

MARTIN O'MALLEY
Governor

ANTHONY G. BROWN
Lt. Governor



THERESE M. GOLDSMITH
Commissioner

KAREN STAKEM HORNIG
Deputy Commissioner

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2458 Fax: 410-468-2020
Email: vivian.laxton@maryland.gov
1-800-492-6116 TTY: 1-800-735-2258
www.mdinsurance.state.md.us

BULLETIN 14-04

Date: February 7, 2014

To: Presidents, Maryland-licensed Insurers and All Other Interested Parties

Re: Comment Solicitation on Draft Proposed Regulations 31.05.08 -
Credit for Reinsurance

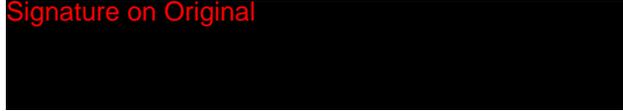
The purpose of this bulletin is to notify all Maryland-licensed insurers and all other interested parties of the draft proposed regulations referenced above and to solicit comments prior to formally submitting the proposed regulation to the Joint Committee on Administrative Executive and Legislative Review (AELR) for review and to the Division of State Documents for publication in the Maryland Register. The authority for this regulation can be found in Title 5, Subtitle 9, "Reinsurance," of the Insurance Article, Annotated Code of Maryland. A copy of the proposed regulation is attached to this bulletin.

The proposed regulations would implement changes made to Title 5, Subtitle 9 of the Insurance Article, Annotated Code of Maryland by Chapter 321, Laws of Maryland, 2013 Session of the Maryland General Assembly, effective June 1, 2013, and are based upon recent amendments to model law and regulation developed by the National Association of Insurance Commissioners (NAIC) entitled "Credit for Reinsurance Model Law" (No. 785) and "Credit for Reinsurance Model Regulation" (No. 786), respectively. Specifically, the regulations provide the standards for a licensed ceding insurer to receive credit for reinsurance ceded to a certified reinsurer as a reduction of collateral requirements and include provisions that establish:

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

Written comments will be accepted for thirty (30) days from the date of this bulletin's issuance. All comments should be addressed to Paula Yocum, Special Projects Manager for Examination and Audit, at paula.yocum@maryland.gov. If you have any questions, you may reach Ms. Yocum at 410-468-2143.

Signature on Original



Therese M. Goldsmith
Commissioner

Title 31 Maryland Insurance Administration

Subtitle 05 Assets, Liabilities, Reserves, and Investments of Insurers

Chapter 08 Credit for Reinsurance

Authority

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

.01 Applicability (text unchanged)

This chapter is applicable to any domestic authorized insurer who obtains reinsurance for itself from another insurer for all or part of its insurance risk.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

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

(2) "Beneficiary" means:

(a) The entity for whose sole benefit the trust has been established; or

(b) Any successor of the beneficiary by operation of law or, if a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary is the court appointed domiciliary receiver, including conservator, rehabilitator, or liquidator.

(3) Grantor.

(a) "Grantor" means the entity that has established a trust for the sole benefit of the beneficiary.

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

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

(a) For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:

(i) Losses and loss adjustment expenses paid by the ceding insurer, recoverable from the assuming insurer;

(ii) Reserves for losses reported and outstanding;

(iii) Reserves for losses incurred but not reported;

(iv) Reserves for loss adjustment expenses; and

(v) Unearned premiums; and

(b) For business ceded by domestic insurers authorized to write life, health, and annuity insurance:

(i) Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;

(ii) Aggregate reserves for accident and health policies;

(iii) Deposit funds and other liabilities without life or disability contingencies; and

(iv) Liabilities for policy and contract claims.

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

(a) Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that:

(i) Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C. §5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and

(ii) Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C. §§1709 and 1715-b, or, where the notes involve a lien on the

manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C. §1703; or

(b) Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of §B(5)(a)(i) and (ii) of this regulation.

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

(7) "Obligations", as used in Regulation .17 of this chapter, means:

(a) Reinsured losses and loss adjustment expenses paid by the ceding insurer, but not recovered from the assuming insurer;

(b) Reserves for reinsured losses reported and outstanding;

(c) Reserves for reinsured losses incurred but not reported; and

(d) Reserves for allocated reinsured loss expenses and unearned premiums.

[(7)](8) "Promissory note", as used in Regulation .10 of this chapter, when used in connection with a manufactured home, also includes a loan, advance, or credit sale as evidenced by a retail installment sales contract or other instrument.

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

(10) "Qualified U.S. financial institution" means:

(a) For purposes of those provisions of Regulation .14 of this chapter specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(i) Is organized, or in the case of a U.S. branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state 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; or

(b) For purposes of those provisions of Regulation .14 of this chapter specifying those institutions that are eligible to issue letters of credit, an institution that:

(i) Is organized or, in the case of a U.S. office of a foreign banking organization, licensed, under the laws of the United States or any state;

(ii) Is regulated, supervised, and examined by U.S. 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 the 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.

[(9)](11) “*Reinsurance intermediary*” has the meaning set forth in Insurance Article, § 8-501(e), Annotated Code of Maryland.

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

.03 Credit for Reinsurance

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

- A. From an insurer that was authorized in this State as of any date on which the statutory financial statement credit for reinsurance is claimed;
- B. From an accredited reinsurer pursuant to Regulations .04—.07 of this chapter;
- C. From a reinsurer maintaining trust funds for multiple cedents pursuant to Regulation .08—.11 of this chapter;
- D. When required by law pursuant to Regulation .12 of this chapter; [or]
- E. From an unauthorized reinsurer pursuant to Regulations .14—.23 of this chapter[.]; *or*
- F. *From a certified reinsurer pursuant to Regulations .25-.26 of this chapter.*

.04 Approval Required for Accreditation of Reinsurer.

An unauthorized insurer may not act as an accredited reinsurer in the State, unless the Commissioner accepts the insurer as a reinsurer under Insurance Article, §5-90[5]6, Annotated Code of Maryland.

.05 Requirements for Accredited Reinsurer.

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

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

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

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

(3) *If reinsuring a life insurer, a certificate of valuation issued by the insurance regulatory agency of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer;*

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

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

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

(7) *A copy of the report of the last examination made of the applicant by the insurance regulatory agency of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer;*

(8) *A [a] properly executed Form AR-1, pursuant to Regulation .24 of this chapter, as evidence that the applicant agrees to submit to the jurisdiction of the State and to the Commissioner's authority to examine its books and records;*

(9) *An[an] annual statement fee pursuant to Insurance Article, § 2-112(a)(8), Annotated Code of Maryland and an annual fraud prevention fee pursuant to Insurance Article, § 6-203(a), Annotated Code of Maryland;*

(5) *Maryland Insurance Administration Application; and*

(6) *Upon request of the Commissioner:*

(a) *A certified copy of its annual statement for the preceding calendar year;*

(b) *Evidence that the insurer is licensed to transact insurance or reinsurance in at least one state or, in the case of a U.S. branch of an alien insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;*

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

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

(e) A copy of the report of the last examination made of the applicant by the insurance regulatory agency of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer; and

(f) Any other document or information that the Commissioner considers necessary to determine eligibility to act as an accredited reinsurer.

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

(1) A properly executed NAIC Form AR-1 Certificate of Assuming Insurer as evidence that the applicant agrees to submit to the jurisdiction of the State and to the Commissioner's authority to examine its books and records;

(2) If reinsuring a life insurer, a certificate of valuation issued by the insurance regulatory agency of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer;

(3) An annual statement fee pursuant to Insurance Article, § 2-112(a)(8), Annotated Code of Maryland and an annual fraud prevention fee pursuant to Insurance Article, § 6-203(a), Annotated Code of Maryland;

(4) A Maryland Insurance Administration Application; and

(5) Upon request of the Commissioner:

(a) A certified copy of its annual statement for the preceding calendar year;

(b) Evidence that the insurer is licensed to transact insurance or reinsurance in at least one state or, in the case of a U.S. branch of an alien insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

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

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

(e) A copy of the report of the last examination made of the applicant by the insurance regulatory agency of the applicant's state of domicile if a foreign insurer, or state of entry if an alien insurer; and

(f) Any other document or information that the Commissioner considers necessary to determine eligibility to act as an accredited reinsurer.

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

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

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

.06 Examination of Accredited Reinsurer. (text unchanged)

Whenever the Commissioner considers it advisable, the Commissioner shall examine the affairs, transactions, accounts, records, and assets of each accredited reinsurer.

.07 Suspension or Revocation of Accreditation.

[After a notice and hearing, if the Commissioner revokes the accreditation of a reinsurer, an authorized insurer may not be allowed credit for reinsurance obtained from the reinsurer.] *If the Commissioner determines that the assuming insurer has failed to meet or maintain any of the qualifications pursuant to Regulations .04 -.06 of this chapter, the Commissioner may upon written notice and opportunity for hearing, suspend or revoke the accreditation. Credit shall not be allowed a domestic ceding insurer under Regulation .03 of this chapter if the assuming insurer's accreditation has been revoked by the Commissioner, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the Commissioner.*

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

A. The Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified U.S. financial institution for the payment of the valid claims of its U.S. domiciled ceding insurers, their assigns, and successors in interest.

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

C. Categories of Assuming Insurer.

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

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

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

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

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

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

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

(iii) In addition to these trusts, a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account.

(b) The incorporated members of the group may not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the Commissioner:

(i) An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or

(ii) If a certification is unavailable, a financial statement, audited by independent public accountants, of each underwriter member of the group.

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

A. Credit for reinsurance may not be granted unless the form of the trust and any amendments to the trust have been approved by either the [commissioner] *insurance regulatory agency* of the state where the trust

is domiciled or the [commissioner] *insurance regulatory agency* of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the [commissioner] *insurance regulatory agency* of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that:

(1) 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 trustee for the benefit of the grantor's U.S. ceding insurers, their assigns, 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 under reinsurance [agreement] *contract* subject to the trust; and

(5) No later than February 28 of each year, the trustee of the trust shall report to the Commissioner in writing setting forth the balance in the trust and listing the trust's investments at the preceding year-end, and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31.

B. Inadequate Trust Funds.

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

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

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

(4) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

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

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

B. No more than [twenty] 20 percent of the total of the investments in the trust may be foreign investments authorized under §§D(1)(d), D(3), E(2), or F of this regulation, and no more than 10 percent of the total of the investments in the trust may be securities denominated in foreign currencies.

C. For purposes of applying §B of this regulation, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency.

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

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

(a) The United States or by any agency or instrumentality of the United States;

(b) A state of the United States;

(c) A territory, possession, or other governmental unit of the United States;

(d) An agency or instrumentality of a governmental unit referred to in §D(1)(b) and (c) of this regulation if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied, or by law required to be levied, or from adequate special revenues pledged or otherwise appropriated, or by law required to be provided for making these payments, but may not be obligations eligible for investment under this section if payable solely out of special assessments on properties benefited by local improvements; or

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

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

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

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

(c) Have been designated as Class One or Class Two by the Securities Valuation Office;

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

(4) An investment made pursuant to the provisions of §D(1), (2), or (3) of this regulation shall be subject to the following additional limitations:

(a) An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities may not exceed 5 percent of the assets of the trust;

(b) An investment in any one mortgage-related security may not exceed 5 percent of the assets of the trust;

(c) The aggregate total investment in mortgage-related securities may not exceed 25 percent of the assets of the trust; and

(d) Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution's obligations are eligible as investments under §D(2)(a) and (c) of this regulation, but may not exceed 2 percent of the assets of the trust.

E. Equity Interests.

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

(a) Its obligations and preferred shares, if any, are eligible as investments under §D of this regulation;

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

(c) The amount invested in equity interests under this subsection does not exceed 1 percent of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company.

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

(a) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office; and

(b) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development.

(3) An investment in or loan upon any one institution's outstanding equity interests may not exceed 1 percent of the assets of the trust. The cost of an investment in equity interests made pursuant to this section, when added to the aggregate cost of other investments in equity interests then held pursuant to this section, may not exceed 10 percent of the assets in the trust.

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

G. Investment Companies.

(1) Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. §80a, are permissible investments if the investment company:

(a) Invests at least 90 percent of its assets in the types of securities that qualify as an investment under §D(1), (2), or (3) of this regulation or invests in securities that are determined by the Commissioner to be substantively similar to the types of securities set forth in §D(1), (2), or (3) of this regulation; or

(b) Invests at least 90 percent of its assets in the types of equity interests that qualify as an investment under §E(1) of this regulation.

(2) Investments made by a trust in investment companies under this section may not exceed the following limitations:

(a) An investment in an investment company qualifying under §G(1)(a) of this regulation may not exceed 10 percent of the assets in the trust, and the aggregate amount of investment in qualifying investment companies may not exceed 25 percent of the assets in the trust; and

(b) Investments in an investment company qualifying under §G(1)(b) of this regulation may not exceed 5 percent of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to §E(1) of this regulation.

H. Letters of Credit.

(1) In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement, duly approved by the Commissioner, to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(2) The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where the draw would be required shall be considered to be negligence, willful misconduct, or both.

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

A specific security provided to a ceding insurer by an assuming insurer pursuant to Regulation .14 of this chapter shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to Regulations .08—.10 of this chapter.

.12 Credit for Reinsurance Required by Law.

A. In this regulation, "jurisdiction" means a state, district, or territory of the United States and any lawful national government.

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

.13 Credit Allowed a Foreign Ceding Insurer. (text unchanged)

A. Credit for reinsurance or reduction from liability shall be allowed a foreign ceding insurer to the extent that credit has been allowed by the foreign ceding insurer's state of domicile if:

(1) The state of domicile is accredited by the NAIC;

(2) Credit or reduction from liability would be allowed under this regulation if the foreign ceding insurer were domiciled in this State.

B. Credit for reinsurance or reduction from liability may be disallowed a foreign ceding insurer upon a finding by the Commissioner that neither the condition of the reinsurer nor the collateral or other security provided by the reinsurer satisfies the credit for reinsurance requirements of this regulation applicable to ceding insurers domiciled in this State.

.14 Reduction from Liability for Reinsurance

A. Notwithstanding Regulations .03—.13 of this chapter and subject to the requirements of this regulation, the Commissioner shall allow a ceding insurer a reduction from liability for reinsurance obtained from an assuming insurer for the payment of the obligations under a reinsurance contract.

B. Requirements.

(1) The Commissioner shall allow a ceding insurer a reduction from liability for the reinsurance ceded in an amount equal to the funds held by it or on its behalf, including funds held in trust, as security for the payment of the obligations under a reinsurance contract.

(2) The reduction from liability that is allowed a ceding insurer may not exceed the liabilities carried by the ceding insurer for the business reinsured.

(3) Any funds held by the ceding insurer, or on its behalf, as security for the payment of its obligations under a reinsurance contract shall be held for the exclusive benefit of the ceding insurer.

C. Forms of Security Under Reinsurance Contract.

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

(a) Cash;

(b) A letter of credit issued or confirmed by a qualified U.S. financial institution;

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

(d) Any other form of security acceptable to the Commissioner.

(2) The security shall be held in:

(a) The United States and subject to withdrawal solely by and under the exclusive control of the ceding insurer; or

(b) A qualified U.S. financial institution, if the security is held in trust.

D. Standards of Acceptability for Letters of Credit.

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

(a) Be clean, irrevocable, and unconditional;

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

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

(d) Be issued for a term of at least 1 year, with an issue date and expiration date; and

(e) Contain an "evergreen clause" that:

(i) Prevents the expiration of the letter of credit without due notice from the issuer; and

(ii) Provides for the letter of credit to renew automatically unless the issuer notifies the Commissioner and beneficiary no less than 30 days prior to the expiration date or nonrenewal.

(2) On the date of issuance or confirmation of the letter of credit, the issuer of the letter of credit shall meet the applicable standards of acceptability for a letter of credit.

(3) Notwithstanding the failure of a previously accepted issuer of a letter of credit to continue to meet applicable standards of acceptability for a letter of credit, the letter of credit shall continue to be accepted until:

(a) 15 days from the date that its issuer fails to meet the standards of acceptability; or

(b) The date of its scheduled expiration, if earlier.

(4) A letter of credit shall provide that to obtain funds, the beneficiary need:

(a) Only draw a sight draft under the letter of credit and present it; and

(b) Not present any other document.

(5) A letter of credit shall provide that it is not subject to any condition outside of the letter of credit.

(6) A letter of credit may not contain references to any other agreements, documents, or entities.

(7) The heading of the letter of credit may include a boxed section containing 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 the information is for internal identification purposes only.

(8) 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.

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

(10) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce [(] Publication [500] 600 (*UCP 600*), *International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)*, or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw

against the letter of credit in the event that one or more of the occurrences specified in Article 17 of Publication 500, or any other successor publication, occur.

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

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

(b) The "evergreen clause" shall provide for 30 days notice, to the Commissioner and beneficiary, prior to the expiry date for nonrenewal.

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

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

(a) Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

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

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

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

(iii) To pay or reimburse the ceding insurer for any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; and

(iv) When the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and when the assuming insurer's entire obligations under the specific reinsurance remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in §E(1)(b)(i) of this regulation as may remain after withdrawal and for any period after the termination date.

(c) All of the provisions of §E of this regulation shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(2) This section does not preclude the ceding insurer and assuming insurer from providing for:

(a) An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to §E(1)(b) of this regulation; or

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

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

A. In General. A trust agreement established to meet the requirements of Regulation .14 of this chapter shall comply with this regulation.

B. Parties to Trust Agreement.

(1) A trust agreement shall be entered into between a beneficiary, a grantor, and a trustee, which shall be a qualified U.S. financial institution.

(2) A trust agreement shall be established for the sole benefit of the beneficiary.

(3) The failure of a trust agreement to identify the beneficiary does not affect any actions or rights that the Commissioner may take or possess under the laws of this State.

C. Trust Account.

(1) A trust agreement shall create a trust account into which assets shall be deposited.

(2) The assets in the trust account shall be held by the trustee at the trustee's office in the United States.

D. Withdrawal of Assets. A trust agreement shall provide that the beneficiary:

(1) May withdraw assets from the trust account at any time, without notice to the grantor, if the beneficiary provides written notice to the trustee; and

(2) Is not required to present any other statement or document to withdraw assets, but may be required to acknowledge receipt of withdrawn assets.

E. Governing Law; Trust Agreement Not Subject to Other Conditions.

(1) A trust agreement shall:

(a) Be subject to and governed by the laws of the state in which the trust is domiciled;
and

(b) Provide that it is not subject to any conditions outside of the trust agreement.

(2) Except as provided in Regulation .17 of this chapter, a trust agreement may not contain references to any other agreement or document.

F. Duties of Trustee.

(1) A trust agreement shall require the trustee to:

(a) Receive assets and hold the assets in a safe place;

(b) Determine that the assets are in a form that the beneficiary, or the trustee on direction of the beneficiary, may negotiate whenever necessary, without consent or signature from the grantor or any other person or entity;

(c) Provide to the grantor and the beneficiary a statement of all assets in the trust account on its inception and at least as often as the end of each calendar quarter;

(d) Notify the grantor and the beneficiary, within 10 days, of any deposits to or withdrawals from the trust account;

(e) On written demand of the beneficiary, immediately take the steps necessary to transfer absolutely 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

(f) Allow no substitutions or withdrawals of assets from the trust account, except on:

(i) Written instructions from the beneficiary; or

(ii) Call or maturity of any trust asset if the trustee provides written notice to the beneficiary and pays the proceeds from the asset into the trust account.

(2) A trust agreement shall prohibit invasion of the trust corpus to pay compensation to, or reimburse the expenses of, the trustee.

(3) In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the trust agreement or some other binding agreement, duly approved by the Commissioner, to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(4) The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where the draw would be required shall be considered to be negligence, willful misconduct, or both.

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

(1) Notwithstanding any other provision in a trust agreement, if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the

laws of its state or country of domicile, the trustee shall comply with an order of the [commissioner] *insurance regulatory agency* with regulatory oversight of the trust or court of competent jurisdiction directing the trustee to transfer to the [commissioner] *insurance regulatory agency* with regulatory oversight or other designated receiver all of the assets of the trust fund.

(2) The assets shall be applied in accordance with the priority statutes and laws of the state in which the trust is domiciled applicable to the assets of insurance companies in liquidation.

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

H. Termination of Trust Account. A trust agreement shall provide that at least 30 days, but not more than 45 days, before termination of the trust account, the trustee shall deliver to the beneficiary and the Commissioner written notice of termination.

I. Valuation and Form of Assets.

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

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

(b) consist only of :

(i) cash in U.S. dollars;

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

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

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

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

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

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

.16 Permitted Conditions for Trust Agreements.

A. In General. A trust agreement established to meet the requirements of Regulation .14 of this chapter may include the provisions allowed under this regulation.

B. Resignation and Removal of Trustee.

(1) Subject to §B(2) of this regulation, a trust agreement may provide that the:

(a) Trustee may resign by delivering to the beneficiary and grantor written notice of resignation, effective not less than 90 days after receipt by the beneficiary and grantor; and

(b) Grantor may remove the trustee by delivering to the trustee and beneficiary written notice of removal, effective not less than 90 days after receipt by the trustee and beneficiary.

(2) A resignation or removal under this section may not become effective until:

(a) A successor trustee has been appointed and approved by the beneficiary and the grantor; and

(b) All assets in the trust have been transferred to the new trustee.

C. Shares of Stock—Voting Rights and Dividends.

(1) A trust agreement may give the grantor the full and unqualified right to:

(a) Vote any shares of stock in the trust account; and

(b) Receive from time to time payments of any dividends or interest on any shares of stock or obligations included in the trust account.

(2) Any interest or dividends shall be:

(a) Forwarded promptly on receipt to the grantor; or

(b) Deposited in a separate account established in the grantor's name.

D. Investment and Substitution.

(1) Subject to §D(2) of this regulation, a trust agreement may authorize the trustee to invest, and accept substitutions of, any funds in the account.

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

(a) Specifies categories of investments acceptable to the beneficiary; and

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

E. Transfer of Assets.

(1) A trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets shall be transferred.

(2) Transfer may be conditioned on the trustee receiving other specified assets before or simultaneously with the transfer.

F. Delivery of Assets to Grantor on Termination of Account. A trust agreement may provide that, on termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval of the beneficiary, be delivered to the grantor.

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

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

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

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

(2) Unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer.

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

D. On Termination of Trust Account.

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

(a) Ceding insurer has received notification of termination of the trust account; and

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

(2) Amounts withdrawn from the trust account and deposited under §D(1) of this regulation shall be deposited:

(a) In a separate account, in the name of the ceding insurer, in a qualified U.S. financial institution, apart from the general assets of the ceding insurer; and

(b) In trust for the uses specified in §§B and C of this regulation as may remain executory after the withdrawal and for any period after the termination date.

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

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

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

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

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

C. Payment to Assuming Insurer. A trust agreement may allow the ceding insurer to use amounts drawn on the trust account to pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

D. On Termination of Trust Account.

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

(a) Ceding insurer has received notification of termination of the trust account; and

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

(2) Amounts withdrawn from the trust account and deposited under §D(1) of this regulation shall be deposited:

(a) In a separate account, in the name of the ceding insurer, in a qualified U.S. financial institution, apart from the general assets of the ceding insurer; and

(b) In trust for the uses specified in §§A and B of this regulation as may remain executory after the withdrawal and for any period after the termination date.

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

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

- (1) Require the assuming insurer to enter into a trust agreement;
- (2) Establish a trust account for the benefit of the ceding insurer; and
- (3) Specify what the agreement is to cover.

B. [Valuation and Form of Assets.

(1) A reinsurance agreement may:

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

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

(i) Cash in United States dollars;

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

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

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

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

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

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

- (1) Execute assignments or endorsements in blank; or

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

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

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

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

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

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

(c) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or

(2) To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

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

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

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

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

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

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

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

- (1) Interest at a rate different from that provided in §[G]F of this regulation;
- (2) Court or arbitration costs;
- (3) Attorney's fees; and
- (4) Any other reasonable expenses.

.20 Financial Reporting.

A. Reduction of Liability. A ceding insurer may use a trust agreement to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the Commissioner in compliance with this chapter when the trust agreement is established on or before the date of filing of the financial statement of the ceding insurer.

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

.21 [Existing Agreements.]

Repealed. [A trust agreement or underlying reinsurance agreement that is in existence before the effective date of this chapter will continue to be acceptable until December 31, 2006, after which time the agreement shall comply fully with this chapter for the trust agreement to be acceptable.]

.22 Other Security. (text unchanged)

A ceding insurer may take credit for unencumbered funds that are:

- A. Withheld by the ceding insurer in the United States;
- B. Subject to withdrawal solely by the ceding insurer; and
- C. Under the exclusive control of the ceding insurer.

.23 Reinsurance Contract.

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

A. An insolvency clause, *in accordance* with Insurance Article, §5-90[4]5(a), Annotated Code of Maryland; and

B. A provision under which the reinsurer, if an unauthorized reinsurer, has:

(1) Submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States;

(2) Agreed to comply with all requirements necessary to give the court or panel jurisdiction;

(3) Designated an agent to receive service of process; and

(4) Agreed to abide by the final decision of the court or panel.

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

.24 [Form AR-1. Certificate of Assuming Insurer]

Repealed.

[FORM AR-1

CERTIFICATE OF ASSUMING INSURER

I,(name of officer),(title of officer) of(name of assuming insurer), the assuming insurer under a reinsurance agreement with one or more insurers domiciled in(name of 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. Submits to the authority of the Insurance Commissioner of (ceding insurer's state of domicile) to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in (ceding insurer's state of domicile) reinsured by Assuming 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)]

.25 Credit for Reinsurance – Certified Reinsurers.

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

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

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

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

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

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

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

(4) Relating to Catastrophic Occurrence:

(a) *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.*

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

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

(i) *Line 1: Fire*

(ii) *Line 2: Allied Lines*

(iii) *Line 3: Farmowners multiple peril*

(iv) *Line 4: Homeowners multiple peril*

(v) *Line 5: Commercial multiple peril*

(vi) *Line 9: Inland Marine*

(vii) *Line 12: Earthquake*

(viii) *Line 21: Auto physical damage*

(5) *Credit for reinsurance under this 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 on or after the effective date of the amendment or new contract.*

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

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

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

(2) *The assuming insurer must maintain capital and surplus, or its equivalent, of no less than \$250,000,000 calculated in accordance with Section G(2)(h) of this regulation. 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 have financial strength ratings from two or more of the following rating agencies:

(a) Standard & Poor's;

(b) Moody's Investors Service;

(c) Fitch Ratings;

(d) A.M. Best Company; or

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

(4) Any other requirements the Commissioner deems necessary.

G. Certified Reinsurers – Certification Rating.

(1) The Commissioner shall rate each certified reinsurer on a legal entity basis and with due consideration being given to a group rating where appropriate, except that 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.

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

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

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

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

(iii) Financial strength rating chart

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

		CCC, CC, C, D, R	Caa, Ca, C	CCC+, CC, CCC-, DD
--	--	---------------------	------------	-----------------------

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I. 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 U.S. judgments or arbitration awards.

J. For initial eligibility as a certified reinsurer, an applicant shall file with the Commissioner:

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

(2) A Maryland Insurance Administration Application;

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

(4) Upon request of the Commissioner:

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

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

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

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

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

(2) A Maryland Insurance Administration Application;

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

(4) Upon request of the Commissioner:

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

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

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

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

(1) any regulatory actions taken against the certified reinsurer;

(2) any change in the provisions of its domiciliary license; or

(3) any change in rating by an approved rating agency.

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

A. Change in Certification Rating.

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

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

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

(1) the certified reinsurer fails to meet its obligations or security requirements under this chapter;
or

(2) other financial or operating results of the certified reinsurer, or delays in prompt payment of claims by the certified reinsurer, lead the Commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations; or

(3) the certified reinsurer ceases to meet other requirements for certification.

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

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

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

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

.27 Qualified Jurisdictions.

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

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

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

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

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

(i) The framework under which the assuming insurer is regulated;

(ii) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance;

(iii) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction;

(iv) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used for purposes of those reports;

(v) The domiciliary regulator's cooperation with U.S. regulators, including the Commissioner;

(vi) The history of performance by assuming insurers in the domiciliary jurisdiction;

(vii) Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization; and

(viii) Any other matters deemed relevant by the Commissioner.

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

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

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

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

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

(b) whenever the list is amended.

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

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

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

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

.28 Mandatory Funding Clause.

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

DRAFT