all funds collected on the reinsurer's behalf, in a fiduciary capacity, in a qualified United States financial institution.

(d) A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer as reflected in financial statements required to be filed with the Department in compliance with the provisions of this subchapter when established on or before the date of filing of the financial statement of the ceding insurer. The 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 such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(e) Any trust agreement or underlying reinsurance agreement in existence prior to August 16, 1993 shall be acceptable until February 12, 1994, at which time any and all trust agreements shall comply with this subchapter.

(f) The failure of any trust agreement to specifically identify the beneficiary shall not be construed to affect any actions or rights which the Commissioner may take or possess pursuant to the provisions of the laws of this State.

History

HISTORY:

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Amended by R.2006 d.66, effective February 21, 2006.

See: 37 N.J.R. 3216(a), 38 N.J.R. 1188(b).

In (a)3, added ", letters of credit (issued by a United States financial institution authorized to issue letters of credit and payable in United States legal tender),".

Amended by R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

In (b)2, (c)2i(1) and (c)2i(2), inserted "current fair".



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§ 11:2-28.10 Letters of credit qualified pursuant to N.J.A.C. 11:2-28.8 and 28.9

(a) A letter of credit shall be clean, irrevocable, evergreen, and unconditional and issued or confirmed by a qualified United States financial institution. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. The letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in (i)1 below. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver, conservator, rehabilitator or liquidator.

(b) The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

(c) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

(d) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice to the named beneficiary from the issuing financial institution. The "evergreen clause" shall provide for a period of no less than 30 days' notice prior to expiry date or nonrenewal.

(e) 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 600 (UCP 600), or the International Standby Practices of the International Chamber of Commerce, Publication 590 (ISP 98), or any subsequent revisions, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

(f) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, Publication 600 (UCP 600), or the International Standby Practices of the International Chamber of Commerce, Publication 590 (ISP 98), or any successor publication, then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit

credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified at Article 36 of Publication 600 or any other successor publication, occur.

(g) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit in accordance with these rules.

(h) Where a letter of credit is issued by a United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in (g), the following additional requirements shall be met:

1. The issuing United States financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and
2. The "evergreen clause" shall provide for 30 days' notice to the named beneficiary or its successors in interest from the issuing financial institution prior to expiry date for nonrenewal.

(i) A reinsurance agreement, in conjunction with which a letter of credit is obtained, may contain the following provisions:

1. The assuming insurer shall provide letters of credit to the ceding insurer and specify what they are to cover.

2. The assuming insurer and ceding insurer shall agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

i. To reimburse the ceding insurer or to pay an insolvent ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

ii. To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer or owed by an insolvent ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

iii. To fund an account with the ceding insurer in an amount at least equal to the deduction for reinsurance ceded from the ceding insurer's liabilities for policies ceded under the agreement. Such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves; or

iv. To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

3. The provisions of (i)1 and 2 above shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

4. Nothing contained in (i)1 and 2 above shall preclude the ceding insurer and assuming insurer from providing for:

i. An interest payment, at a rate not in excess of the prime rate of interest as reported in the Federal Reserve Bulletin, on the amounts held pursuant to (i)2iii above; or

ii. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of (i)2iv above, any amounts that are subsequently determined not to be due.

5. When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of (i)2 above, require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document.

(j) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer as reflected in financial statements required to be filed with the Department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. The reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

History

HISTORY:

Amended by R 1993 d 557, effective November 15, 1993

Amended by R.1993 a.337, effective November 13, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Amended by R.2006 d.66, effective February 21, 2006.

See: 37 N.J.R. 3216(a), 38 N.J.R. 1188(b).

In section heading, added the reference to N.J.A.C. 11:2-28.9.

Amended by R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

In the introductory paragraph of (e), substituted "600 (UCP 600), or the International Standby Practices of the

International Chamber of Commerce, Publication 590 (ISP 98)," for "400"; in (e)1, substituted "Publications 590 and 600" for "Publication 400"; in (f), substituted "500, or any successor publication" for the first occurrence of "400", "17" for "19", and the second occurrence of "500" for the second occurrence of "400".

Amended by R.2022 d.108, effective September 6, 2022.

See: 54 N.J.R. 1004(a), 54 N.J.R. 1735(a).

Deleted (e)1 and rewrote (f).

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§ 11:2-28.11 Other security

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States in connection with the reinsurance contract under which those funds are withheld, subject to withdrawal solely by the ceding insurer and under its exclusive control.

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§ 11:2-28.12 Reinsurance contract

(a) Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements at N.J.A.C. 11:2-28.3, 28.4, 28.5, 28.6, 28.7, 28.7A through 28.7E, or 28.8, unless the reinsurance agreement meets the following standards:

1. Includes a provision that if the assuming insurer is an unauthorized assuming insurer:

- i. It has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States;
- ii. It has agreed to comply with all requirements necessary to give such court or panel jurisdiction;
- iii. It has designated an agent upon whom service of process may be effected; and
- iv. It has agreed to abide by the final decision of such court or panel;

2. Includes an insolvency clause which shall provide the following:

- i. In the event of a receivership, the reinsurance recoverables due under any reinsurance contract shall be payable by the reinsurer directly to the receiver, after reasonable provision for verification, on the basis of claims allowed against the insolvent company by any court of competent jurisdiction having authority to allow such claims or allowed by the receiver as a result of the conclusion of the claim filing, approval and appeal process before the receiver. Regardless of any provision in the reinsurance contract or other agreement to the contrary, payment shall be made without diminution because of such insolvency or because the receiver has failed to pay all or a portion of any claims;
- ii. The receiver of a ceding insurer shall give or arrange to give to the reinsurer, written notice of the pendency of a claim against the ceding insurer, within a reasonable period of time after the initiation of the receivership. Failure to give such notice shall not excuse the obligation of the reinsurer unless it is substantially prejudiced thereby. The reinsurer may interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which it may deem available to the ceding company or its receiver. The reasonable expense thus incurred by the reinsurer shall be payable, subject to court approval, out of the estate of the insolvent ceding insurer as part of the expense of the receivership to the extent of a proportionate share of the benefit which may accrue to the ceding insurer in receivership, solely as a result of the defense undertaken by the reinsurer; and

iii. Payments by the reinsurer shall be made directly to the receiver of the ceding insurer except where the

iii. Payments by the reinsurer shall be made directly to the receiver of the ceding insurer, except where the contract of insurance or reinsurance specifically provides another payee for such reinsurance in the event of the insolvency of the ceding insurer; and

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

History

HISTORY:

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

Amended by R.1996 d.3, effective January 2, 1996.

See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).

Amended by R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

In the introductory paragraph of (a), inserted "28.7A through 28.7D," and deleted "of this subchapter" following "28.8"; in the introductory paragraph of (a)1, substituted a colon for a semicolon at the end; in (a)1iv, deleted "and" from the end; in (a)2iii, substituted "; and" for a period at the end; and added (a)3.

Amended by R.2022 d.108, effective September 6, 2022.

See: 54 N.J.R. 1004(a), 54 N.J.R. 1735(a).

In (a), substituted "at" for "of", and updated N.J.A.C. cites.

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§ 11:2-28.13 Suspension or revocation of accreditation or certification

(a) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the Commissioner may, after notice and opportunity for hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, suspend or revoke the reinsurer's accreditation or certification.

(b) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with N.J.A.C. 11:2-28.7. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may 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 N.J.A.C. 11:2-28.7 or 28.7A.

History

HISTORY:

Repeal and New Rule, R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

Section was "Contracts affected".

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§ 11:2-28.14 Concentration of risk

(a) A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the Commissioner within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50 percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(b) A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the Commissioner within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20 percent of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

History

HISTORY:

New Rule, R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

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FORM AR-1

FORM AR-1

CERTIFICATE OF ASSUMING INSURER

I, _____ of _____
(name of officer) (title of officer) (name of assuming insurer)
the assuming insurer under a reinsurance agreement(s) with one or more insurers domiciled in _____, hereby
(name of state)
certify that _____ ("Assuming Insurer"):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in _____ for the adjud-
(ceding insurer's state of domicile)
ication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to given such
court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in
this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in
any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a
transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This
paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate
their disputes if such an obligation is created in the agreement(s).

2. Designates the Insurance Commissioner of _____ as its lawful attorney upon
(ceding insurer's state of domicile)
whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted
by or on behalf of the ceding insurer.

3. Submits to the authority of the Insurance Commissioner of _____ to examine its books and
(ceding insurer's state of domicile)
records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in _____ reinsured by Assuming
(ceding insurer's state of domicile)
Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar
quarter.

Dated: _____
(name of assuming insurer)

BY: _____
(name of officer)

(title of officer)

REG11228.A/LRWPC

History

HISTORY:

Amended by R.1993 d.557, effective November 15, 1993.

See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

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EXHIBIT A

Rating (Per Exhibit B)	Security Required
Secure - 1	0 percent
Secure - 2	10 percent
Secure - 3	20 percent
Secure - 4	50 percent
Secure - 5	75 percent
Vulnerable - 6	100 percent

History

HISTORY:

New Rule, R.2012 d.154, effective September 4, 2012.
See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

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EXHIBIT B

The maximum rating that a certified reinsurer shall be assigned will correspond to the financial strength rating from an approved rating agency as indicated below, or from any other rating agency approved by the United States Securities and Exchange Commission or any successor regulatory agency. The Commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer:

Collateral	Best	S&P	Moody's	Fitch
Required				
Secure 1	A++	AAA	Aaa	AAA
Secure 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure 3	A	A+, A	A1, A2	A+, A
Secure 4	A-	A-	A3	A-
Secure 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

History

HISTORY:

New Rule, R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a). 44 N.J.R. 2169(a).

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EXHIBIT D

EXHIBIT D

Exhibit D

Form CR-5 - PART 1 - SECTION 1
Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities
Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

1	2	3	4	5	6	7	8	9	10	11	12
Company Code or ID Number	Contractive Date	Name of Reinsured	Location	Type of Reinsurance Assumed	Amount of In Force at End of Year	Reserve	Premiums	Reinsurance Payable on Unpaid Losses	Modified Contingence Reserve	Funds Withheld Under Contingence	
1											
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98											
99											
100											
Totals											

**Form CR-S - PART 2
Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year**

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Paid Losses	7 Unpaid Losses
<p>Totals—Life, Annuity and Accident and Health</p>						



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EXHIBIT E

FORM CR-1

CERTIFICATE OF CERTIFIED REINSURER

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer
(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in _____, in order to be considered for
(name of state)

approval in this state, hereby certify that

(name of assuming insurer) ("Assuming Insurer"):

1. Submits to the jurisdiction of any court of competent jurisdiction in _____
(ceding insurer's state of domicile)

for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of _____
(ceding insurer's state of domicile)

as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days to the Insurance Commissioner in Paragraph 2 of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefor.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with N.J.A.C. 11:2-28.

6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.

7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with N.J.A.C. 11:2-28.

8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.

9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____
(name of assuming insurer)

BY: _____
(name of officer)

History

HISTORY:

New Rule, R.2012 d.154, effective September 4, 2012.

See: 44 N.J.R. 360(a), 44 N.J.R. 2169(a).

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[GROUP](#) [SUBCHAPTER 28. CREDIT FOR REINSURANCE](#) [APPENDIX](#)

EXHIBIT F

EXHIBIT F FORM RJ-1

CERTIFICATE OF REINSURER DOMICILED IN RECIPROCAL JURISDICTION

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer
(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in _____, in order to be considered for
(name of state)

approval in this state, hereby certify that

(name of assuming insurer) ("Assuming Insurer"):

1. Submits to the jurisdiction of any court of competent jurisdiction in New Jersey for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. The assuming insurer agrees that it will include such consent in each reinsurance agreement, if requested by the commissioner. Nothing in this paragraph constitutes or should be understood to constitute a waiver of assuming insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.
2. Designates the Insurance Commissioner of New Jersey as its lawful attorney in and for the State of New Jersey upon whom may be served any lawful process in any action, suit or proceeding in this state arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.
3. Agrees to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.
4. Agrees to provide prompt written notice and explanation if it falls below the minimum capital and surplus or capital or surplus ratio, or if any regulatory action is taken against it for serious noncompliance with applicable law.
5. Confirms that it is not presently participating in any solvent scheme of arrangement, which involves insurers domiciled in New Jersey. If the assuming insurer enters into such an arrangement, the assuming insurer agrees to notify the ceding insurer and the commissioner, and to provide 100% security to the ceding insurer consistent with the terms of the scheme.
6. Agrees that in each reinsurance agreement it will provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final U.S. judgment, that is enforceable under the law of the territory in which it was obtained, or a properly enforceable arbitration award whether obtained by the ceding insurer or by its resolution estate, if applicable.
7. Agrees to provide the documentation in accordance with N.J.A.C. 11:2-28.7E(c)5, if requested by the commissioner.

Dated: _____
(name of assuming insurer)

BY: _____
(name of officer)

(title of officer)

History

HISTORY:

New Rule, R.2022 d.108, effective September 6, 2022.

See: 54 N.J.R. 1004(a), 54 N.J.R. 1735(a).



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