

**Title 31**  
**MARYLAND INSURANCE**  
**ADMINISTRATION**

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

**31.05.08 Credit for Reinsurance**

Authority: Insurance Article, §§ 1-101(jj), 2-109, 2-205, 2-209, and 5-901—5-917, Annotated Code of Maryland

**Notice of Proposed Action**  
[22-112-P]

The Insurance Commissioner proposes to amend Regulation .02 and adopt new Regulation .29 under COMAR 31.05.08 Credit for Reinsurance.

**Statement of Purpose**

The purpose of this action is to amend Regulation .02 and adopt Regulation .29 under COMAR 31.05.08 Credit for Reinsurance. During the 2021 legislative session, S.B. 120 was passed as Ch. 104, Acts of 2021, which implemented the NAIC Credit for Reinsurance Model Law #785. Ch. 104, Acts of 2021, provides the authority for the Maryland Insurance Administration to adopt NAIC Model Regulation #787 Term and Universal Life Insurance Reserve Financing Model Regulation, which establishes uniform, national standards governing reserve financing arrangements pertaining to term and universal life insurance policies with secondary guarantees. This regulatory change adopts Model Regulation #787, which is an accreditation standard for the Maryland Insurance Administration.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

The proposed action has no economic impact.

**Economic Impact on Small Businesses**

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

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Lisa Larson, Director of Regulations, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, or call 410-468-2007, or email to [insuranceregview.mia@maryland.gov](mailto:insuranceregview.mia@maryland.gov), or fax to 410-468-2020. Comments will be accepted through August 1, 2022. A public hearing has not been scheduled.

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) (text unchanged)

(2) "Actuarial method", as used in Regulation .29 of this chapter, means the methodology used to determine the required level of primary security as described in Regulation .29C of this chapter.

[(2)] (3) (text unchanged)

(4) "Covered policies", subject to the exemptions in Regulation .29B of this chapter, means those policies, other than grandfathered policies, of the following policy types:

(a) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits, except for flexible premium universal life insurance policies; or

(b) Flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.

(5) "Grandfathered policies" means policies of the types described in §B(4) of this regulation that were:

(a) Issued prior to January 1, 2015; and

(b) Ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set forth in Regulation .29B of this chapter had that section been in effect.

[(3)] (6) — [(6)] (9) (text unchanged)

(10) "Non-covered policies", as used in Regulation .29 of this chapter, means any policy that does not meet the definition of covered policies, including grandfathered policies.

[(7)] (11) (text unchanged)

(12) "Other security", as used in Regulation .29 of this chapter, means any security acceptable to the Commissioner other than security meeting the definition of primary security.

(13) "Primary security", as used in Regulation .29 of this chapter, means the following forms of security:

(a) Cash;

(b) Securities listed by the Securities Valuation Office meeting the requirements of Insurance Article, §5-914(c)(2), Annotated Code of Maryland, but excluding any synthetic letter of credit, contingent note, credit-linked note, or other similar security that operates in a manner similar to a letter of credit, and excluding any securities issued by the ceding insurer or any of its affiliates; and

(c) For security held in connection with funds-withheld and modified coinsurance reinsurance treaties:

(i) Commercial loans in good standing of CM3 quality and higher;

(ii) Policy loans; and

(ii) Derivatives acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.

[(8)] (14) — [(11)] (17) (text unchanged)

(18) "Required level of primary security", as used in Regulation .29 of this chapter, means the dollar amount determined by applying the actuarial method to the risks ceded with respect to covered policies, but not more than the total reserve ceded.

[(12)] (19) (text unchanged)

(20) "Valuation manual", as used in Regulation .29 of this chapter, means the valuation manual adopted by the NAIC as described in Insurance Article, §5-313(b), Annotated Code of Maryland, with all amendments adopted by the NAIC that are effective for the financial statement date on which credit for reinsurance is claimed.

(21) "VM-20" means "Requirements for Principle-Based Reserves for Life Products," including all relevant definitions from the Valuation Manual.

**.29 Term and Universal Life Insurance Reserve Financing**

A. The purpose and intent of this regulation is to establish uniform, national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits, and universal life insurance policies with secondary guarantees; and to ensure that, with respect to each such financing arrangement,

funds consisting of primary security and other security, as defined in Regulation .02 of this chapter, are held by or on behalf of ceding insurers in the forms and amounts required herein.

*B. Applicability of this Regulation.*

(1) This regulation shall apply to reinsurance treaties that cede liabilities pertaining to covered policies, as that term is defined in Regulation .02B(4) of this chapter, issued by a life insurance company domiciled in this State.

(2) This regulation and Regulations .03—.28 of this chapter shall both apply to such reinsurance treaties; provided that, in the event of a direct conflict between the provisions of this regulation and Regulations .03—.28 of this chapter, the provisions of this regulation shall apply, but only to the extent of the conflict.

(3) This regulation does not apply to:

(a) Reinsurance of:

(i) Policies that satisfy the criteria for exemption set forth in COMAR 31.05.03.11F or G and which are issued before the effective date of this regulation;

(ii) Portions of policies that satisfy the criteria for exemption set forth in COMAR 31.05.03.11E and which are issued before the effective date of this regulation;

(iii) Any universal life insurance policy that has a secondary guarantee period, if any, of 5 years or less, has specified premium for the secondary guarantee period that is not less than the net level reserve premium for the secondary guarantee period based on the Commissioners Standard Ordinary valuation tables and valuation interest rate applicable to the issue year of the policy, and has an initial surrender charge that is not less than 100 percent of the first year annualized specified premium for the secondary guarantee period;

(iv) Credit life insurance;

(v) Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts; or

(vi) Any group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of 1 year;

(b) Reinsurance ceded to an assuming insurer that meets the applicable requirements of Insurance Article, §§5-904(e) and 5-907, Annotated Code of Maryland;

(c) Reinsurance ceded to an assuming insurer that meets the applicable requirements of Insurance Article, §5-904(c) or (d) or §5-906, Annotated Code of Maryland, and that:

(i) Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual, without any departure from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer's reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to Statement of Statutory Accounting Principles No. 1; and

(ii) Is not in a company action level event, regulatory action level event, authorized control level event, or mandatory control level event as those terms are defined in Insurance Article, §§4-305—4-308, Annotated Code of Maryland, when its risk-based capital is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation;

(d) Reinsurance ceded to an assuming insurer that meets the applicable requirements of Insurance Article, §5-904(c) or (d) or §5-906, Annotated Code of Maryland, and that:

(i) Is not an affiliate, as that term is defined in Insurance Article, §7-101, Annotated Code Maryland, of the insurer ceding the

business to the assuming insurer or any insurer that directly or indirectly ceded the business to that ceding insurer;

(ii) Prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual;

(iii) Is both licensed or accredited in at least ten states including its state of domicile and not licensed in any state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or any other similar licensing regime; and

(iv) Is not, or would not be below 500 percent of the authorized control level RBC as that term is defined in Insurance Article, §4-301, Annotated Code of Maryland, when its risk-based capital is calculated in accordance with the life risk-based capital reporting including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation, and without recognition of any departures from NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer's reported surplus;

(e) Reinsurance ceded to an assuming insurer that meets the requirements of Insurance Article, §5-916(b)(4), Annotated Code of Maryland; or

(f) Reinsurance not otherwise exempt under §B(3)(a)—(e) of this regulation if the Commissioner, after consulting with the NAIC Financial Analysis Working Group or other group of regulators designated by the NAIC, as applicable, determines under all the facts and circumstances that all of the following apply:

(i) The risks are clearly outside of the intent and purpose of this regulation;

(ii) The risks are included within the scope of this regulation only as a technicality; and

(iii) The application of this regulation to those risks is not necessary to provide appropriate protection to policyholders.

(4) The Commissioner shall publicly disclose any decision made pursuant to §B(3)(f) of this regulation to exempt a reinsurance treaty from this regulation, as well as the general basis for the decision, including a summary description of the treaty.

*C. The actuarial method to establish the required level of primary security for each reinsurance treaty subject to this regulation shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the Valuation Manual as then in effect. This method shall be applied as follows:*

(1) For covered policies described in Regulation .02B(4)(a) of this chapter, the actuarial method is the greater of the deterministic reserve or the net premium reserve regardless of whether the criteria for exemption testing can be met;

(2) If, for covered policies described in Regulation .02B(4)(a) of this chapter, the covered policies do not meet the requirements of the stochastic reserve exclusion test in the Valuation Manual, then the actuarial method is the greatest of the deterministic reserve, the stochastic reserve, or the net premium reserve;

(3) If, for covered policies described in Regulation .02B(4)(a) of this chapter, the covered policies are reinsured in a reinsurance treaty that also contains covered policies described in Regulation .02B(4)(b) of this chapter, the ceding insurer may elect to instead use §C(5) of this regulation as the actuarial method for the entire reinsurance agreement;

(4) Regardless of whether §C(1), (2), (3), or (5) of this regulation is used, the actuarial method shall comply with any requirements or restrictions that the Valuation Manual imposes when aggregating these policy types for purposes of principle-based reserve calculations;

(5) For covered policies described in Regulation .02B(4)(b) of this chapter, the actuarial method is the greatest of the deterministic

reserve, the stochastic reserve, or the net premium reserve regardless of whether the criteria for exemption testing can be met;

(6) Except as provided in §C(7) of this regulation, the actuarial method shall be applied on a gross basis to all risks with respect to the covered policies as originally issued or assumed by the ceding insurer;

(7) If the reinsurance treaty cedes less than 100 percent of the risk with respect to the covered policies, then the required level of primary security may be reduced as follows:

(a) If a reinsurance treaty cedes only a quota share of some or all of the risks pertaining to the covered policies, the required level of primary security, as well as any adjustment under §C(7)(c) of this regulation, may be reduced to a pro rata portion in accordance with the percentage of the risk ceded;

(b) If the reinsurance treaty in a non-exempt arrangement cedes only the risks pertaining to a secondary guarantee, the required level of primary security may be reduced by an amount determined by applying the actuarial method on a gross basis to all risks, other than risk relating to the secondary guarantee, pertaining to the covered policies, except that for covered policies for which the ceding insurer did not elect to apply the provisions of VM-20 to establish statutory reserves, the required level of primary security may be reduced by the statutory reserve retained by the ceding insurer on those covered policies, where the retained reserve of those covered policies shall be reflective of any reduction pursuant to the cessation of mortality risk on a yearly renewable term basis in an exempt arrangement;

(c) If a portion of the covered policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the required level of primary security may be reduced by the amount resulting by applying the actuarial method including the reinsurance section of VM-20 to the portion of the covered policy risks ceded in the exempt arrangement, except that for covered policies issued prior to January 1, 2017, this adjustment, is not to exceed  $[c_x / (2 * \text{number of reinsurance premiums per year})]$  where  $c_x$  is calculated using the same mortality table used in calculating the net premium reserve;

(d) For any other treaty ceding a portion of risk to a different reinsurer, including, but not limited to stop loss, excess of loss and other non-proportional reinsurance treaties, there will be no reduction in the required level of primary security;

(e) It is possible for any combination of §§C(7)(a)-(d) of this regulation to apply. Such adjustments to the required level of primary security will be done in the sequence that accurately reflects the portion of the risk ceded via the treaty. The ceding insurer shall document the rationale and steps taken to accomplish the adjustments to the required level of primary security due to the cession of less than 100 percent of the risk; and

(f) The adjustments for other reinsurance will be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer shall make no adjustment as a result of a retrocession treaty entered into by the assuming insurers;

(8) In no event shall the required level of primary security resulting from application of the actuarial method exceed the amount of statutory reserves ceded;

(9) If the ceding insurer cedes risks with respect to covered policies, including any riders, in more than one reinsurance treaty subject to this regulation, in no event shall the aggregate required level of primary security for those reinsurance treaties be less than the required level of primary security calculated using the actuarial method as if all risks ceded in those treaties were ceded in a single treaty subject to this regulation;

(10) If a reinsurance treaty subject to this regulation ceded risk on both covered and non-covered policies, credit for the ceded reserves shall be determined as follows:

(a) The actuarial method shall be used to determine the required level of primary security for the covered policies, and §D of this regulation shall be used to determine the reinsurance credit for the covered policy reserves; and

(b) Credit for the non-covered policy reserves shall be granted only to the extent that security, in addition to the security held to satisfy the requirements of §C(10)(a) of this regulation, is held by or on behalf of the ceding insurer in accordance with Insurance Article, Title 5, Subtitle 9, Annotated Code of Maryland. Any primary security used to meet the requirements of this subparagraph may not be used to satisfy the required level of primary security for the covered policies; and

(11) For the purposes of both calculating the required level of primary security pursuant to the actuarial method and determining the amount of primary security and other security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:

(a) For assets, including any such assets held in trust, that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the ceding insurer, the valuations are to be determined according to statutory accounting procedures as if such assets were held in the ceding insurer's general account and without taking into consideration the effect of any prescribed or permitted practices; and

(b) For all other assets:

(i) The valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken;

(ii) The asset spread tables and asset default cost tables required by VM-20 shall be included in the actuarial method if adopted by the NAIC's Life Actuarial (A) Task Force no later than the December 31 on or immediately preceding the valuation date for which the required level of primary security is being calculated; and

(iii) The tables of asset spreads and asset default costs shall be incorporated into the actuarial method in the manner specified in VM-20.

**D. Requirements Applicable to Covered Policies to Obtain Credit for Reinsurance; Opportunity for Remediation.**

(1) Subject to the exemptions described in §B(3) of this regulation and the provisions of §D(2) of this regulation, credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to covered policies pursuant to Insurance Article, §5-904, 5-914, or 5-917, Annotated Code of Maryland, if, in addition to all other requirements imposed by law or regulation, the following requirements are met on a treaty-by-treaty basis:

(a) The ceding insurer's statutory policy reserves with respect to the covered policies are established in full and in accordance with the applicable requirements of Insurance Article, Title 5, Subtitle 3, Annotated Code of Maryland, and related regulations and actuarial guidelines, and credit claimed for any reinsurance treaty subject to this regulation does not exceed the proportionate share of those reserves ceded under the contract;

(b) The ceding insurer determines the required level of primary security with respect to each reinsurance treaty subject to this regulation and provides support for its calculation as determined to be acceptable to the Commissioner;

(c) Funds consisting of primary security, in an amount at least equal to the required level of primary security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of Insurance Article, §5-914, Annotated Code of Maryland, on a funds withheld, trust, or modified coinsurance basis;

(d) Funds consisting of other security, in an amount at least equal to any portion of the statutory reserves as to which primary security is not held pursuant to §D(1)(c) of this regulation, are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of Insurance Article, §5-914, Annotated Code of Maryland;

(e) Any trust used to satisfy the requirements of this §D of this regulation shall comply with all of the conditions and qualifications of Regulation .15 of this chapter, except that:

(i) Funds consisting of primary security or other security held in trust, shall for the purposes identified in §C(11) of this regulation, be valued according to the valuation rules set forth in §C(11) of this regulation, as applicable;

(ii) There are no affiliate investment limitations with respect to any security held in such trust if such security is not needed to satisfy the requirements of §D(1)(c) of this regulation;

(iii) The reinsurance treaty shall prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the primary security within the trust (when aggregated with primary security outside the trust that is held by or on behalf of the ceding insurer in the manner required by §D(1)(c) of this regulation) below 102 percent of the level required by §D(1)(c) of this regulation at the time of the withdrawal or substitution; and

(iv) The determination of reserve credit under Regulation .20 of this chapter shall be determined according to the valuation rules set forth in §C(11) of this regulation, as applicable; and

(f) The reinsurance treaty has been approved by the Commissioner.

(2) Requirements at Inception Date and on an Ongoing Basis; Remediation.

(a) The requirements of §D(1) of this regulation, shall be satisfied as of the date that risks under covered policies are ceded, if such date is on or after the effective date of this regulation, and on an ongoing basis thereafter.

(b) Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency under §D(1)(c) or (d) of this regulation with respect to any reinsurance treaty under which covered policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as quickly as possible.

(c) Prior to the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of §B of this regulation shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which covered policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of §D(1)(c) and (d) of this regulation were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of primary security actually held pursuant to §D(1)(c) of this regulation, unless either:

(i) The requirements of §D(1)(c) and (d) of this regulation were fully satisfied as of the valuation date as to such reinsurance treaty; or

(ii) Any deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of primary security or other security, as the case may be, in such amount and in such form as would have caused the requirements of §D(1)(c) and (d) of this regulation to be fully satisfied as of the valuation date.

(d) Nothing in §D(2)(c) of this regulation shall be construed to allow a ceding company to maintain any deficiency under §D(1)(c) or (d) of this regulation for any period of time longer than is reasonably necessary to eliminate it.

E. No insurer that has covered policies to which this regulation applies shall take any action or series of actions, or enter into any transaction or arrangement or series of transactions or arrangements if the purpose of such action, transaction, or arrangement or series thereof is to avoid the requirements of this regulation, or to circumvent its purpose and intent.

KATHLEEN A. BIRrane  
Insurance Commissioner