**Section 1104.47 Credit for Reinsurance - Reciprocal Jurisdictions**

a) Pursuant to Section 173.1(1)(C-10) of the Code, the Director 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 Part.

b) A "Reciprocal Jurisdiction" means a jurisdiction, as designated by the Director pursuant to subsection (c), 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;

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 Director pursuant to Section 173.1(1)(C-5)(3) of the Code, which is not otherwise described in either subsection (b)(1) or (2) and which the Director 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 Illinois 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 Director 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 Director in accordance with a memorandum of understanding or similar document between the Director and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

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

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 subsection (b)(1), the ratio specified in the applicable covered agreement;

B) If the assuming insurer is domiciled in a Reciprocal Jurisdiction as defined in subsection (b)(2), a risk-based capital (RBC) ratio of 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 subsection (b)(3), after consultation with the Reciprocal Jurisdiction and considering any recommendations published through the NAIC Committee Process and posted to the NAIC website, such solvency or capital ratio as the Director 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 (see Appendix C), of its agreement to the following:

A) The assuming insurer must agree to provide prompt written notice and explanation to the Director if it falls below the minimum requirements set forth in subsection (c)(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 Illinois and to the appointment of the Director as agent for service of process.

i) The Director may also require that such consent be provided and included in each reinsurance agreement under the Director’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 jurisdiction 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 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 Illinois' ceding insurers, and agrees to notify the ceding insurer and the Director and to provide 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 Sections 173.1(1)(C-5) and 173.1(2) of the Code and Sections 1104.70, 1104.80 or 1104.90.

F) The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in subsection (c)(5).

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

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 and/or competent regulatory authority;

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 subsection (c)(6).

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 15% of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the Director;

B) More than 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 that are not in dispute, but are overdue by 90 days or more, exceeds $50,000,000, or as otherwise specified in a covered agreement.

7) The assuming insurer’s supervisory authority must confirm to the Director on an annual basis that the assuming insurer complies with the requirements set forth in subsections (c)(2) and (3).

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

d) The Director shall timely create and publish a list of Reciprocal Jurisdictions to the Department's website.

1) A list of Reciprocal Jurisdictions is published to the NAIC's website through the NAIC Committee Process. The Director’s list shall include any Reciprocal Jurisdiction as defined under subsection (b)(1) or (2), and shall consider any other Reciprocal Jurisdiction included on the NAIC list. The Director may approve a jurisdiction that does not appear on the NAIC list of Reciprocal Jurisdictions in accordance with the process established in subsection (b) or in accordance with the "Process for Evaluating Qualified and Reciprocal Jurisdictions Approved by the NAIC" (National Association of Insurance Commissioners, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197) (August 17, 2021) (no later editions or amendments), available at https://www.naic.org.

2) The Director 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, in accordance with the process established in subsection (b) or the NAIC Committee Process, except that the Director shall not remove from the list a Reciprocal Jurisdiction as defined under subsection (b)(1) or (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 Section 173.1 of the Code or this Part.

e) The Director shall timely create and publish a list of assuming insurers on the Department's website 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 Director 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 Director may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirements of subsection (c).

2) When requesting that the Director defer to another NAIC accredited jurisdiction’s determination, an assuming insurer must submit a properly executed Form RJ-1 (see Appendix C) and additional information as the Director 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 Director determines that an assuming insurer no longer meets one or more of the requirements under this Section, the Director 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 1104.60.

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 Director and consistent with the provisions of Section 1104.60.

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

2) Provide the assuming insurer with 30 days from the date of initial notification to submit a plan to remedy the defect, and 90 days from the date of initial notification 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 subsection (g)(2), if the Director determines that no or insufficient action was taken by the assuming insurer, the Director may impose any of the requirements set out in this subsection (g); and

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

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.

(Source: Added at 46 Ill. Reg. 10885, effective June 10, 2022)