

690-144.007 Credit for Reinsurance from Certified Eligible Reinsurers.

(1) Purpose. ~~Paragraph (3)(e) of~~ Section 624.610(3)(e), F.S., gives the Office Commissioner the option to allow credit for reinsurance without full collateral for transactions involving assuming insurers not meeting the requirements of Sections 624.610(3)(a), (b), (c), or (d)-(d), F.S. These rules implement that subsection ~~paragraph~~. This rule does not apply to assuming insurers ~~reinsurers~~ that meet the requirements of Sections 624.610(3)(a), (b), (c), or (d)-(d), F.S. This rule is not an attempt to assert extra-territorial jurisdiction. Insurers that write in states other than Florida will need to comply with the laws of those states. ~~This rule applies only to property and casualty insurance; it does not apply to life and health.~~

(2) Definitions. As used in this rule the following terms have the following meanings:

(a) "Ceding insurer" means a domestic insurer, as defined by ~~paragraph (1) of~~ Section 624.06(1), F.S.

(b) "Certified Eligible reinsurer" means an assuming insurer that ~~which~~ does not meet the requirements of ~~paragraphs (3)(a), (3)(b), or (3)(c) of~~ Sections 624.610(3)(a), (b), (c), or (d), F.S., and that ~~which~~ has been determined by the Office commissioner by order to have met the requirements set forth in subsections (7) and (8) of this rule.

(c) "Qualified Eligible jurisdiction" means a jurisdiction which has met the requirements set forth in subsection ~~(9)~~ of this rule.

(3) With respect to reinsurance contracts entered into or renewed on or after the effective date of this rule, a ceding insurer may elect to take credit, as an asset or deduction from reserves, for reinsurance ceded to a certified ~~an eligible~~ reinsurer, provided that the certified ~~eligible~~ reinsurer holds surplus in excess of \$250 ~~100~~ million and maintains, on a stand-alone basis separate from its parent or any affiliated entities, a secure financial strength rating from at least two of the rating

agencies indicated in paragraphs (a) through ~~(e)~~(d) of this subsection. The credit is subject to the limitations set forth in this rule. The rating agencies are:

- (a) Standard and Poor's;
- (b) Moody's Investors Service;
- (c) Fitch Ratings;
- (d) A.M. Best Company; and/or
- (e) An "A" rating or higher from Demotech.

(4) The collateral required to allow one hundred percent (100%) credit shall be no less than the percentage specified for the lowest rating as indicated below:

<u>Rating</u>	<u>Collateral Required</u>	<u>Best</u>	<u>S&P</u>	<u>Moody's</u>	<u>Fitch</u>
<u>Secure – 1</u>	0%	A++	AAA	Aaa	AAA
<u>Secure – 2</u>	10%	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
<u>Secure – 3</u>	20%	A, A-	A+, A, A-	A1, A2, A3	A+, A, A-
<u>Secure – 4</u>	50%	A-	A-	A3	A-
<u>Secure – 5</u>	75%	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
<u>Vulnerable – 6</u>	100%	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B, CCC, CC, C, D, R, NR	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CCG, CC, CCC-, C-, DD

For reinsurance ceded by Florida domestic property insurers for short-tailed lines as defined below, any collateral required to be posted may be subject to a one-year deferral from the date of the first instance of a liability reserve entry as a result of a catastrophic loss from a named Hurricane. For these purposes, a short-tailed line of business is defined as any one of the following lines of business as reported on the NAIC annual financial statement:

Line 1 Fire

Line 2 Allied Lines

Line 3 Farmowners multiple peril

Line 4 Homeowners multiple peril

Line 5 Commercial multiple peril

Line 9 Inland marine

Line 12 Earthquake

Line 21 Auto physical damage

(5) Nothing in this rule shall be construed to deny the ceding insurer the ability to take credit for reinsurance for the remainder of its liabilities with a certified ~~an eligible~~ reinsurer so long as those amounts are secured with acceptable collateral pursuant to Section 624.610(4), F.S.

(6) In addition to the trust fund required under ~~paragraph (3)(c) of~~ Section 624.610(3)(c), F.S., the ~~Office commissioner~~ shall permit an assuming insurer that maintains a trust fund in a qualified U.S. United States financial institution, as that term is defined in ~~paragraph (5)(b) of~~ Section 624.610(5)(b), F.S., for the payment of the valid claims of its U.S. United States cedent insurers and their assigns and successors in interest to also maintain in a qualified U.S. United States financial institution a trust fund constituting a trust amount at least equal to the collateral required in accordance with subsection (4) of this rule to secure the liabilities attributable to U.S. United States cedent insurers under reinsurance policies (contracts) entered into or renewed by such assuming insurer on or after the effective date of this rule or such other date as may be established in other states for cedent insurers domiciled in such states, but only when maintenance of such a trust fund serves to protect the interests of the public and the interests of insurer solvency.

(7) A ceding insurer may not take credit pursuant to this rule unless:

(a) The assuming insurer reinsurer has been determined, by order of the Office commissioner, to be a certified an eligible reinsurer, pursuant to subsection (8) of this rule;

(b) The ceding insurer maintains satisfactory evidence that the certified eligible reinsurer meets the standards of solvency, including standards for capital adequacy, established by its domestic regulator;

(c) All reinsurance contracts between the ceding insurer and the certified eligible reinsurer must provide:

1. For an insolvency clause in conformance with Section 624.610(8), F.S.;
2. For a service of process clause in conformance with Section 624.610(3)(f)1. and 2., F.S.; and
3. For a submission to jurisdiction clause in conformance with Section 624.610(3)(f)1. and 2., F.S.

(8) Status as certified eligible reinsurer:

(a) Application for a determination as a certified an eligible reinsurer under this rule shall be made by cover letter from the insurer requesting a finding of certification eligibility as a reinsurer pursuant to this rule. The cover letter shall be accompanied with the following:

1. Audited financial statements prepared on a U.S. GAAP basis for the last three (3) years as filed with the insurer's domiciliary jurisdiction. With permission of the Office, an insurer may provide audited International Financial Reporting Standards (IFRS) basis statements so long as they include a reconciliation of equity and net income on a U.S. GAAP basis from inception or for the last 3 years, whichever is less, filed with its domiciliary regulator by the reinsurer or, in the case of a rated group, by the group, pursuant to or including a reconciliation to U.S. GAAP, U.S. Statutory Accounting Principles, or International Financial Property Standards (IFRS); the requirement for 3

~~years reconciliation shall be waived by the office if the commissioner determines that other provided financial information will be as useful in the determination of financial health of the reinsurer;~~

2. An actuarial opinion as filed with the insurer's domiciliary jurisdiction;

~~3.2. Documentation, in the form of a properly executed Form CR-1, that the insurer applicant submits to the jurisdiction of the U.S. United States courts, appoints an agent for service of process in Florida, and agrees to post one hundred percent (100%) collateral for its Florida liabilities if it resists enforcement of a valid and final judgment from a court in the United States, or if otherwise required by the Office pursuant to this rule;~~

4. Any other regulatory filing made with the insurer's domiciliary jurisdiction;

~~5.3. Form CR-F or CR-S, as applicable A report that provides information to the office as to its ceded and ceding insurance; the information may be provided in the form of the NAIC Property and Casualty Annual Filing Blank Schedule F, or in any manner that provides the Office with the same information about its ceded and ceding insurance that is disclosed by the NAIC Property and Casualty Annual Filing Blank Schedule F;~~

~~6.4. A list of all disputed or overdue recoverables due to or claimed by ceding insurers, whether or not the claims are in litigation or arbitration;~~

~~7.5. A certification from the domiciliary jurisdiction regulator of the insurer that the company is in good standing and that the domiciliary jurisdiction regulator will provide financial and operational information to the Office; and-~~

8. Any other information that the Office may reasonably deem appropriate to the application.

(b) Upon receipt of an application for a determination as a certified reinsurer, the Office shall post notice on the Office's website. Such notice shall include instructions on how members of the public

may respond to the application. The Office shall not take final action on the application until at least thirty (30) days after posting the notice required by this paragraph.

(c) ~~(b)~~The determination of eligibility will be made by order ~~issued~~ ~~executed~~ by the ~~Office~~ Commissioner.

(d)~~(e)~~ To become ~~a certified~~ ~~an eligible~~ reinsurer, the ~~insurer~~ ~~reinsurer~~, at a minimum:

1. Shall hold surplus in excess of ~~\$250~~ ~~100~~ million;
2. Shall be authorized in its domiciliary jurisdiction to assume the kind or kinds of reinsurance ceded by the ceding insurer; and,
3. Shall be domiciled in ~~a qualified~~ ~~an eligible~~ jurisdiction as defined in subsection (9).

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

1. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in paragraph (4) of this rule. The Office shall use the lowest financial strength rating received from a rating agency indicated in paragraphs (3)(a)-(d) of this rule 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 pursuant to subsection (3) will result in loss of eligibility for certification;

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

3. For certified reinsurers domiciled in the 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 insurers);

4. 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;

5. Regulatory actions against the certified reinsurer;

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

7. A certified reinsurer's participation in any solvent schemes of arrangement, or similar procedure, that involves U.S. ceding insurers. The Office shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement.

~~(f)~~ If the ~~Office Commissioner~~ determines, based upon the material submitted, and any other relevant information, that it is in the best interests of market stability and the solvency of ceding insurers, the ~~Office Commissioner~~ will find, by order, that the insurer is a certified ~~an eligible~~ reinsurer and will set an amount of credit allowed for the reinsurer if lower than the amount set forth in subsection (4).

(g) The Office shall publish and maintain a list of certified reinsurers on the Office's website. Such list shall disclose the rating assigned to the certified reinsurer pursuant to paragraph (4) of this rule.

~~(h)(e)~~ Every certified eligible reinsurer shall file the following information annually with the Office, no later than March 1 on the anniversary of the order granting it eligibility:

1. Form CR-F or CR-S, as applicable;

2. The report of the independent auditor on the financial statements of the insurance enterprise, filed on a U.S. GAAP basis. If approved by the Office, the certified reinsurer may provide audited IFRS basis statements so long as a reconciliation of equity and net income are provided on a U.S. GAAP basis;

3. Actuarial opinion as filed with the certified reinsurer's domiciliary jurisdiction;

4. A statement from the certified reinsurer's domiciliary jurisdiction that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level;

5.4. A statement certifying that there has been no change in the provisions of its domiciliary license or any of its financial strength ratings, or a statement describing such changes and the reasons ~~therefor~~therefor;

6.2. A copy of all regulatory filings made financial statements filed with the certified reinsurer's domiciliary jurisdiction ~~their domiciliary regulator;~~

7.3. Any change in its directors and officers;

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

9.5. Any other information that the Office may require to assure market stability and the solvency of ceding insurers.

~~(i)(f)~~ A certified ~~An eligible~~ reinsurer must ~~immediately~~ advise the Office within ten (10) days of any changes in its ratings assigned by rating agencies, ~~or domiciliary license status,~~ or of any regulatory actions taken against the certified reinsurer. Such notice shall include a statement

~~describing such actions and the reasons therefore.~~~~(j)(g)~~ At any time, if the Office Commissioner determines that it is in the best interests of market stability and the solvency of ceding insurers, the Office Commissioner will withdraw, by order, any determination of an insurer as a certified an eligible reinsurer or require the certified reinsurer to post additional collateral.

~~(k)(h)~~ If the rating of a certified an eligible reinsurer rises above that used by the Office Commissioner in ~~its~~ his or her determination of the credit allowed for the reinsurer, an affected party may petition the Office Commissioner for a redetermination of the credit allowed. If it is in the best interests of market stability and the solvency of ceding insurers, the Office Commissioner will raise the credit allowed for the certified reinsurer.

(9) Status as a qualified an eligible jurisdiction:

(a) The determination of a jurisdiction as a qualified an eligible jurisdiction is to be made by the Office Commissioner. No jurisdiction shall be determined to be a qualified an eligible jurisdiction unless:

1. The insurance regulatory body of the jurisdiction agrees that it will provide information requested by the Office regarding its certified eligible domestic reinsurers;

2. The Office has determined that the jurisdiction has a satisfactory structure and authority with regard to solvency regulation, acceptable financial and operating standards for reinsurers in the domiciliary jurisdiction, acceptable transparent financial reports filed in accordance with generally accepted accounting principles, and verifiable evidence of adequate and prompt enforcement of valid U.S. judgments or arbitration awards;

3. The Office has determined that the history of performance by reinsurers in the jurisdiction is such that the insuring public will be served by a finding of qualification eligibility;

4. For non-U.S. jurisdictions, the jurisdiction allows U.S. reinsurers access to the market of the domiciliary jurisdiction on terms and conditions that are at least as favorable as those provided in Florida law and regulations for unaccredited non-U.S. assuming insurers; and

5. There is no other documented information that it would not serve the best interests of the insuring public and the solvency of ceding insurers to make a finding of qualification-eligibility.

(b) If the NAIC issues findings that certain jurisdictions should be considered qualified-eligible jurisdictions, the Office Commissioner shall, if it would serve the best interests of the insuring public and the solvency of ceding insurers, make a determination that jurisdictions on the NAIC list are qualified-eligible jurisdictions.

(c) A U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as a qualified jurisdiction.

(d) The Office shall publish a list a jurisdictions that have been determined to be qualified.~~(b) If the NAIC issues findings that certain jurisdictions should be considered eligible jurisdictions, the Commissioner shall, if it would serve the best interests of the insuring public and the solvency of ceding insurers, make a determination that jurisdictions on the NAIC list are eligible jurisdictions.~~

(e)(e) If the Office Commissioner determines that it is in the best interests of market stability and the solvency of ceding insurers, the Office Commissioner shall withdraw, by order, the determination of a jurisdiction as a qualified-an-eligible jurisdiction.

(10)(a) If the rating of a certified-an-eligible reinsurer is below or falls below that required in subsection (4) for the respective amount of credit, the Office shall upon written notice assign a new rating to the certified reinsurer in accordance with paragraph (4) of this rule-existing credit to the ceding insurer shall be adjusted accordingly. Notwithstanding the change or withdrawal of a certified-eligible reinsurer's rating, the Office Commissioner, upon a determination that the interest of

ensuring market stability and the solvency of the ceding insurer requires it, shall, upon request by the ceding insurer, authorize the ceding insurer to continue to take credit for the reinsurance recoverable, or part thereof, relating to the rating change or withdrawal for some specified period of time following such change or withdrawal, unless the reinsurance recoverable is deemed uncollectible.

(b) If the ceding insurer's experience in collecting recoverables from any certified eligible reinsurer indicates that the credit to the ceding insurer should be lower, the ceding insurer shall notify the Office of this.

(c) The Office 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 Office to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

(d) If the rating of a certified reinsurer is upgraded by the Office, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Office 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 Office, the Office 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.

(e) Upon revocation of the certification of a certified reinsurer by the Office, the assuming insurer shall be required to post security in accordance with Section 624.610, F.S., in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer.

(11) The ceding insurer shall give immediate notice to the Office and provide for the necessary increased reserves with respect to any reinsurance recoverables applicable, in the event:

(a) That obligations of a certified ~~an eligible~~ reinsurer for which credit for reinsurance was taken under this rule are more than ninety (90) days past due and not in dispute; or

(b) That there is any indication or evidence that any certified ~~eligible~~ reinsurer, with whom the ceding insurer has a contract, fails to substantially comply with the solvency requirements under the laws of its domiciliary jurisdiction.

(12) The Office ~~Commissioner~~ shall disallow all or a portion of the credit based on a review of the ceding insurer's reinsurance program, the financial condition of the certified ~~eligible~~ reinsurer, the certified ~~eligible~~ reinsurer's claim payment history, or any other relevant information when such action is in the best interests of market stability and the solvency of the ceding insurer. At any time, the Office ~~Commissioner~~ may request additional information from the certified ~~eligible~~ reinsurer. The failure of a certified ~~an eligible~~ reinsurer to cooperate with the Office is grounds for the Office ~~Commissioner~~ to withdraw the status of the insurer as a certified ~~an eligible~~ reinsurer or for the disallowance or reduction of the credit granted under this rule.

(13)(a) Upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer, pursuant to Chapter 631, Part I, F.S., or the equivalent law of another jurisdiction, a certified ~~an eligible~~ reinsurer, within thirty (30) days of the order, shall fund the entire amount that the ceding insurer has taken, as an asset or deduction from reserves, for reinsurance recoverable from the certified ~~eligible~~ reinsurer. The insurer may request a variance and waiver from this provision as provided by Section 120.542, F.S.

(b) If a ~~certified~~ ~~an eligible~~ reinsurer fails to comply on a timely basis with paragraph (a) of this subsection, the ~~Office Commissioner~~ shall withdraw the reinsurer's ~~certification~~ ~~eligibility~~ under this rule.

(14) The ~~Office Commissioner~~ may, by order, determine that credit shall not be allowed to any insurer for reinsured risk pursuant to this rule if it appears to the ~~Office Commissioner~~ that granting of the credit to the ceding insurer would not be in the public interest or serve the best interests of the ceding insurer's solvency.

(15) Nothing in this rule prohibits a ceding insurer and a reinsurer from entering into agreements establishing collateral requirements in excess of those set forth in this rule.

(16) A domestic ceding insurer shall notify the Office within thirty (30) days after reinsurance recoverables from any single assuming insurer, or group of assuming insurers, exceeds fifty percent (50%) of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(17) A domestic ceding insurer shall notify the Office within thirty (30) days after ceding to any single assuming insurer, or group of assuming insurers, more than twenty percent (20%) of the domestic ceding insurer's gross written premium in the prior calendar year, or after it is determined that the reinsurance ceded to any single assuming insurer, or group of assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

*Specific Authority 624.308, 624.610(14) FS. Law Implemented 624.307(1), 624.610 FS. History—
New 10-29-08, Amended _____.*