REINSURANCE (E) TASK FORCE

Reinsurance (E) Task Force August 4, 2019, Minutes
  Reinsurance (E) Task Force May 15, 2019, Minutes (Attachment One)
    Model #785: May 1, 2019, Working Draft Based on March 7, 2019, Draft Exposure by Reinsurance (E) Task Force
      (Attachment One-A)
    Model #786: May 1, 2019, Working Draft Based on March 7, 2019, Draft Exposed by Reinsurance (E) Task Force
      (Attachment One-B)
    Model #785: May 1, 2019, Draft Revisions (Attachment One-C)
    Model #786: May 1, 2019, Draft Revisions (Attachment One-D)
    Comment Letters Received Regarding May 1, 2019, Revisions to Model #785 and Model #786 (Attachment One-E)
The Reinsurance (E) Task Force met in New York, NY, Aug. 4, 2019. The following Task Force members participated: Chlora Lindley-Myers, Chair, and John Rehagen (MO); Jim L. Ridling represented by Richard Ford (AL); Allen W. Kerr represented by Mel Anderson (AR); Ricardo Lara represented by Kenneth Schnoll (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Kathy Belfi (CT); Stephen C. Taylor represented by Philip Barlow (DC); Trinidad Navarro represented by Rlynn Brown (DE); David Altmaier represented by Susanne Murphy (FL); John F. King represented by Justin Durrance (GA); Doug Ommen represented by Carrie Mears (IA); Dean L. Cameron represented by Geoff Baker (ID); Stephen W. Robertson represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); Nancy G. Atkins represented by Russell Hamblen (KY); James J. Donelon represented by Stewart Guerin (LA); Gary Anderson represented by Christopher Joyce (MA); Eric A. Cioppa represented by Robert Wake (ME); Matthew Rosendale represented by Steve Matthews (MT); Mike Causey represented by Kathy Shortt (NC); Jon Godfread represented by Colton Schulz (ND); Bruce R. Ramge represented by Rhonda Ahrens (NE); John Elias represented by Doug Bartlett and Patricia Gosselin (NH); Marlene Caride represented by Diana Sherman (NJ); Barbara D. Richardson represented by David Cassetty (NV); Linda A. Lacewell represented by Marshal Bozzo (NY); Jillian Froment represented by Dale Bruggeman (OH); Glen Mulready represented by Joel Sander (OK); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Carter Lawrence represented by Trey Hancock (TN); Kent Sullivan represented by Doug Slape and Jamie Walker (TX); Todd E. Kiser represented by Jake Garn (UT); Scott A. White represented by Doug Stolte (VA); Michael S. Pieciak represented by David Provost (VT); Mark Afable represented by Randy Milquet (WI); and James A. Dodrill represented by Joylynn Fix (WV).

1. Adopted its May 15 and Spring National Meeting Minutes

The Task Force met May 15 to adopt revisions to the Credit for Reinsurance Model Law (#785) and the Credit for Reinsurance Model Regulation (#786), which incorporate the relevant provisions of the “Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance” (Covered Agreement).

The Task Force also met April 8 to conduct ongoing business.

Mr. Ford made a motion, seconded by Mr. Durrance, to adopt the Task Force’s May 15 (Attachment One) and April 8 (see NAIC Proceedings – Spring 2019, Reinsurance (E) Task Force) minutes. The motion passed unanimously.


Mr. Kaumann provided the report of the Reinsurance Financial Analysis (E) Working Group. He introduced Mr. Milquet, vice chair of the Working Group, and new members: Chris Taylor (GA); James Le (MO); Ms. Sherman; and Lee Hill (SC).

Mr. Kaumann stated that the Working Group has not met in 2019, and it monitors 29 certified reinsurers that have been recommended for passporting. He noted that the Working Group anticipates an increase in the number of passporting reviews when the changes to Model #785 and Model #786 to incorporate the Covered Agreement are enacted by the state legislatures.

Mr. Kaumann noted that the Working Group received a charge to consider changes in its current methods of monitoring certified reinsurers domiciled in qualified jurisdictions to incorporate changes to state reinsurance collateral requirements caused by the Covered Agreement, and any changes to Model #785 and Model #786 to provide similar treatment to reinsurers domiciled in qualified jurisdictions. Mr. Kaumann noted that the Working Group will begin discussions to determine the best and most effective approaches for the financial solvency surveillance of these non-U.S. reinsurers.

Mr. Kaumann made a motion, seconded by Mr. Ford, to adopt the report of the Reinsurance Financial Analysis (E) Working Group. The motion passed unanimously.
3. **Adopted the Report of the Qualified Jurisdiction (E) Working Group**

Mr. Wake provided the report of the Qualified Jurisdiction (E) Working Group. He stated that the Working Group met July 25 in regulator-to-regulator session, pursuant to paragraph 6 (consultations with NAIC staff members) and paragraph 8 (considerations of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss procedures that must be completed by the end of 2019.

Mr. Wake stated the Working Group will update the Process for Developing and Maintaining the NAIC List of Qualified Jurisdictions (Qualified Jurisdiction Process) for qualified jurisdictions and create a process by which a qualified jurisdiction that meets the requirements in Model #785 and Model #786 may be considered as a reciprocal jurisdiction. He stated that the Working Group will discuss improvements that can be made to the evaluation process for current qualified jurisdictions, and he noted that this will be a public process with opportunities for interested parties to participate and provide comments.

Mr. Wake stated that the Working Group will need to reevaluate the current NAIC List of Qualified Jurisdictions because the initial five-year period expires on Dec. 31. He stated that reviews for the jurisdictions with a Covered Agreement—i.e., France, Germany, Ireland, and the United Kingdom (UK)—will be an uncomplicated process since these jurisdictions are automatically eligible for reinsurance collateral elimination when the states begin adopting the 2019 revisions to Model #785 and Model #786. He stated that the Qualified Jurisdiction Process permits an abbreviated review process, which will be used for Bermuda, Japan and Switzerland. The Working Group had some preliminary discussions on what the abbreviated review would include, and it noted that it will rely heavily on the most recent International Monetary Fund (IMF) Financial Sector Assessment Program (FSAP) reports for these countries, and specifically the Technical Notes on Insurance Section Regulation and Supervision.

Mr. Wake stated that the Working Group will review Bermuda, Japan and Switzerland as reciprocal jurisdictions. He stated that these jurisdictions must recognize the U.S. state regulatory approach to group supervision and group capital and that Model #786 requires that this recognition must include written confirmation by a competent regulatory authority. He noted that the Working Group will need to work with the Reinsurance Financial Analysis (E) Working Group to determine an equivalent solvency ratio for each jurisdiction that is comparable to the 300% risk-based capital (RBC) and 100% solvency capital requirements that are required in Model #786. He said these qualified jurisdictions will be required to have an appropriate memorandum of understanding under which each qualified jurisdiction agrees to provide information regarding reinsurers to the states in which they are doing business. He noted that the evaluations will be a confidential process, as required under the current Qualified Jurisdiction Process; but the final Summary of Findings and Recommendation will be a public process, and the recommendations will be subject to a public comment period and public vote by the Task Force. He stated that the Working Group intends to complete this work by Dec. 31.

Mr. Wake made a motion, seconded by Ms. Murphy, to adopt the report of the Qualified Jurisdiction (E) Working Group. The motion passed unanimously.

4. **Discussed the Implementation Process of the 2019 Revisions to Model #785 and Model #786 to Incorporate the Relevant Provisions of the Covered Agreement**

Mr. Rehagen stated that the state legislatures were sent a formal notice of the adoption of the 2019 revisions to Model #785 and Model #786 on July 16, and he noted that the each state legislature has 60 months from the signature of the Covered Agreement to amend state measures or face potential federal preemption by the Federal Insurance Office (FIO), which will begin its federal preemption analysis 42 months after the date of signature of the Covered Agreement. He stated that FIO may begin its preemption analysis on April 1, 2021, with potential federal preemption beginning on Oct. 1, 2022.

Kay Noonan (NAIC) stated that the timing of the analysis of federal preemption is a different process than accreditation, which is done by the Financial Regulation Standards and Accreditation (F) Committee. She stated that FIO has not publicly discussed the details of potential preemption, and she noted that FIO will prioritize by focusing on the states that have the highest dollar amounts of premiums ceded to reinsurers domiciled in jurisdictions that are subject to an in-force Covered Agreement. She stated that the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) can preempt state laws if the state laws allow less favorable treatment to reinsurers from Covered Agreement jurisdictions or if the state laws are inconsistent with the Covered Agreement. She discussed the steps in the process of preemption.

Karalee Morell (Reinsurance Association of America—RAA) asked about the role of the Task Force and NAIC leadership in the enactment of the 2019 revisions to Model #785 and Model #786 by the state legislatures. Ms. Noonan stated that the Task Force and NAIC leadership will assist the states during the implementation process.
Mr. Provost asked if NAIC staff could provide a legislative packet with information to assist in the legislative process for the states. Ms. Noonan stated that NAIC staff can send this information to the legislatures and work directly with the states during this process.

Mr. Rehagen stated there are several items that must be completed by other NAIC groups. He noted that there are several revisions to the Accounting Practices and Procedures Manual (AP&P Manual) that will need to be completed by the Statutory Accounting Principles (E) Working Group. The Task Force will need to sponsor a proposal to the Blanks (E) Working Group to allow the new type of reinsurer to be included in Schedule F and Schedule S of the Blanks. The Task Force will also need to work further with the NAIC Financial Data Repository (FDR) and the Working Groups that oversee RBC. Mr. Rehagen noted that preliminary discussions for all these items have been started, and these actions must be completed prior to the end of 2019.

5. Discussed Model #785 and Model #786 as an Accreditation Standard

Dan Schelp (NAIC) stated that the accreditation standard must be revised to permit the states to begin adopting the 2019 revisions to Model #785 and Model #786. He stated that the Financial Regulation Standards and Accreditation (F) Committee concluded at its Aug. 4 meeting that the states may begin adoption of provisions that are substantially similar to the 2019 revisions to Model #785 and Model #786 and remain in compliance with the Reinsurance Ceded accreditation standard. He noted that: 1) the accreditation standard will be modified in accordance with the normal processes and procedures outlined in the Financial Regulation Standards and Accreditation Program; 2) the Task Force and Financial Condition (E) Committee will prepare a formal recommendation to the Financial Regulation Standards and Accreditation (F) Committee for consideration at the 2020 Spring National Meeting; and 3) in the interim, the states should be encouraged to adopt the 2019 revisions in the form adopted by Executive (EX) Committee and Plenary within the 60-month time frame set forth in the Covered Agreement to avoid potential federal preemption.

Mr. Slape stated that having the accreditation standard updated on an expedited basis would be beneficial to the process of enactment by the state legislatures. Ms. Noonan stated that the process of the accreditation standard can be done on an expedited basis, and the intent of the discussions of the Financial Regulation Standards and Accreditation (F) Committee and the Task Force were to inform state insurance regulators that they will not risk losing accreditation if their state enacts the 2019 revisions to Model #785 and Model #786 before the accreditation standard has been updated.

Sabrina A. Miesowitz (Lloyd’s) stated that she agrees with Mr. Slape that the accreditation standard must be updated soon to help encourage state legislatures to adopt the revisions. John M. Huff (Association of Bermuda Insurers and Reinsurers—ABIR) stated that he agrees with the points made by Ms. Miesowitz.

Having no further business, the Reinsurance (E) Task Force adjourned.
The Reinsurance (E) Task Force met via conference call May 15, 2019. The following Task Force members participated: Chlora Lindley-Myers, Chair, and John Rehagen (MO); Raymond G. Farmer, Vice Chair, represented by Lee Hill (SC); Lori K. Wing-Heier represented by David Phifer (AK); Jim L. Ridling represented by Richard Ford and Jerry Workman (AL); Ricardo Lara represented by Kenneth Schnoll (CA); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Kathy Belfi (CT); Stephen C. Taylor (DC); Trinidad Navarro represented by Dave Lonchar (DE); David Altmaier and Susanne Murphy (FL); Jim Beck represented by Scott Sanders (GA); Dafne M. Shimizu represented by Alice Cruz (GU); Doug Ommen represented by Carrie Mears (IA); Dean L. Cameron represented by Nathan Faragher (ID); Stephen W. Robertson represented by Roy Eft (IN); Vicki Schmidt represented by Tish Becker (KS); Nancy G. Atkins represented by Sandy Batts (KY); James J. Donelon represented by Stewart Guerin (LA); Gary Anderson represented by Christopher Joyce (MA); Eric A. Cioppa represented by Robert Wake (ME); Mike Causey represented by Jackie Obusek (NC); Jon Godfrey represented by Matt Fischer (ND); Bruce R. Ramge represented by Jill Gleason (NE); John Elias represented by Doug Bartlett (NH); Marlene Caride represented by Steve Kerner (NJ); Linda A. Lacewell represented by Marshal Bozzo (NY); Jillian Froment represented by Dale Bruggeman (OH); Glen Mulready represented by Eli Snowbarger (OK); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Kent Sullivan represented by Doug Slape and Jamie Walker (TX); Todd E. Kiser represented by Jake Garn (UT); Scott A. White represented by Doug Stolte and David Smith (VA); Mark Affele represented by Randy Milquet (WI).

1. Adopted Proposed Revisions to the Credit for Reinsurance Model Law (#785) and the Credit for Reinsurance Model Regulation (#786) to Incorporate the “Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance” and the “Bilateral Agreement Between the United States of America and the United Kingdom Regarding Insurance and Reinsurance” (collectively referred to as the Covered Agreements)

Mr. Rehagen stated that the Task Force last exposed revisions to Model #785 and Model #786 on March 7 for a 25-day public comment period ending April 1. He said nine comment letters were received. The Task Force discussed these letters and heard comments from nine different commenters at the Spring National Meeting. Based on these comment letters received and the comments heard at the Spring National Meeting, the Task Force directed the drafting group of the Task Force to consider these comments and update the models for final adoption.

Mr. Rehagen stated that the drafting group met April 30 and April 16 via conference call in regulator-to-regulator sessions to discuss these final issues from the Spring National Meeting. All the conference calls of the drafting group are regulator-only calls conducted pursuant to paragraph 6 (consultations with NAIC staff members) and paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings.

Mr. Rehagen stated that on April 25, NAIC staff held a conference call with representatives of the U.S. Department of the Treasury (Treasury Department), the Federal Insurance Office (FIO), and the Office of the U.S. Trade Representative (USTR) to discuss the revisions to Model #785 and Model #786. He noted that discussions with these groups in the past have related to whether the draft revisions to Model #785 and Model #786 were consistent with the Covered Agreements. He stated that there was agreement on the overall direction of the revisions to Model #785 and Model #786. Based on these discussions, the drafting group prepared final documents. These include May 1 drafts of Model #785 (Attachment One-A) and Model #786 (Attachment One-B), which contain redlined revisions to the March 7 exposure documents, and drafts of Model #785 (Attachment One-C) and Model #786 (Attachment One-D) showing all revisions that have been made to the models during the entire process of incorporating the Covered Agreements into Model #785 and Model #786. Five comment letters were received for the May 1 revisions to Model #785 and Model #786 (Attachment One-E).

Mr. Rehagen stated that based upon the comments that were received from the Treasury Department, USTR, FIO, and the European Commission (EC), the drafting group revised Model #785 and Model #786. He stated that in Section 2F(1)(a)(i) of Model #785, the requirement that each European Union (EU) jurisdiction must be in compliance with all material terms of the EU Covered Agreement was removed and replaced with the requirement that the reciprocal jurisdiction is subject to an
in-force Covered Agreement. He noted that while FIO was unable to give assurances that states adopting these revisions will not be subject to a potential federal preemption analysis by the federal government, he stated that the state legislatures can feel comfortable in adopting these revisions.

Mr. Rehagen stated that interested parties representing the non-EU qualified jurisdictions have emphasized the need for similar treatment to reciprocal jurisdictions from the EU and United Kingdom (UK) that are covered by in-force Covered Agreements. He stated that these interested parties were concerned with any disparity between the treatment of Covered Agreement jurisdictions and commissioner discretion with respect to qualified jurisdictions found in earlier versions of Model #785 and Model #786. He stated that the drafting group agreed with this approach and removed the disparate treatment of reciprocal reinsurers from qualified jurisdictions in the updated drafts, including the deletion of discretionary language in Section 2F(1)(h) of Model #785.

Mr. Rehagen stated that the drafting group considered the other comments that were received from interested parties on the March 7 exposure. He noted that the drafting group was unable to reach an agreement on language to address material adverse development covers, and that due to the time considerations based on the 60-month transition period to adopt the revisions to Model #785 and Model #786. Therefore, the drafting group agreed to move forward to put the NAIC Plenary in a position to finalize the models by the end of June.

Mr. Rehagen stated that on May 13, NAIC staff held a conference call with representatives of the EC to discuss their concerns with Section 2F(7) of Model #785. He stated that the EC had questions about when an EU reinsurer may begin doing business in a U.S. state. He noted that the EC had specifically inquired about whether it was when the reinsurer has satisfied all of the requirements set forth in Section 2F(1) of Model #785 or when a state insurance commissioner publishes a list of assuming insurers which have satisfied these requirements under Section 2F(3) of Model #785. Additionally, the EC inquired about the effective date for the Form RJ-1 to be used by an EU reinsurer. Mr. Rehagen noted that Section 2F(7) of Model #785 was discussed with FIO on April 25, and that FIO did not express any concerns with the current language in Model #785.

Dan Schelp (NAIC) recommended that the Task Force update the reference in Section 9E(1) of Model #786 that is currently to “Subsection C(5)” to be to “Subsection C.” Mr. Schelp stated that this is the provision that allows state insurance regulators to defer to the determination and review of materials by another state, and the change will allow state insurance regulators to rely on more information obtained by other states.

Antoine Begasse (EC) mentioned two remaining issues that had been discussed with NAIC staff. The first one relates to the language in Section 2F(7) of Model #785, where an additional requirement related to the date at which losses are incurred and reserves are reported is used to determine the moment at which certified reinsurers will be able to benefit from the agreement. He questioned the compatibility of such a requirement with the Covered Agreements as he believes that the conditions set forth in the first part of Section 2F(7) are sufficient for ensuring compliance with the Covered Agreements, noting that it is the moment at which “the assuming insurer has satisfied the requirements” of Section 2F(1) of Model #785. Mr. Begasse recommended that the language “and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements pursuant to Section 2F(1) herein, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal” be removed from that paragraph. Mr. Begasse added that there is still a concern with the currency conversion in Section 9C(2)(c) of Model #786, where in order to ensure compatibility of the Covered Agreements, a statement is necessary that where applicable, the conversion rates laid down in an applicable Covered Agreement should be used. Mr. Rehagen stated that the first issue is a transitional issue, and that it would be worked out by the passporting process, and that the second issue has been discussed and decided upon by the drafting group. Mr. Wake stated that the language that the EC recommends removing deals with hypothetical retroactive amendments to reinsurance treaties. Mr. Wake noted the reinsurers only become eligible for zero collateral once they have met the requirements of Section 2F(1) of Model #786 and stated that the Covered Agreements are clear on which specific currency is to be used.

Kevin Spataro (Allstate) stated that in Section 2F(1)(d)(v) of Model #785, the reference to “one hundred percent (100%) of the assuming insurer’s liability” should be changed to refer to the ceding insurer’s liability. Mr. Spataro stated that the liabilities of the assuming insurer will be lower than those recorded by the ceding insurer. Mr. Wake noted that Model #785 provides that the assuming insurer must collateralize their liability, including all that the assuming insurer owes. Mr. Wake noted that adding back the solvent scheme of arrangements, which was included in Allstate’s comment letter, would have a
negative impact on ceding insurers. Mr. Bozzo provided an example of an 80% quota share treaty, where using the ceding insurer’s liability would cause the collateral required to be too high.

John Huff (Association of Bermuda Insurers and Reinsurers—ABIR) stated that he appreciates the clarification for the treatment of reciprocal reinsurers from qualified jurisdictions, and he emphasized the importance of the passporting process for the states.

Steve Clayburn (American Council of Life Insurers—ACLI) stated that the ACLI supports the revisions to Model #785 and Model #786.

Karalee Morell (Reinsurance Association of America—RAA) stated that the RAA supports the revisions Model #785 and Model #786, and she noted that they would like more certainty around avoiding duplicate filings in the process.

Sabrina Miesowitz (Lloyd’s) stated that Lloyd’s supports the revisions to Model #785 and Model #786.

John Finston (Drinker Biddle & Reath) spoke on behalf of the International Underwriting Association of London (IUA). Mr. Finston stated he recommended a revision to Section 2F(7) of Model #785 to allow for the reduction of collateral for adverse development covers at the Spring National Meeting. Mr. Rehagen stated that adverse development covers were discussed by the drafting group, and the drafting group was unable to decide on a course of action, which included possibly modifying the language in Section 2F(7) of Model #785 or adding a drafting note. Mr. Schelp stated that the discussion and consideration of this issue would be memorialized in the Project History to the model revisions.

Mr. Finston stated that his comment letter sent on May 15 included suggested language to clarify and remove redundancies from Section 2F(7) of Model #785. Mr. Rehagen noted that this suggested change may be appropriate and should be further considered by the Task Force after the conference call, with a recommendation to the Financial Condition (E) Committee prior to its May 28 call. Mr. Begasse stated that he is unable to provide assurance that this change will satisfy the EC’s concern.

Robert W. Woody (American Property Casualty Insurance Association—APCIA) stated that the APCIA supports the revisions to Model #785 and Model #786 and noted that he wants more certainty around avoiding duplicate filings in the process, but was encouraged by the statements by state insurance regulators at the Spring National Meeting regarding the passporting process.

Mr. Milquet made a motion, seconded by Mr. Slape, to: 1) revise Section 9E(1) of Model #786 to reference Section 9C; 2) adopt the proposed revisions to Model #785 and Model #786 to incorporate relevant provisions of the Covered Agreements; and 3) for the Reinsurance (E) Task Force, consider the revision to Section 2F(7) of Model #785 as outlined in the May 15 IUA comment letter and make a recommendation to the Financial Condition (E) Committee for its May 28 conference call. The motion passed with Indiana and New York abstaining.

Having no further business, the Reinsurance (E) Task Force adjourned.
CREDIT FOR REINSURANCE MODEL LAW

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Section 2. Credit Allowed a Domestic Ceding Insurer

Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of Subsections A, B, C, D, E, F or G of this section; provided further, that the commissioner may adopt by regulation pursuant to Section 5B specific additional requirements relating to or setting forth: (1) the valuation of assets or reserve credits; (2) the amount and forms of security supporting reinsurance arrangements described in Section 5B; and/or (3) the circumstances pursuant to which credit will be reduced or eliminated.

Drafting Note: This new regulatory authority is being added in response to reinsurance arrangements entered into, directly or indirectly, with life/health insurer-affiliated captives, special purpose vehicles or similar entities that may not have the same statutory accounting requirements or solvency requirements as U.S.-based multi-state life/health insurers. To assist in achieving national uniformity, commissioners are asked to strongly consider adopting regulations that are substantially similar in all material respects to NAIC adopted model regulations in the handling and treatment of such reinsurance arrangements.

Credit shall be allowed under Subsections A, B or C of this section only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under Subsections C or D of this section only if the applicable requirements of Subsection H have been satisfied.

F. (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below.

(a) The assuming insurer must have its head office or be domiciled in, as applicable, and be licensed in a Reciprocal Jurisdiction. A “Reciprocal Jurisdiction” is a jurisdiction that meets one of the following:

(i) A non-U.S. jurisdiction that has entered into an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union, and is in compliance with all material terms of the covered agreement, including the reciprocal treatment of United States insurers and reinsurers. For purposes of this subsection, a “covered agreement” is an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;
(ii) A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(iii) A qualified jurisdiction, as determined by the commissioner pursuant to [Subsection 2E(3) of Credit for Reinsurance Model Law], which is not otherwise described in subparagraph (i) or (ii) above and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner in regulation.

(b) The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain on an ongoing basis minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in regulation.

(c) The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, which will be set forth in regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain on an ongoing basis a minimum solvency or capital ratio in the Reciprocal Jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(d) The assuming insurer must agree and provide adequate assurance to the commissioner, in a form specified by the commissioner pursuant to regulation, as follows:

(i) The assuming insurer must provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in subparagraphs (b) or (c), or if any regulatory action is taken against it for serious noncompliance with applicable law;

(ii) The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(iii) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

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

(v) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state’s ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide security
in an amount equal to one hundred percent (100%) of the assuming insurer’s liabilities to the ceding insurer should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of Section 2E and Section 3 and as specified by the commissioner in regulation.

**Drafting Note:** Section 9C(4)(e) of the *Credit for Reinsurance Model Regulation (#786)* sets forth the acceptable forms of security under this subparagraph by specifically referencing Sections 12, 13 and 14 of Model #786.

(e) The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, certain documentation to the commissioner as specified by the commissioner in regulation.

(f) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in regulation.

(g) The assuming insurer’s supervisory authority must confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction, that the assuming insurer complies with the requirements set forth in subparagraphs (b) and (c).

(h) The assuming insurer must satisfy any other requirements deemed relevant by the commissioner, except to the extent they conflict with an applicable covered agreement. Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(2) The commissioner shall timely create and publish a list of Reciprocal Jurisdictions.

(a) A list of Reciprocal Jurisdictions is published through the NAIC Committee Process. The commissioner’s list shall include any Reciprocal Jurisdiction as defined under Section 2F(1)(a)(i) and (ii), and shall consider any other Reciprocal Jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions in accordance with criteria to be developed under regulations issued by the commissioner.

(b) The commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a Reciprocal Jurisdiction in accordance with a process set forth in regulations issued by the commissioner, except that the commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under Section 2F(1)(a)(i) and (ii). Upon removal of a Reciprocal Jurisdiction from this list credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to [cite to state law equivalent to Credit for Reinsurance Model Law].

(3) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this subsection. The commissioner may add an assuming insurer to such list if an NAIC accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under Paragraph (1)(d) of this subsection and complies with any additional requirements that the commissioner may impose by regulation, except to the extent that they conflict with an applicable covered agreement.

(4) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures set forth in regulation.
(a) While an assuming insurer’s eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer’s obligations under the contract are secured in accordance with Section 3.

(b) If an assuming insurer’s eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer’s obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of Section 3.

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

(6) Nothing in this subsection shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement consistent herewith, except as expressly prohibited by this [cite to state law equivalent to Credit for Reinsurance Model Law] or other applicable law or regulation.

(7) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after the date on which the assuming insurer has satisfied the requirements to assume reinsurance under this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements pursuant to Section 2F(1) herein, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.

(a) This paragraph does not alter or impair a ceding insurer’s right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of [cite to state law equivalent to Credit for Reinsurance Model Law].

(b) Nothing in this subsection shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(c) Nothing in this subsection shall limit or in any way alter the capacity of parties to any reinsurance agreement to renegotiate the agreement.

Section 5. Rules and Regulations

A. The commissioner may adopt rules and regulations implementing the provisions of this law.

Drafting Note: It is recognized that credit for reinsurance also can be affected by other sections of the enacting state’s code, e.g., a statutory insolvency clause or an intermediary clause. It is recommended that states that do not have a statutory insolvency clause or an intermediary clause consider incorporating such clauses in their legislation.

B. The commissioner is further authorized to adopt rules and regulations applicable to reinsurance arrangements described in Paragraph (1) of this Section 5B.

Drafting Note: This new regulatory authority is being added in response to reinsurance arrangements entered into, directly or indirectly, with life/health insurer-affiliated captives, special purpose vehicles or similar entities that may not have the same statutory accounting requirements or solvency requirements as US-based multi-state life/health insurers. To assist in achieving national uniformity, commissioners are asked to strongly consider adopting regulations that are substantially similar in all material respects to NAIC adopted model regulations in the handling and treatment of such policies and reinsurance arrangements.
A regulation adopted pursuant to this Section 5B, may apply only to reinsurance relating to:

(a) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(b) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(c) Variable annuities with guaranteed death or living benefits;

(d) Long-term care insurance policies; or

(e) Such other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.

A regulation adopted pursuant to Paragraph 1(a) or 1(b) of this Section 5B, may apply to any treaty containing (i) policies issued on or after January 1, 2015, and/or (ii) policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

Drafting Note: The NAIC’s Actuarial Guideline XLVIII (AG 48) became effective January 1, 2015, and covers policies ceded on or after this date unless they were ceded as part of a reserve financing arrangement as of December 31, 2014. One regulation contemplated by this revision to the NAIC Credit for Reinsurance Model Law is intended to substantially replicate the requirements for the amounts and forms of security held under the rules provided in AG 48. AG 48 was written to sunset upon a state’s adoption (pursuant to the enabling authority of the preceding paragraph) of a regulation with terms substantially similar to AG 48. The preceding paragraph is intended to provide continuity of rules applicable to those policies and reinsurance arrangements, including continuity as to the policies covered by such rules. The preceding paragraph is not intended to change the scope of, or collateral requirements for policies and treaties covered under AG 48.

A regulation adopted pursuant to this Section 5B may require the ceding insurer, in calculating the amounts or forms of security required to be held under regulations promulgated under this authority, to use the Valuation Manual adopted by the NAIC under Section 11B(1) of the NAIC Standard Valuation Law, including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable.

A regulation adopted pursuant to this Section 5B shall not apply to cessions to an assuming insurer that:

(a) Meets the conditions set forth in Section 2F of the Credit for Reinsurance Model Law in this state or, if this state has not adopted provisions substantially equivalent to Section 2F of the Credit for Reinsurance Model Law, the assuming insurer is operating in accordance with provisions substantially equivalent to Section 2F of the Credit for Reinsurance Model Law in a minimum of five (5) other states; or

(b) Is certified in this state or, if this state has not adopted provisions substantially equivalent to Section 2E of the Credit for Reinsurance Model Law, certified in a minimum of five (5) other states; or

(c) Maintains at least $250 million in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices; and is

(i) licensed in at least 26 states; or

(ii) licensed in at least 10 states, and licensed or accredited in a total of at least 35 states.

The authority to adopt regulations pursuant to this Section 5B does not limit the commissioner’s general authority to adopt regulations pursuant to Section 5A of this law.
Section 8. Credit for Reinsurance—Certified Reinsurers

A. Pursuant to [cite state law equivalent of Section 2E of the Credit for Reinsurance Model Law], 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 section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of [cite state law equivalent of Section 2E and Section 3 of the Credit for Reinsurance Model Law] and 12, 13 or 14 of this Regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

<table>
<thead>
<tr>
<th>Ratings</th>
<th>Security Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secure – 1</td>
<td>0%</td>
</tr>
<tr>
<td>Secure – 2</td>
<td>10%</td>
</tr>
<tr>
<td>Secure – 3</td>
<td>20%</td>
</tr>
<tr>
<td>Secure – 4</td>
<td>50%</td>
</tr>
<tr>
<td>Secure – 5</td>
<td>75%</td>
</tr>
<tr>
<td>Vulnerable – 6</td>
<td>100%</td>
</tr>
</tbody>
</table>

(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 one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

(4) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the commissioner. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

(a) Line 1: Fire
(b) Line 2: Allied Lines
(c) Line 3: Farmowners multiple peril
(d) Line 4: Homeowners multiple peril
(e) Line 5: Commercial multiple peril
(f) Line 9: Inland Marine
(g) Line 12: Earthquake
(h) 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 from and after the effective date of the amendment or new contract.
(6) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

B. Certification Procedure.

(1) The commissioner shall post notice on the insurance department’s website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least thirty (30) days after posting the notice required by this paragraph.

Drafting Note: States that do not wish to make the internet the required mechanism for providing public notice should modify this provision accordingly. This provision was intended to provide a less formal notice requirement than is typically called for under state Administrative Procedure Acts.

(2) The commissioner shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with Subsection A of this section. The commissioner shall publish a list of all certified reinsurers and their ratings.

(3) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(a) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the commissioner pursuant to Subsection C of this section.

(b) The assuming insurer must maintain capital and surplus, or its equivalent, of no less than $250,000,000 calculated in accordance with Subparagraph (4)(h) of this subsection. 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.

(c) The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

(i) Standard & Poor’s;
(ii) Moody’s Investors Service;
(iii) Fitch Ratings;
(iv) A.M. Best Company; or
(v) Any other Nationally Recognized Statistical Rating Organization.

(d) The certified reinsurer must comply with any other requirements reasonably imposed by the commissioner.

(4) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

(a) The certified reinsurer’s financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The commissioner shall use the lowest
financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

<table>
<thead>
<tr>
<th>Ratings</th>
<th>Best</th>
<th>S&amp;P</th>
<th>Moody’s</th>
<th>Fitch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secure – 1</td>
<td>A++</td>
<td>AAA</td>
<td>Aaa</td>
<td>AAA</td>
</tr>
<tr>
<td>Secure – 2</td>
<td>A+</td>
<td>AA+, AA, AA-</td>
<td>Aa1, Aa2, Aa3</td>
<td>AA+, AA, AA-</td>
</tr>
<tr>
<td>Secure – 3</td>
<td>A</td>
<td>A+, A</td>
<td>A1, A2</td>
<td>A+, A</td>
</tr>
<tr>
<td>Secure – 4</td>
<td>A-</td>
<td>A-</td>
<td>A3</td>
<td>A-</td>
</tr>
<tr>
<td>Secure – 5</td>
<td>B++, B+</td>
<td>BBB+, BBB, BBB-</td>
<td>Baa1, Baa2, Baa3</td>
<td>BBB+, BBB, BBB-</td>
</tr>
</tbody>
</table>

(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 Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (attached as exhibits to this regulation);

e) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers’ Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 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, regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the commissioner will consider audited financial statements for the last three (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.

(5) Based on the analysis conducted under Subparagraph (4)(e) of a certified reinsurer’s reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under Subparagraph (4)(a) if the commissioner finds that:

(a) More than fifteen percent (15%) of the certified reinsurer’s ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more which are not in dispute and which exceed $100,000 for each cedent; or

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

(6) The assuming insurer must submit a properly executed Form CR-1 (attached as an exhibit to this regulation) as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer’s liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. 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.

(7) The certified reinsurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under [cite state law equivalent of Freedom of Information Act] and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

(a) Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

(b) Annually, Form CR-F or CR-S, as applicable [per the instructions to be developed as an exhibit to this model];

(c) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in Subsection (d) below;

(d) Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer’s supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last three (3) years filed with the certified reinsurer’s supervisor;

(e) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.
(f) A certification from the certified reinsurer’s domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction’s highest regulatory action level; and

(g) Any other information that the commissioner may reasonably require.

(8) Change in Rating or Revocation of Certification.

(a) In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of Subparagraph (4)(a).

(b) The commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer’s certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commissioner to reconsider the certified reinsurer’s ability or willingness to meet its contractual obligations.

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

(d) Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with Section 11 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Section 7, the commissioner may allow additional credit equal to the ceding insurer’s pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer’s rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

C. Qualified Jurisdictions.

(1) If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commissioner shall publish notice and evidence of such recognition in an appropriate manner. The commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

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

(a) The framework under which the assuming insurer is regulated.

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

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

(d) 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.

(e) The domiciliary regulator’s willingness to cooperate with U.S. regulators in general and the commissioner in particular.

(f) The history of performance by assuming insurers in the domiciliary jurisdiction.

(g) Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.

(h) 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.

(i) Any other matters deemed relevant by the commissioner.

(3) A list of qualified jurisdictions shall be published through the NAIC Committee Process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification with respect to the criteria provided under Subsections 8.C(2)(a) to (i).

(4) U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction.

(1) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction’s certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

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

(3) The commissioner may withdraw recognition of the other jurisdiction’s rating at any time and assign a new rating in accordance with Subsection B(8) of this section.

(4) The commissioner may withdraw recognition of the other jurisdiction’s certification at any time, with written notice to the certified reinsurer. Unless the commissioner suspends or revokes the
certified reinsurer’s certification in accordance with Subsection B(8) of this section, the certified reinsurer’s certification shall remain in good standing in this state for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer’s application for certification in this state.

E. Mandatory Funding Clause. In addition to the clauses required under Section 15, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. The commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Section 9. Credit for Reinsurance—Reciprocal Jurisdictions

A. Pursuant to [cite state law equivalent of Section 2F of the Credit for Reinsurance Model Law], the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by and has its head office or is domiciled in a Reciprocal Jurisdiction, and which meets the other requirements of this regulation.

B. A “Reciprocal Jurisdiction” is a jurisdiction, as designated by the commissioner pursuant to Subsection D, that meets one of the following:

(1) A non-U.S. jurisdiction that has entered into a subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union, and is in compliance with all material terms of the covered agreement, including the reciprocal treatment of United States insurers and reinsurers. For purposes of this subsection, a “covered agreement” is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(2) A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(3) A qualified jurisdiction, as determined by the commissioner pursuant to [cite state law equivalent of Section 2E(3) of the Credit for Reinsurance Model Law and Section 8C of the Credit for Reinsurance Model Regulation], which is not otherwise described in paragraph (1) or (2) above and which the commissioner determines meets all of the following additional requirements:

(a) Provides that an insurer which has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

(b) Does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-U.S. jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

(c) Recognizes the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group
governance, solvency and capital, and reporting, as applicable, by the commissioner or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

Drafting Note: Nothing in this regulation subparagraph is intended to enhance or limit the authority of U.S. state insurance regulation with respect to the group-wide supervision of insurance holding company systems pursuant to the state law equivalent of the NAIC Insurance Holding Company System Regulatory Act (§440) and Insurance Holding Company System Model Regulation (§450), or other applicable state law.

(d) Provides written confirmation by a competent regulatory authority, in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC and

(e) Such additional factors as may be considered in the discretion of the commissioner.

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

(1) The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a Reciprocal Jurisdiction.

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

(a) No less than $250,000,000; or

(b) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

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

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

Drafting Note: The United States has entered into bilateral agreements with both the European Union and United Kingdom, signed on September 22, 2017, and December 18, 2018, respectively, which specify a solvency ratio of one hundred percent (100%) of the solvency capital requirement (SCR) as calculated under the Solvency II Directive issued by the European Union with respect to assuming insurers which have their head office or are domiciled in those jurisdictions.
(b) If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(2), a risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

(c) If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(3), after consultation with the Reciprocal Jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency finds appropriate, considering any recommendations published through the NAIC Committee Process.

(4) The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (attached as an exhibit to this regulation), of its agreement to the following:

(a) The assuming insurer must agree to provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in paragraphs (2) or (3) of this subsection, or if any regulatory action is taken against it for serious noncompliance with applicable law.

(b) The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process.

(i) The commissioner may also require that such consent be provided and included in each reinsurance agreement under the commissioner’s jurisdiction.

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

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

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

(e) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this state’s ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide one hundred percent (100%) security to the ceding insurer consistent with the terms of the scheme should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of [cite state law equivalent of Section 2E and Section 3 of the Credit for Reinsurance Model Law] and Section 12, 13 or 14 of this Regulation. For purposes of this Regulation, the term “solvent scheme of arrangement” means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer’s home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer’s home jurisdiction.
The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in Paragraph (5) of this subsection.

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

(a) For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer’s annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

(b) For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer’s supervisor;

(c) Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

(d) Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer’s assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in Paragraph (6) of this subsection.

Drafting Note: In order to facilitate multi-state recognition of assuming insurers and to encourage uniformity among the states, the NAIC has initiated a process called “passporting” under which the commissioner has the discretion to defer to another state’s determination with respect to compliance with this Section. Passporting is based upon individual state regulatory authority, and states are encouraged to act in a uniform manner in order to facilitate the passporting process. States are also encouraged to utilize the passporting process to reduce the amount of documentation filed with the states and reduce duplicate filings. It is anticipated that “lead” states will uniformly require assuming insurers to provide the documentation described in Section 9C(5) of this regulation, so that other states may rely upon the lead state’s determination.

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

(a) More than fifteen percent (15%) of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner or other supervisor of the assuming insurer;

(b) More than fifteen percent (15%) of the assuming insurer’s ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer $100,000, or its equivalent calculated by reference to foreign currency exchange rates published by the U.S. Secretary of the Treasury under the authority of 22 U.S.C. 2363(b), or as otherwise specified in a covered agreement; or

(c) The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds $50,000,000, or its equivalent calculated by reference to foreign currency exchange rates published by the U.S. Secretary of the Treasury under the authority of 22 U.S.C. 2363(b), or as otherwise specified in a covered agreement.

The assuming insurer’s supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in Paragraphs (2) and (3) of this subsection.
The assuming insurer must satisfy any other requirements deemed relevant by the commissioner, except to the extent they conflict with an applicable covered agreement. Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

D. The commissioner shall timely create and publish a list of Reciprocal Jurisdictions.

(1) A list of Reciprocal Jurisdictions is published through the NAIC Committee Process. The commissioner’s list shall include any Reciprocal Jurisdiction as defined under Section 9B(1) and (2), and shall consider any other Reciprocal Jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC Committee Process.

(2) The commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a Reciprocal Jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC Committee Process, except that the commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under Section 9B(1) and (2). Upon removal of a Reciprocal Jurisdiction from this list credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to [cite to state law equivalent of Credit for Reinsurance Model Law or Credit for Reinsurance Model Regulation].

Drafting Note: It is anticipated that the NAIC will develop criteria and a process with respect to Reciprocal Jurisdictions that is similar to the NAIC Process for Developing and Maintaining the NAIC List of Qualified Jurisdictions. Included will be processes for revocation or suspension of the status as a Reciprocal Jurisdiction, provided that such process would not conflict with the terms of an in-force covered agreement. The NAIC and the states intend to communicate and coordinate with the U.S. Department of Treasury and United States Trade Representative and other relevant federal authorities with respect to the evaluation of Reciprocal Jurisdictions, as appropriate.

E. The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.

(1) If an NAIC accredited jurisdiction has determined that the conditions set forth in Subsection C have been met, the commissioner has the discretion to defer to that jurisdiction’s determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the filing requirements of Subsection C(5).

(2) When requesting that the commissioner defer to another NAIC accredited jurisdiction’s determination, an assuming insurer must submit a properly executed Form RJ-1 and additional information as the commissioner may require. A state that has received such a request will notify other states through the NAIC Committee Process and provide relevant information with respect to the determination of eligibility.

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

(1) While an assuming insurer’s eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer’s obligations under the contract are secured in accordance with Section 11.

(2) If an assuming insurer’s eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the

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assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer’s obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of Section 11.

G. Before denying statement credit or imposing a requirement to post security with respect to Section 9F of this regulation or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall:

1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer’s supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in Subsection C of this section;

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

3. After the expiration of 90 days or less, as set out in (2), if the commissioner determines that no or insufficient action was taken by the assuming insurer, the commissioner may impose any of the requirements as set out in this Subsection; and

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

H. If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.
FORM RJ-1

CERTIFICATE OF REINSURER DOMICILED IN RECIPROCAL JURISDICTION

I, _____________________________________________, _______________________________________________________
(name of officer)       (title of officer)
of ____________________________________________________________________________________, the assuming insurer
(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in _____________________________________, in order to
(name of state)
be considered for approval in this state, hereby certify that ______________________________ (“Assuming Insurer”):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in [Name of State] for the adjudication of any issues arising out
   of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide
   by the final decision of such court or any appellate court in the event of an appeal. The assuming insurer agrees that it will include
   such consent in each reinsurance agreement, if requested by the commissioner. Nothing in this paragraph constitutes or should be
   understood to constitute a waiver of assuming insurer’s rights to commence an action in any court of competent jurisdiction in the
   United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by
   the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the
   obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement,
   except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

2. Designates the Insurance Commissioner of [Name of State] as its lawful attorney in and for the [Name of State] upon whom may
   be served any lawful process in any action, suit or proceeding in this state arising out of the reinsurance agreement instituted by or
   on behalf of the ceding insurer.

3. Agrees to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared
   enforceable in the territory where the judgment was obtained.

4. Agrees to provide prompt written notice and explanation if it falls below the minimum capital and surplus or capital or surplus
   ratio, or if any regulatory action is taken against it for serious noncompliance with applicable law.

5. Confirms that it is not presently participating in any solvent scheme of arrangement, which involves insurers domiciled in [Name
   of State]. If the assuming insurer enters into such an arrangement, the assuming insurer agrees to notify the ceding insurer and the
   commissioner, and to provide 100% security to the ceding insurer consistent with the terms of the scheme.

6. Agrees that in each reinsurance agreement it will provide security in an amount equal to 100% of the assuming insurer’s liabilities
   attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final U.S. judgment,
   that is enforceable under the law of the territory in which it was obtained, or a properly enforceable arbitration award whether
   obtained by the ceding insurer or by its resolution estate, if applicable.

7. Agrees to provide the documentation in accordance with [cite relevant provision of the state equivalent of Section 9C(5) of the
   Credit for Reinsurance Model Regulation], if requested by the commissioner.

Dated: ___________________________  ___________________________ _______________________
(name of assuming insurer)

BY: ______________________________________________
(name of officer)       _______________________
(title of officer)
CREDIT FOR REINSURANCE MODEL LAW

Preface to Credit for Reinsurance Models

The amendments to the NAIC Credit for Reinsurance Model Law (#785) & Regulation (#786) are part of a larger effort to modernize reinsurance regulation in the United States. The NAIC initially adopted the Reinsurance Regulatory Modernization Framework Proposal during its 2008 Winter National Meeting. The NAIC recommended that this framework be implemented through federal legislation in order to best preserve and improve state-based regulation of reinsurance, ensure timely and uniform implementation throughout all NAIC member jurisdictions, and as a more comprehensive alternative to related federal legislation. In addition to this proposed federal legislation, the framework also provided that changes to state insurance laws should be considered. For example, state laws to establish requirements under which states would regulate qualified reinsurers, and also to consider reinsurance risk diversification and notice requirements for ceding insurers.

On July 21, 2010, Congress passed and the President signed related federal legislation, the Nonadmitted and Reinsurance Reform Act, which became effective July 21, 2011. While this act does not implement the NAIC framework, it does preempt the extraterritorial application of state credit for reinsurance law and permits states of domicile to proceed forward with reinsurance collateral reforms on an individual basis if they are accredited. This federal legislation also does not prohibit the states from acting together, through the NAIC, to achieve the reinsurance modernization framework goals. In addition to the current work on the credit for reinsurance models, the NAIC will continue its efforts to implement other aspects of the framework. These efforts will continue both through work conducted by the Reinsurance Task Force and through referrals to the appropriate groups within the NAIC. In addition, the NAIC will consider a proposal to form a new group to provide advisory support and assistance to states in the review of reinsurance collateral reduction applications. Such a process with respect to the review of applications for reinsurance collateral reduction and qualified jurisdictions should strengthen state regulation and prevent regulatory arbitrage. Such an effort would be supported by NAIC staff with substantial expertise to support the functions of such a group.

Finally, the NAIC will continue to work on requirements for NAIC review and approval of qualified jurisdictions, and will undertake a re-examination of the collateral amounts within two years from the effective date of the revisions to the models.

CREDIT FOR REINSURANCE MODEL LAW

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Section 2. Credit Allowed a Domestic Ceding Insurer

Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of Subsections A, B, C, D, E, or F or G of this section; provided further, that the commissioner may adopt by regulation pursuant to Section 5B specific additional requirements relating to or setting forth: (1) the valuation of assets or reserve credits; (2) the amount and
forms of security supporting reinsurance arrangements described in Section 5B; and/or (3) the circumstances pursuant
to which credit will be reduced or eliminated.

Drafting Note: This new regulatory authority is being added in response to reinsurance arrangements entered into, directly or indirectly, with
life/health insurer-affiliated captives, special purpose vehicles or similar entities that may not have the same statutory accounting requirements or
solvency requirements as US-based multi-state life/health insurers. To assist in achieving national uniformity, commissioners are asked to strongly
consider adopting regulations that are substantially similar in all material respects to NAIC adopted model regulations in the handling and treatment
of such reinsurance arrangements.

Credit shall be allowed under Subsections A, B or C of this section only as respects cessions of those kinds or classes
of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile
or, in the case of a U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed to
transact insurance or reinsurance. Credit shall be allowed under Subsections C or D of this section only if the applicable
requirements of Subsection GH have been satisfied.

F. (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each
of the conditions set forth below.

(a) The assuming insurer must have its head office or be domiciled in, as applicable,
and be licensed in a Reciprocal Jurisdiction. A “Reciprocal Jurisdiction” is a
jurisdiction that meets one of the following:

(i) A non-U.S. jurisdiction that is subject to an in-force covered agreement
with the United States, each within its legal authority, or, in the case of
a covered agreement between the United States and European Union, is
a member state of the European Union. For purposes of this subsection,
a “covered agreement” is an agreement entered into pursuant to Dodd-
Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§
313 and 314, that is currently in effect or in a period of provisional
application and addresses the elimination, under specified conditions, of
collateral requirements as a condition for entering into any reinsurance
agreement with a ceding insurer domiciled in this state or for allowing
the ceding insurer to recognize credit for reinsurance;

(ii) A U.S. jurisdiction that meets the requirements for accreditation under
the NAIC financial standards and accreditation program; or

(iii) A qualified jurisdiction, as determined by the commissioner pursuant to
[Subsection 2E(3) of Credit for Reinsurance Model Law], which is not
otherwise described in subparagraph (i) or (ii) above and which meets
certain additional requirements, consistent with the terms and conditions
of in-force covered agreements, as specified by the commissioner in
regulation.

(b) The assuming insurer must have and maintain on an ongoing basis minimum
capital and surplus, or its equivalent, calculated according to the methodology of
its domiciliary jurisdiction, in an amount to be set forth in regulation. If the
assuming insurer is an association, including incorporated and individual
unincorporated underwriters, it must have and maintain on an ongoing basis
minimum capital and surplus equivalents (net of liabilities), calculated according
to the methodology applicable in its domiciliary jurisdiction, and a central fund
containing a balance in amounts to be set forth in regulation.
(c) The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, which will be set forth in regulation. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain on an ongoing basis a minimum solvency or capital ratio in the Reciprocal Jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(d) The assuming insurer must agree and provide adequate assurance to the commissioner, in a form specified by the commissioner pursuant to regulation, as follows:

(i) The assuming insurer must provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in subparagraphs (b) or (c), or if any regulatory action is taken against it for serious noncompliance with applicable law;

(ii) The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(iii) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

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

(v) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state’s ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide security in an amount equal to one hundred percent (100%) of the assuming insurer’s liabilities to the ceding insurer should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of Section 2E and Section 3 and as specified by the commissioner in regulation.

Drafting Note: Section 9C(4)(e) of the Credit for Reinsurance Model Regulation (#786) sets forth the acceptable forms of security under this subparagraph by specifically referencing Sections 12, 13 and 14 of Model #786.

(e) The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, certain
(f) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in regulation.

(g) The assuming insurer’s supervisory authority must confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction, that the assuming insurer complies with the requirements set forth in subparagraphs (b) and (c).

(h) Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(2) The commissioner shall timely create and publish a list of Reciprocal Jurisdictions.

(a) A list of Reciprocal Jurisdictions is published through the NAIC Committee Process. The commissioner’s list shall include any Reciprocal Jurisdiction as defined under Section 2F(1)(a)(i) and (ii), and shall consider any other Reciprocal Jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions in accordance with criteria to be developed under regulations issued by the commissioner.

(b) The commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a Reciprocal Jurisdiction in accordance with a process set forth in regulations issued by the commissioner, except that the commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under Section 2F(1)(a)(i) and (ii). Upon removal of a Reciprocal Jurisdiction from this list credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to [cite to state law equivalent to Credit for Reinsurance Model Law].

(3) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this subsection. The commissioner may add an assuming insurer to such list if an NAIC accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under Paragraph (1)(d) of this subsection and complies with any additional requirements that the commissioner may impose by regulation, except to the extent that they conflict with an applicable covered agreement.

(4) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures set forth in regulation.

(a) While an assuming insurer’s eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer’s obligations under the contract are secured in accordance with Section 3.

(b) If an assuming insurer’s eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements.
agreements entered into prior to the date of revocation, except to the extent that
the assuming insurer’s obligations under the contract are secured in a form
acceptable to the commissioner and consistent with the provisions of Section 3.

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

(6) Nothing in this subsection shall limit or in any way alter the capacity of parties to a
reinsurance agreement to agree on requirements for security or other terms in that
reinsurance agreement, except as expressly prohibited by this [cite to state law equivalent
to Credit for Reinsurance Model Law] or other applicable law or regulation.

(7) Credit may be taken under this subsection only for reinsurance agreements entered into,
amended, or renewed on or after the date on which the assuming insurer has satisfied the
requirements to assume reinsurance under this subsection, and only with respect to losses
incurred and reserves reported on or after the later of (i) the date on which the assuming
insurer has met all eligibility requirements pursuant to Section 2F(1) herein, and (ii) the
effective date of the new reinsurance agreement, amendment, or renewal.

(a) This paragraph does not alter or impair a ceding insurer’s right to take credit for
reinsurance, to the extent that credit is not available under this subsection, as long
as the reinsurance qualifies for credit under any other applicable provision of [cite
to state law equivalent to Credit for Reinsurance Model Law].

(b) Nothing in this subsection shall authorize an assuming insurer to withdraw or
reduce the security provided under any reinsurance agreement except as permitted
by the terms of the agreement.

(c) Nothing in this subsection shall limit or in any way alter the capacity of parties to
any reinsurance agreement to renegotiate the agreement.

Section 5. Rules and Regulations

A. The commissioner may adopt rules and regulations implementing the provisions of this law.

Drafting Note: It is recognized that credit for reinsurance also can be affected by other sections of the enacting state’s code, e.g., a statutory
insolvency clause or an intermediary clause. It is recommended that states that do not have a statutory insolvency clause or an intermediary clause
consider incorporating such clauses in their legislation.

B. The commissioner is further authorized to adopt rules and regulations applicable to reinsurance
arrangements described in Paragraph (1) of this Section 5B.

Drafting Note: This new regulatory authority is being added in response to reinsurance arrangements entered into, directly or indirectly, with
life/health insurer-affiliated captives, special purpose vehicles or similar entities that may not have the same statutory accounting requirements or
solvency requirements as US-based multi-state life/health insurers. To assist in achieving national uniformity, commissioners are asked to strongly
consider adopting regulations that are substantially similar in all material respects to NAIC adopted model regulations in the handling and treatment
of such policies and reinsurance arrangements.

(1) A regulation adopted pursuant to this Section 5B, may apply only to reinsurance relating to:

(a) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed
nonlevel benefits;
(b) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(c) Variable annuities with guaranteed death or living benefits;

(d) Long-term care insurance policies; or

(e) Such other life and health insurance and annuity products as to which the NAIC adopts model regulatory requirements with respect to credit for reinsurance.

(2) A regulation adopted pursuant to Paragraph 1(a) or 1(b) of this Section 5B, may apply to any treaty containing (i) policies issued on or after January 1, 2015, and/or (ii) policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

Drafting Note: The NAIC’s Actuarial Guideline XLVIII (AG 48) became effective January 1, 2015, and covers policies ceded on or after this date unless they were ceded as part of a reserve financing arrangement as of December 31, 2014. One regulation contemplated by this revision to the NAIC Credit for Reinsurance Model Law is intended to substantially replicate the requirements for the amounts and forms of security held under the rules provided in AG 48. AG 48 was written to sunset upon a state’s adoption (pursuant to the enabling authority of the preceding paragraph) of a regulation with terms substantially similar to AG 48. The preceding paragraph is intended to provide continuity of rules applicable to those policies and reinsurance arrangements, including continuity as to the policies covered by such rules. The preceding paragraph is not intended to change the scope of, or collateral requirements for policies and treaties covered under AG 48.

(3) A regulation adopted pursuant to this Section 5B may require the ceding insurer, in calculating the amounts or forms of security required to be held under regulations promulgated under this authority, to use the Valuation Manual adopted by the NAIC under Section 11B(1) of the NAIC Standard Valuation Law, including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable.

(4) A regulation adopted pursuant to this Section 5B shall not apply to cessions to an assuming insurer that:

(a) Meets the conditions set forth in Section 2F of the Credit for Reinsurance Model Law in this state or, if this state has not adopted provisions substantially equivalent to Section 2F of the Credit for Reinsurance Model Law, the assuming insurer is operating in accordance with provisions substantially equivalent to Section 2F of the Credit for Reinsurance Model Law in a minimum of five (5) other states; or

(b)(b) Is certified in this state or, if this state has not adopted provisions substantially equivalent to Section 2E of the Credit for Reinsurance Model Law, certified in a minimum of five (5) other states; or

(bc) Maintains at least $250 million in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices; and is

(i) licensed in at least 26 states; or

(ii) licensed in at least 10 states, and licensed or accredited in a total of at least 35 states.

(5) The authority to adopt regulations pursuant to this Section 5B does not limit the commissioner’s general authority to adopt regulations pursuant to Section 5A of this law.
CREDIT FOR REINSURANCE MODEL REGULATION

Preface to Credit for Reinsurance Models

The amendments to the NAIC Credit for Reinsurance Model Law (#785) & Regulation (#786) are part of a larger effort to modernize reinsurance regulation in the United States. The NAIC initially adopted the Reinsurance Regulatory Modernization Framework Proposal during its 2008 Winter National Meeting. The NAIC recommended that this framework be implemented through federal legislation in order to best preserve and improve state-based regulation of reinsurance, ensure timely and uniform implementation throughout all NAIC member jurisdictions, and as a more comprehensive alternative to related federal legislation. In addition to this proposed federal legislation, the framework also provided that changes to state insurance laws should be considered. For example, state laws to establish requirements under which states would regulate qualified reinsurers, and also to consider reinsurance risk diversification and notice requirements for ceding insurers.

On July 21, 2010, Congress passed and the President signed related federal legislation, the Nonadmitted and Reinsurance Reform Act, which became effective July 21, 2011. While this act does not implement the NAIC framework, it does preempt the extraterritorial application of state credit for reinsurance law and permits states of domicile to proceed forward with reinsurance collateral reforms on an individual basis if they are accredited. This federal legislation also does not prohibit the states from acting together, through the NAIC, to achieve the reinsurance modernization framework goals. In addition to the current work on the credit for reinsurance models, the NAIC will continue its efforts to implement other aspects of the framework. These efforts will continue both through work conducted by the Reinsurance Task Force and through referrals to the appropriate groups within the NAIC. In addition, the NAIC will consider a proposal to form a new group to provide advisory support and assistance to states in the review of reinsurance collateral reduction applications. Such a process with respect to the review of applications for reinsurance collateral reduction and qualified jurisdictions should strengthen state regulation and prevent regulatory arbitrage. Such an effort would be supported by NAIC staff with substantial expertise to support the functions of such a group.

Finally, the NAIC will continue to work on requirements for NAIC review and approval of qualified jurisdictions, and will undertake a re-examination of the collateral amounts within two years from the effective date of the revisions to the models.

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Section 12. Trust Agreements Qualified Under Section 11
Section 13. Letters of Credit Qualified Under Section 11
Section 14. Other Security
Section 15. Reinsurance Contract
Section 16. Contracts Affected
Form AR-1 Certificate of Assuming Insurer
Form CR-1 Certificate of Certified Reinsurer
Form RJ-1 Certificate of Reinsurer Domiciled in Reciprocal Jurisdiction
Form CR-F
Form CR-S
Section 8. Credit for Reinsurance—Certified Reinsurers

A. Pursuant to [cite state law equivalent of Section 2E of the Credit for Reinsurance Model Law], 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 section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of [cite state law equivalent of Section 2E and Section 3 of the Credit for Reinsurance Model Law] and 11, 12 or 1312, 13 or 14 of this Regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

<table>
<thead>
<tr>
<th>(1) Ratings</th>
<th>Security Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secure – 1</td>
<td>0%</td>
</tr>
<tr>
<td>Secure – 2</td>
<td>10%</td>
</tr>
<tr>
<td>Secure – 3</td>
<td>20%</td>
</tr>
<tr>
<td>Secure – 4</td>
<td>50%</td>
</tr>
<tr>
<td>Secure – 5</td>
<td>75%</td>
</tr>
<tr>
<td>Vulnerable – 6</td>
<td>100%</td>
</tr>
</tbody>
</table>

(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 one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

(4) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the commissioner. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

(a) Line 1: Fire
(b) Line 2: Allied Lines
(c) Line 3: Farmowners multiple peril
(d) Line 4: Homeowners multiple peril
(e) Line 5: Commercial multiple peril
(f) Line 9: Inland Marine
(g) Line 12: Earthquake
(h) 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 from and after the effective date of the amendment or new contract.
(6) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

B. Certification Procedure.

(1) The commissioner shall post notice on the insurance department’s website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least thirty (30) days after posting the notice required by this paragraph.

Drafting Note: States that do not wish to make the internet the required mechanism for providing public notice should modify this provision accordingly. This provision was intended to provide a less formal notice requirement than is typically called for under state Administrative Procedure Acts.

(2) The commissioner shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with Subsection A of this section. The commissioner shall publish a list of all certified reinsurers and their ratings.

(3) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(a) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the commissioner pursuant to Subsection C of this section.

(b) The assuming insurer must maintain capital and surplus, or its equivalent, of no less than $250,000,000 calculated in accordance with Subparagraph (4)(h) of this subsection. 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.

(c) The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

(i) Standard & Poor’s;
(ii) Moody’s Investors Service;
(iii) Fitch Ratings;
(iv) A.M. Best Company; or
(v) Any other Nationally Recognized Statistical Rating Organization.

(d) The certified reinsurer must comply with any other requirements reasonably imposed by the commissioner.

(4) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating.
Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

(a) The certified reinsurer’s financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

<table>
<thead>
<tr>
<th>Ratings</th>
<th>Best</th>
<th>S&amp;P</th>
<th>Moody’s</th>
<th>Fitch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secure – 1</td>
<td>A++</td>
<td>AAA</td>
<td>Aaa</td>
<td>AAA</td>
</tr>
<tr>
<td>Secure – 2</td>
<td>A+</td>
<td>AA+, AA, AA-</td>
<td>Aa1, Aa2, Aa3</td>
<td>AA+, AA, AA-</td>
</tr>
<tr>
<td>Secure – 3</td>
<td>A</td>
<td>A+, A</td>
<td>A1, A2</td>
<td>A+, A</td>
</tr>
<tr>
<td>Secure – 4</td>
<td>A-</td>
<td>A-</td>
<td>A3</td>
<td>A-</td>
</tr>
<tr>
<td>Secure – 5</td>
<td>B++, B+</td>
<td>BBB+, BBB, BBB-</td>
<td>Baa1, Baa2, Baa3</td>
<td>BBB+, BBB, BBB-</td>
</tr>
</tbody>
</table>

(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 Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (attached as exhibits to this regulation);

(e) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers’ Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 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. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the commissioner will consider audited financial statements for the last three (3) to two (2) 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.

(5) Based on the analysis conducted under Subparagraph (4)(e) of a certified reinsurer’s reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under Subparagraph (4)(a) if the commissioner finds that:

(a) More than fifteen percent (15%) of the certified reinsurer’s ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more which are not in dispute and which exceed $100,000 for each cedent; or

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

(6) The assuming insurer must submit a properly executed Form CR-1 (attached as an exhibit to this regulation) as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer’s liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. 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.

(7) The certified reinsurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under [cite state law equivalent of Freedom of Information Act] and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

(a) Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any
change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

(b) Annually, Form CR-F or CR-S, as applicable [per the instructions to be developed as an exhibit to this model];

(c) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in Subsection (d) below;

(d) Annually, the most recent audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer’s supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last three (3) two (2) years filed with the certified reinsurer’s supervisor;

(e) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;

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

(g) Any other information that the commissioner may reasonably require.

(8) Change in Rating or Revocation of Certification.

(a) In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of Subparagraph (4)(a).

(b) The commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer’s certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commissioner to reconsider the certified reinsurer’s ability or willingness to meet its contractual obligations.

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

(d) Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with Section 11 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Section 7, the commissioner may allow additional credit equal to the ceding insurer’s pro rata share of such funds, discounted to reflect the risk of
uncollectibility and anticipated expenses of trust administration. Notwithstanding
the change of a certified reinsurer’s rating or revocation of its certification, a
domestic insurer that has ceded reinsurance to that certified reinsurer may not be
denied credit for reinsurance for a period of three (3) months for all reinsurance
ceded to that certified reinsurer, unless the reinsurance is found by the
commissioner to be at high risk of uncollectibility.

C. Qualified Jurisdictions.

(1) If, upon conducting an evaluation under this section with respect to the reinsurance
supervisory system of any non-U.S. assuming insurer, the commissioner determines that
the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commissioner shall
publish notice and evidence of such recognition in an appropriate manner. The
commissioner may establish a procedure to withdraw recognition of those jurisdictions that
are no longer qualified.

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

(a) The framework under which the assuming insurer is regulated.

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

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

(d) 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.

(e) The domiciliary regulator’s willingness to cooperate with U.S. regulators in
general and the commissioner in particular.

(f) The history of performance by assuming insurers in the domiciliary jurisdiction.

(g) Any documented evidence of substantial problems with the enforcement of final
U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be
considered to be a qualified jurisdiction if the commissioner has determined that
it does not adequately and promptly enforce final U.S. judgments or arbitration
awards.

(h) 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.
(i) Any other matters deemed relevant by the commissioner.

(3) A list of qualified jurisdictions shall be published through the NAIC Committee Process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification with respect to the criteria provided under Subsections 8.C(2)(a) to (i).

(4) U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction.

(1) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction’s certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

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

(3) The commissioner may withdraw recognition of the other jurisdiction’s rating at any time and assign a new rating in accordance with Subsection B(8) of this section.

(4) The commissioner may withdraw recognition of the other jurisdiction’s certification at any time, with written notice to the certified reinsurer. Unless the commissioner suspends or revokes the certified reinsurer’s certification in accordance with Subsection B(8) of this section, the certified reinsurer’s certification shall remain in good standing in this state for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer’s application for certification in this state.

E. Mandatory Funding Clause. In addition to the clauses required under Section 4415, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. The commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Section 9. Credit for Reinsurance—Reciprocal Jurisdictions

A. Pursuant to [cite state law equivalent of Section 2F of the Credit for Reinsurance Model Law], the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by and has its head office or is domiciled in a Reciprocal Jurisdiction, and which meets the other requirements of this regulation.

B. A “Reciprocal Jurisdiction” is a jurisdiction, as designated by the commissioner pursuant to Subsection D, that meets one of the following:

(1) A non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For
purposes of this subsection, a “covered agreement” is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(2) A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(3) A qualified jurisdiction, as determined by the commissioner pursuant to [cite state law equivalent of Section 2E(3) of the Credit for Reinsurance Model Law and Section 8C of the Credit for Reinsurance Model Regulation], which is not otherwise described in paragraph (1) or (2) above and which the commissioner determines meets all of the following additional requirements:

(a) Provides that an insurer which has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

(b) Does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-U.S. jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

(c) Recognizes the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the commissioner or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

(d) Provides written confirmation by a competent regulatory authority, in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

Drafting Note: Nothing in this subparagraph is intended to enhance or limit the authority of U.S. state insurance regulation with respect to the group-wide supervision of insurance holding company systems pursuant to the state law equivalent of the NAIC Insurance Holding Company System Regulatory Act (#440) and Insurance Holding Company System Model Regulation (#450), or other applicable state law.

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

(1) The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a Reciprocal Jurisdiction.
(2) The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the Reciprocal Jurisdiction, and confirmed as set forth in Subsection C(7) according to the methodology of its domiciliary jurisdiction, in the following amounts:

(a) No less than $250,000,000; or

(b) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

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

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

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

(a) If the assuming insurer has its head office or is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(1), the ratio specified in the applicable covered agreement;

(b) If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(2), a risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

(c) If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(3), after consultation with the Reciprocal Jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency.

Drafting Note: The United States has entered into bilateral agreements with both the European Union and United Kingdom, signed on September 22, 2017, and December 18, 2018, respectively, which specify a solvency ratio of one hundred percent (100%) of the solvency capital requirement (SCR) as calculated under the Solvency II Directive issued by the European Union with respect to assuming insurers which have their head office or are domiciled in those jurisdictions.

(b) If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(2), a risk-based capital (RBC) ratio of three hundred percent (300%) of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

(c) If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in Section 9B(3), after consultation with the Reciprocal Jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency.

(4) The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (attached as an exhibit to this regulation), of its agreement to the following:

(a) The assuming insurer must agree to provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in paragraphs (2) or (3) of this subsection, or if any regulatory action is taken against it for serious noncompliance with applicable law.

(b) The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process.
(i) The commissioner may also require that such consent be provided and included in each reinsurance agreement under the commissioner’s jurisdiction.

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

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

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

(e) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this state’s ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide one hundred percent (100%) security to the ceding insurer consistent with the terms of the scheme should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of [cite state law equivalent of Section 2E and Section 3 of the Credit for Reinsurance Model Law] and Section 12, 13 or 14 of this Regulation. For purposes of this Regulation, the term “solvent scheme of arrangement” means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer’s home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer’s home jurisdiction.

(f) The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in Paragraph (5) of this subsection.

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

(a) For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer’s annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

(b) For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer’s supervisor;

(c) Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims.
outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

(d) Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer’s assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in Paragraph (6) of this subsection.

Drafting Note: In order to facilitate multi-state recognition of assuming insurers and to encourage uniformity among the states, the NAIC has initiated a process called “passporting” under which the commissioner has the discretion to defer to another state’s determination with respect to compliance with this Section. Passporting is based upon individual state regulatory authority, and states are encouraged to act in a uniform manner in order to facilitate the passporting process. States are also encouraged to utilize the passporting process to reduce the amount of documentation filed with the states and reduce duplicate filings. It is anticipated that “lead” states will uniformly require assuming insurers to provide the documentation described in Section 9C(5) of this regulation, so that other states may rely upon the lead state’s determination.

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

(a) More than fifteen percent (15%) of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner;

(b) More than fifteen percent (15%) of the assuming insurer’s ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer $100,000, or as otherwise specified in a covered agreement; or

(c) The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds $50,000,000, or as otherwise specified in a covered agreement.

(7) The assuming insurer’s supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in Paragraphs (2) and (3) of this subsection.

(8) Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

D. The commissioner shall timely create and publish a list of Reciprocal Jurisdictions.

(1) A list of Reciprocal Jurisdictions is published through the NAIC Committee Process. The commissioner’s list shall include any Reciprocal Jurisdiction as defined under Section 9B(1) and (2), and shall consider any other Reciprocal Jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC Committee Process.

(2) The commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a Reciprocal Jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC Committee Process, except that the commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under Section 9B(1) and (2). Upon removal of a Reciprocal Jurisdiction from this list credit for reinsurance ceded
to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to [cite to state law equivalent of Credit for Reinsurance Model Law or Credit for Reinsurance Model Regulation].

**Drafting Note:** It is anticipated that the NAIC will develop criteria and a process with respect to Reciprocal Jurisdictions that is similar to the NAIC Process for Developing and Maintaining the NAIC List of Qualified Jurisdictions. Included will be processes for revocation or suspension of the status as a Reciprocal Jurisdiction, provided that such process would not conflict with the terms of an in-force covered agreement. The NAIC and the states intend to communicate and coordinate with the U.S. Department of Treasury and United States Trade Representative and other relevant federal authorities with respect to the evaluation of Reciprocal Jurisdictions, as appropriate.

**E.** The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.

1. If an NAIC accredited jurisdiction has determined that the conditions set forth in Subsection C have been met, the commissioner has the discretion to defer to that jurisdiction’s determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The commissioner may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the filing requirements of Subsection C(5).

2. When requesting that the commissioner defer to another NAIC accredited jurisdiction’s determination, an assuming insurer must submit a properly executed Form RJ-1 and additional information as the commissioner may require. A state that has received such a request will notify other states through the NAIC Committee Process and provide relevant information with respect to the determination of eligibility.

**F.** If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this section, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this section.

1. While an assuming insurer’s eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer’s obligations under the contract are secured in accordance with Section 11.

2. If an assuming insurer’s eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer’s obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of Section 11.

**G.** Before denying statement credit or imposing a requirement to post security with respect to Section 9F of this regulation or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall:

1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer’s supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in Subsection C of this section;

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

(3) After the expiration of 90 days or less, as set out in (2), if the commissioner determines
that no or insufficient action was taken by the assuming insurer, the commissioner may
impose any of the requirements as set out in this Subsection; and

(4) Provide a written explanation to the assuming insurer of any of the requirements set out in
this Subsection.

H. If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding
insurer, or its representative, may seek and, if determined appropriate by the court in which the
proceedings are pending, may obtain an order requiring that the assuming insurer post security for
all outstanding liabilities.
FORM RJ-1

CERTIFICATE OF REINSURER DOMICILED IN RECIPROCAL JURISDICTION

I, __________________________, _______________________________________________________,
(name of officer) (title of officer)

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

under a reinsurance agreement with one or more insurers domiciled in ___________________, in order to
(name of state)

be considered for approval in this state, hereby certify that _____________________________________ (“Assuming Insurer”):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in [Name of State] for the adjudication of any issues
arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction,
and will abide by the final decision of such court or any appellate court in the event of an appeal. The assuming insurer
agrees that it will include such consent in each reinsurance agreement, if requested by the commissioner. Nothing in this
paragraph constitutes or should be understood to constitute a waiver of assuming insurer’s rights to commence an action
in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to
seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States.
This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to
arbitrate their disputes if such an obligation is created in the agreement, except to the extent such agreements are
unenforceable under applicable insolvency or delinquency laws.

2. Designates the Insurance Commissioner of [Name of State] as its lawful attorney in and for the [Name of State] upon
whom may be served any lawful process in any action, suit or proceeding in this state arising out of the reinsurance
agreement instituted by or on behalf of the ceding insurer.

3. Agrees to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared
enforceable in the territory where the judgment was obtained.

4. Agrees to provide prompt written notice and explanation if it falls below the minimum capital and surplus or capital or
surplus ratio, or if any regulatory action is taken against it for serious noncompliance with applicable law.

5. Confirms that it is not presently participating in any solvent scheme of arrangement, which involves insurers domiciled
in [Name of State]. If the assuming insurer enters into such an arrangement, the assuming insurer agrees to notify the
ceding insurer and the commissioner, and to provide 100% security to the ceding insurer consistent with the terms of the
scheme.

6. Agrees that in each reinsurance agreement it will provide security in an amount equal to 100% of the assuming insurer’s
liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a
final U.S. judgment, that is enforceable under the law of the territory in which it was obtained, or a properly enforceable
arbitration award whether obtained by the ceding insurer or by its resolution estate, if applicable.

7. Agrees to provide the documentation in accordance with [cite relevant provision of the state equivalent of Section 9C(5)
of the Credit for Reinsurance Model Regulation], if requested by the commissioner.

Dated: __________________________
(name of assuming insurer)

BY: __________________________
(name of officer)

____________________________________
(title of officer)
May 9, 2019

Director Chlora Lindley-Myers
Missouri Department of Insurance, Financial Institutions
and Professional Registration
Chair, NAIC Reinsurance (E) Task Force
Via email to jstultz@naic.org and dschelp@naic.org

Re: May 1, 2019 Proposed Revisions to the Credit for Reinsurance Model Law (#785) and the Credit for Reinsurance Model Regulation (#786) [CFR Amendments]

Dear Director Lindley-Myers:

The American Council of Life Insurers (ACLI) advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers’ financial and retirement security. Ninety million American families depend on our members for life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers’ products for peace of mind. ACLI members represent 95 percent of industry assets in the United States. ACLI also represents all professional life reinsurers assuming mortality and morbidity risks in the United States.

We write to express our support for the May 1, 2019 proposed CFR Amendments as currently drafted and our thanks for the Task Force’s work.

We stand ready to assist NAIC and state regulators in gaining timely passage of the amended Credit for Reinsurance Model Law and working to support promulgation of the amended Model Regulation.

Very truly yours,

Steve Clayburn
Senior Actuary, Health Insurance & Reinsurance
steveclayburn@acli.com (202) 624-2197

Patrick Reeder
Vice President & Deputy General Counsel
patrickreeder@acli.com (202) 624-2195

Mariana Gomez-Vock
Assistant General Counsel
MarianaGomez-Vock@acli.com (202) 624-2313
May 7, 2019

Messrs. Schelp and Stultz
Reinsurance Task Force
National Association of Insurance Commissioners

Re: Proposed revisions to Credit for Reinsurance Model Law

VIA EMAIL: istultz@naic.org, dschelp@naic.org

Dear Messrs. Schelp and Stultz:

Allstate Insurance Company (Allstate) previously commented on November 26, 2018 with respect to Credit for Reinsurance Model Law #785 Item F. (1) (d) (v). We did not, however, see our proposed modifications reflected in the draft distributed on May 1, 2019 in advance of the Reinsurance (E) Task Force meeting scheduled for May 15, 2019 and are therefore sending this follow-up request for modifications to that paragraph.

The two modifications requested and not yet reflected in the NAIC revisions document titled “Model 785 Working Draft 5-1-19” are necessary to ensure the model does not prioritize the judgments of non-U.S. reinsurers at the expense of U.S. ceding companies.

Following are the modifications requested to F. (1) (d) (v) reproduced below with marked changes. The support and rationale for the recommended changes are included in the attached letter from November 26, 2018.

(v) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state’s ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide security in an amount equal to one hundred percent (100%) of the ceding1 assuming insurer’s liabilities to the ceding insurer should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of Section 2E and Section 3 and as specified by the commissioner in regulation. For purposes of this Subsection, the term “solvent scheme of arrangement” means a statutory or regulator compromise procedure subject to requisite majority creditor approval and extraterritorial judicial sanction to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, all of which may be subject to foreign judicial recognition and enforcement of the arrangement.2

Thank you for the opportunity to resurface our comments made at the November 17, 2018 NAIC meeting in San Francisco and documented with supporting rationale in the November 26, 2018 letter attached. We are happy to answer any questions you or other members of the drafting group have about the modifications recommended.

Kevin Spataro
Senior Vice President, Corporate Accounting Research
Ph: 847-402-0929

Copies to: DiAnn Behrens, Marianne Carl, Tom Helsdingen, Robert Zeman

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1 Word change from assuming to ceding - see Observation & Recommendation One from Allstate’s November 26, 2018 letter attached.
2 Sentence added back as included in the September 25, 2018 Exposure Draft - see Observation & Recommendation Two from Allstate’s November 26, 2018 letter attached.
November 26, 2018

Messrs. Schelp and Stultz
Reinsurance Task Force
National Association of Insurance Commissioners

Re: 2018 Fall National Meeting of the Reinsurance (E) Task Force - Discussion of proposed revisions to Credit for Reinsurance Model Law and Credit for Reinsurance Model Regulation, to incorporate relevant provisions of Bilateral Agreement Between the United States and European Union on Prudential Measures Regarding Insurance and Reinsurance (Bilateral Agreement)

VIA EMAIL: lstultz@naic.org dschelp@naic.org

Dear Messrs. Schelp and Stultz:

Allstate Insurance Company (Allstate) was present at the Reinsurance (E) Task Force meeting that took place on Saturday November 17, 2018, at the NAIC 2018 Fall National Meeting in San Francisco. At that meeting, NAIC Staff provided a summary of revisions made to the September 25, 2018 Exposure Drafts of the Credit for Reinsurance Model Law (Model Law) and Credit for Reinsurance Model Regulation, hereinafter referred to as the “November 9, 2018 Revisions”. In reaction to the November 9, 2018 Revisions to the Draft Model Law, Allstate made two observations and recommendations at the November 17, 2018, Reinsurance (E) Task Force meeting, both of which specifically relate to Section 2. Credit Allowed a Domestic Ceding Insurer Item F. (1) (d) (v) – reproduced as follows:

The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state’s ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide security in an amount equal to one hundred percent (100%) of the assuming insurer’s liabilities attributable to the ceding insurer consistent with the terms of the scheme should the assuming insurer enter into such an solvent scheme of arrangement consistent with the terms of any treaty or international agreement respecting reinsurance credit to which the United States is a party. Such security shall be in a form consistent with the provisions Section 2E and Section 3 and as specified by the commissioner in regulation. For purposes of this Subsection, the term “solvent scheme of arrangement” means a statutory or regulatory compromise procedure subject to requisite majority creditor approval and extraterritorial judicial sanction to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, all of which may be subject to foreign judicial recognition and enforcement of the arrangement.

I. Observation & Recommendation One:

In the first sentence of the above passage [i.e., Item F. (1) (d) (v)] we believe the phrase “and to provide security in an amount equal to one hundred percent (100%) of the assuming insurer’s liabilities” should be modified to read “and to provide security in an amount equal to one hundred percent (100%) of the assuming ceding insurer’s liabilities”. Allstate notes that ceding insurers and assuming reinsurers typically do not estimate the value of reserves [both case and incurred but not reported (IBNR)] that would be subject to these provisions at an equivalent amount. Differences in reserve estimates are caused by a variety of factors including the underlying nature of the insurance liabilities typically involved with a Solvent Scheme or Part VII Transfer which are often asbestos and environmental exposures that emerge over many years and involve complex litigation that takes years, or decades, to resolve. Do to the nature and complexity of the claims, the extended periods over which exposures emerge, and the related
extended settlement periods, the estimated value of case and IBNR reserves may differ materially between ceding insurers and assuming reinsures. Allstate supports the triggering of a requirement for the assuming reinsurer to provide 100% collateral for the benefit of ceding insurers claims reserves (both case and IBNR) in the event a Solvent Scheme or Part VII Transfer is pursued, however, the amount of collateral should be based on the ceding insurers reserve balances (both case and IBNR) and not the assuming reinsurer’s reserve balances as the ceding insurer has direct interaction with underlying claimants and therefore is best able to most accurately estimate the reserve exposure. In addition, an assuming reinsurer pursuing a Solvent Scheme or Part VII Transfer has an obligation to its shareholders to settle claims and/or post collateral for incurred claims (both case and IBNR) at values most beneficial to the interests of its shareholders. Accordingly, for purposes of the Model Law, we believe it is appropriate for the value of collateral triggered in the event of a Solvent Scheme or Part VII Transfer to be determined based on the ceding insurer’s case and IBNR balances as opposed to the assuming reinsurers estimated value of case and IBNR reserves for the subject claims for the protection of the ceding insurer’s policyholders and other insurers who may become subject to Guaranty Fund assessment in the event of the insolvency of a U.S. ceding insurer arising from reinsurance that is not fully collectible from an assuming reinsurer that has pursued a Solvent Scheme or Part VII Transfer.

II. Observation & Recommendation Two:

In the Reinsurance (E) Task Force meeting on November 17, 2018, NAIC Staff explained that the last sentences of the italicized paragraph F. (1) (d) (v) – reproduced above – were specifically deleted to clarify that the collateral requirements set forth in Section 2 Item F. (1) (d) (v) should not apply to a “Part VII Transfer” but rather only to “Solvent Schemes” that function as a commutation. At the Task Force meeting on November 17, 2018, Allstate responded to the proposed November 9, 2018 Revisions to Section 2 Item F. (1) (d) (v) that Part VII Transfers should not be treated differently than a Solvent Scheme for purposes of triggering the posting of 100% collateral because a Part VII Transfer typically produces the same result to ceding insurers as a commutation because a Part VII Transfer typically involves a transfer of assumed business by an assuming reinsurer to another reinsurer that (a) does not write new business, (b) does not have access to additional capital, and (c) does not have the intent or ability to raise additional capital, if necessary, to satisfy all remaining assumed obligations. Pursuant to the preceding, Allstate does not support providing preferential treatment to Part VII Transfers as that would subordinate the interests of a ceding insurer’s policyholders and other U.S. insurers who have Guaranty Fund exposure to U.S. ceding companies to the interests of the assuming reinsurer and its shareholders. Accordingly, we believe it is appropriate to provide no preferential treatment to Part VII Transfers and support not executing the proposed November 9, 2018 Revisions designed to exempt Part VII Transfers from the requirements to post 100% collateral for assumed reinsurance (with the value of case and IBNR reserves determined by the ceding company) in the event the assuming reinsurer pursues either a Solvent Scheme of Part VII Transfer.

In both situations above, Allstate recommends modifications to proposed November 9, 2018 Revisions discussed at the November 17, 2018, Reinsurance (E) Task Force meeting. The proposed changes would benefit U.S. ceding insurers, their policyholders, and other insurers who may be subject to Guaranty Fund assessments in the event of the insolvency of a U.S. ceding insurer arising from reinsurance that is not fully collectible from an assuming reinsurer that has pursued a Solvent Scheme or Part VII Transfer.

Thank you for the opportunity to clarify our comments at the November 17, 2018 meeting and we are happy to answer any questions you or members of the drafting group have about the content of this letter.

Kevin Spataro
Senior Vice President, Corporate Accounting Research
Ph: 847-402-0929
Dear Dan,

In the European Commission we have reviewed the revised texts of the draft model law and regulation circulated on May 1, in light of the Commission’s comments on the previous drafts (letter of Martin Merlin to Superintendent Vullo of March 28. Our conclusion is that all of our comments in that letter have been incorporated satisfactorily in the May 1 drafts with the exception of two, concerning section 2F(7) of the draft model law and section 9(C)2(c) of the draft model regulation. These are discussed below.

Section 2F(7) of the draft model law effectively contains two different requirements, joined by the word “and” in the middle of the paragraph, which is highlighted below:

Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after the date on which the assuming insurer has satisfied the requirements to assume reinsurance under this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements pursuant to Section 2F(1) herein, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.

Regarding the first requirement of that paragraph (to the words “under this subsection”), we are satisfied that the requirement, while not based on any explicit text in the Covered Agreement, is compatible with it, in as much as the requirements for assuming (re)insurers laid down in article 8.4 of the Agreement must be defined as applying at a certain defined moment in time, and the first part of paragraph 2F(7) does that.

Regarding the second requirement laid down in 2F(7) (“only with respect to losses incurred and reserves reported …”), we consider that this constitutes an additional cumulative temporal application of the requirements for assuming (re)insurers contained in article 8.4 of the Agreement. The language is taken from article 3.8 of the Agreement, but that language was not intended to be used as a temporal reference for the ongoing application of the requirements in 3.4 but rather on a one-off basis for the entry into application of the entire Agreement in a specific territory (such as a US State or an EU Member State). Its application to the requirements for assuming (re)insurers therefore constitutes an extension of the application of those requirements beyond what is contained in the Agreement and is thus incompatible with the Agreement.

On that basis, we conclude that, in order to ensure compatibility with the Agreement, paragraph 2F(7) should end after the words “under this subsection”, or else, failing that, be modified as follows:

Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after the date on which the assuming insurer has satisfied the requirements to assume reinsurance under this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements pursuant to Section 2F(1) herein, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.

Regarding section 9(C)2(c) of the draft model regulation, we consider that in order to ensure compatibility of the Covered Agreement a statement is necessary that where relevant, the conversion rates laid down in an applicable Covered Agreement should be used.

Yours sincerely,

Didier MILLEROT
May 15, 2019

BY ELECTRONIC MAIL

Mr. Daniel (“Dan”) Schelp
Managing Counsel
National Association of Insurance Commissioners
1100 Walnut Street
Suite 1500
Kansas City, MO 64106-2197

Mr. Jake Stultz
Senior Accounting Policy Advisor
National Association of Insurance Commissioners
1100 Walnut Street
Suite 1500
Kansas City, MO 64106-2197

Re: Proposed Revisions of the Credit for Reinsurance Model Law and Regulation

Dear Mr. Schelp and Mr. Stultz:

We appreciate the opportunity to comment on the most recent iteration of the Proposed Revisions of the Credit for Reinsurance Model Law (#785) and Regulation (#786) that were circulated by the Reinsurance (E) Task Force on May 1, 2019. We are submitting these comments on behalf of the International Underwriting Association of London (“IUA”). The IUA is a trade association that represents international insurers operating in the London Insurance Market including multi-national insurers and reinsurers that are directly and significantly affected by the U.S. Credit for Reinsurance laws and regulations. The IUA has long supported the Reinsurance (E) Task Force in furtherance of its mission to “monitor and coordinate activities and areas of interest”, including with respect to its periodic consideration of certain model law revisions.

As before, the IUA commends the NAIC for its tremendous work as respects the proposed amendments to the Credit for Reinsurance Model Law and Credit for Reinsurance Model Regulation. We remain grateful for the collaborative and transparent drafting process that has permitted us to engage with state insurance regulators and NAIC staff on this important subject, and we thank the committee for consideration of the multiple issues we have raised throughout the Model Law amendment process.
In general, the IUA supports the May 1 edits because they ensure consistency with the terms of the Covered Agreement and serve to further protect the state-based system of U.S. insurance regulation. Nevertheless, we are disappointed that the proposed adverse development cover (“ADC”) revisions were not incorporated into the May 1 draft. As discussed at the 2019 Spring National Meeting, no ADC agreement will receive credit under the current Section 2(F) of the Model because, by definition, ADC losses are not incurred “on or after the effective date of an agreement, amendment or renewal”.

The IUA continues to believe that any amendment regarding ADC would not be inconsistent with the terms of the Covered Agreements: whereas the terms of the Covered Agreements “shall apply ... only with respect to losses incurred and reserves reported from and after the later of (i) the date of the measure, or (ii) the effective date of such new reinsurance agreement, amendment, or renewal,” ADC agreements involve losses incurred prior to the effective date of a reinsurance agreement, amendment, or renewal.

We believe the Task Force has an opportunity to provide a broader level of collateral reductions in connection with a very valuable tool used in business restructurings. When we highlighted this issue at the Spring National Meeting, Task Force members agreed that this unique situation was a valid problem that could and should be resolved. We therefore encourage the Task Force to not lose sight of its commitment and urge it to reconsider language that would give ADC agreements the same benefits accorded to other reinsurance agreements under the draft Model language.

In addition, the same section continues to contain another provision that is inconsistent with the terms of the covered agreement. As noted in the comment letter submitted by the European Commissioner to the March 7th exposure draft, section 2(F)(7) is still inconsistent with the terms of the covered agreement. Section 2(F)(7) provides in pertinent part:

Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after the date on which the assuming insurer has satisfied the requirements to assume reinsurance under this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements pursuant to Section 2F(1) herein, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.
The relevant section of the covered agreement (Article 3(8)) provides:

This Agreement shall apply only to reinsurance agreements entered into, amended, or renewed on or after the date on which a measure that reduces collateral pursuant to this Article takes effect, and only with respect to losses incurred and reserves reported from and after the later of (i) the date of the measure, or (ii) the effective date of such new reinsurance agreement, amendment, or renewal. Nothing in this Agreement shall limit or in any way alter the capacity of parties to any reinsurance agreement to renegotiate such reinsurance agreement.

The language in the current NAIC draft focuses on the date that the assuming insurer satisfies the requirements of the statute, whereas the comparable provision in the covered agreement focuses on the date the law authorizing the collateral reduction takes effect. Further the language in the NAIC draft that is inconsistent with the provisions of the covered agreement appears to be redundant with the language that follows it, which provides that collateral reduction is applicable only with respect to losses incurred and reserves reported after the assuming insurer complies with the provisions of section 2(F)(1), which are the provisions an assuming insurer must satisfy under this subsection.

Accordingly, we respectfully request that the redundant language of section 2(F)(7) be revised to be consistent with the language and intent of the covered agreement by revising section 2(F)(7) to read:

Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this subsection, and only with respect to losses incurred and reserves reported on or after the later of (i) the date on which the assuming insurer has met all eligibility requirements pursuant to Section 2F(1) herein, and (ii) the effective date of the new reinsurance agreement, amendment, or renewal.
As always, we thank the Task Force for its expedited consideration of these issues and welcome the opportunity to continue the positive discussion on this important topic.

Yours Sincerely,

John F. Finston

JFF
cc: Dave Matcham, International Underwriters Association
    Helen Dalziel, International Underwriting Association
    Daniel McCarty, Drinker, Biddle & Reath
May 13, 2019

VIA Email jstultz@naic.org, dschelp@naic.org

Mr. John Rehagen, Director
Acting Chair, Reinsurance (E) Task Force
c/o Mr. Jake Stultz
Senior Accounting Policy Advisor
National Association of Insurance Commissioners
1100 Walnut Street
Suite 1500
Kansas City, MO 64106-2197

Re: Model Law 785 and Model Regulation 786 update: Kroll Bond Rating Agency, Inc. ("KBRA")
Commentary

Dear Acting Chair Rehagen and Members of the Reinsurance (E) Task Force:

KBRA thanks Mr. Rehagen, as acting chair, and the members of the Reinsurance (E) Task Force (the “Task Force”) for the opportunities that KBRA has been given to submit three comment letters, dated July 23, 2018, October 16, 2018, and March 26, 2019, and to offer public remarks on proposed changes to Model Law 785 and Model Regulation 786 (the “Law” and the “Regulation,” respectively) and the consideration of KBRA’s requests therein to be added by name to Sections 8.B(3)(c) and 8.B(4)(a) of the Regulation as an approved NRSRO for certified reinsurer purposes.

Although KBRA was disappointed to learn that its proposed modifications will not appear in the final version of the Regulation, KBRA understands that its request is not the reason for which the Task Force opened the Law and the Regulation for public comment and modification at this time. KBRA continues to appreciate the work of the Task Force and the Reinsurance Financial Analysis (E) Working Group that culminated in the acceptance of KBRA as an NRSRO for Certified Reinsurer Purposes in December 2017. KBRA will continue to work with individual state regulators to seek and acquire separate approvals until such time as the Law and Regulation are open once again for amendment.

Sincerely,

Murray R. Markowitz
Chief Compliance Officer

cc: Mr. James Nadler, CEO and President, KBRA
    Ms. Tina Bukow, Managing Director, KBRA