
Rules of
Department of Insurance
Division 200—Financial Examination
Chapter 2—Reinsurance and Assumptions

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Title 20—DEPARTMENT OF INSURANCE

Division 200—Financial Examination Chapter 2—Reinsurance and Assumptions

20 CSR 200-2.100 Credit for Reinsurance

PURPOSE: This rule sets forth rules and procedural requirements which the director deems necessary to carry out the provisions of the Law on Credit Reinsurance, section 375.246, RSMo. The actions and information required by this rule are declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) If any provisions of this rule, or their application to any person or circumstance, are held invalid, that determination shall not affect other provisions or applications of this rule which can be given effect without the invalid provision or application and to that end the provisions of this rule are separable.

(2) Pursuant to section 375.246.1(1), RSMo, the director shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this state as of the date of the ceding insurer's statutory financial statement.

(3) Credit for Reinsurance—Accredited Reinsurers.

(A) Pursuant to section 375.246.1(2), RSMo, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this state as of the date of the ceding insurer's statutory financial statement. An accredited reinsurer is one which—

1. Files with the director the following:

A. A properly executed application for approval as an authorized reinsurer, the

form of which is set forth as Exhibit 1 of this rule;

B. A certified copy of a letter or a certificate of authority or of compliance as evidence that the company is licensed to transact insurance or reinsurance in at least one (1) state or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one (1) state;

C. A properly executed appointment of the director to acknowledge or receive service of process, the form of which is set forth as Exhibit 2 of this rule;

D. A properly executed Form AR-1, which is set forth as Exhibit 3 of this rule, as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records;

E. A copy of its articles of incorporation or association, as amended, duly certified by the proper officer of the state under whose laws it is organized or incorporated;

F. A copy of its bylaws, certified by its secretary;

G. A biographical sketch of its directors and officers as listed in its annual statement, accompanied by the original signatures of those directors and officers, the form of which is set forth as Exhibit 4 of this rule;

H. A copy of the registration statement of any holding company system if it is a member of such a system; and

I. Its most currently dated audited financial report;

2. Files with the director in addition to its initial application, and annually after that, prior to March 1 of each year, a certified copy of the annual statement it has filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, including an actuarial certification and management discussion and analysis;

3. Includes, with the documents required to be filed under preceding provisions of this section, the appropriate filing fees as set forth in section 374.230, RSMo; and

4. Maintains a surplus as regards policyholders in an amount not less than twenty (20) million dollars and whose accreditation has not been denied by the director within ninety (90) days of its submission or, in the case of companies with a surplus as regards policyholders of less than twenty (20) million dollars, whose accreditation has been approved by the director.

(B) If the director determines that the assuming insurer has failed to meet or main-

tain any of these qualifications, s/he, upon written notice and hearing, may revoke the accreditation. No credit shall be allowed a domestic ceding insurer with respect to reinsurance ceded on or after December 31, 1991, if the assuming insurer's accreditation has been denied or revoked by the director after notice and hearing.

(4) Credit for Reinsurance—Qualified Reinsurer Domiciled and Licensed in Another State.

(A) Pursuant to section 375.246.1(3), RSMo, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is qualified as a reinsurer as of the date of the ceding insurer's statutory financial statement. A qualified reinsurer is one which—

1. Files the following with the director:

A. A properly executed application for approval as an authorized reinsurer, the form of which is set forth as Exhibit 1 of this rule;

B. Certified copy of a letter or a certificate of authority or of compliance as evidence that the company is licensed to transact insurance or reinsurance in at least one (1) state or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one (1) state; and

C. A properly executed appointment of the director to acknowledge or receive service of process, the form of which is set forth as Exhibit 2 of this rule;

2. Files with the director in addition to its initial application, and annually after that, prior to March 1 of each year, a certified copy of the annual statement it has filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, including an actuarial certification and management discussion and analysis required as part of the National Association of Insurance Commissioner (NAIC) annual statement requirements;

3. Files with the director a properly executed Form AR-2, the form of which is set forth as Exhibit 5 of this rule, as evidence of its submission to this state's authority to examine its books and records;

4. Is domiciled and licensed in (or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed in) a state which employs standards regarding credit for reinsurance substantially similar to those applicable under the Law on Credit Reinsurance, section 375.246, RSMo (the Act) and this rule;

5. Includes with the documents required to be filed under preceding provisions of this section the appropriate filing fees as set forth in section 374.230, RSMo; and

6. Maintains a surplus as regards policyholders in an amount not less than twenty (20) million dollars.

(B) The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, substantially similar standards means credit for reinsurance standards which the director determines equal or exceed the standards of the Act and this rule.

(5) Credit for Reinsurance—Reinsurers Maintaining Trust Funds.

(A) Pursuant to section 375.246.1(4), RSMo, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of the date of the ceding insurer's statutory financial statement, maintains a trust fund in an amount prescribed in this rule in a qualified United States financial institution as defined in section 375.246.3(2), RSMo, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the director to determine the sufficiency of the trust fund.

(B) The following requirements apply to the following categories of assuming insurer:

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to business written in the United States, and in addition, a trustee surplus of not less than twenty (20) million dollars;

2. The trust fund for a group of individual unincorporated underwriters shall consist of funds in trust in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred (100) million dollars shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The group shall make available to the director annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group; and

3. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders' surplus of ten (10) billion dollars (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and *Accounting Practices and Procedures Manual* of the NAIC) and which continuously has transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of that group and, in addition, the group shall maintain a joint trustee surplus of which one hundred (100) million dollars shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any examination. The group shall make available to the director annual certifications by the member's domiciliary regulators and their independent public accountants of the solvency of each member of the group.

(C) That trust shall be established in a form approved by the director and complying with section 375.246.1., RSMo and this section. The trust instrument shall provide that—

1. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States;

2. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest;

3. The trust shall be subject to examination as determined by the director;

4. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust;

5. No later than February 28 of each year, the trustees of the trust shall report to the director in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not

expire prior to the next following December 31; and

6. No amendment to the trust shall be effective unless reviewed and approved in advance by the director.

(6) Credit for Reinsurance Required by Law. Pursuant to section 375.246.1(5), RSMo, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 375.246.1(1), (2), (3) or (4), RSMo, but only with respect to the insurance of risks located in jurisdictions where that reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section, jurisdiction means any state, district or territory of the United States and any lawful national government.

(7) Reduction From Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer. Pursuant to section 375.246.2., RSMo, the director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 375.246.1., RSMo, in an amount not exceeding the liabilities carried by the ceding insurer. That reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under it. That security must be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in section 375.246.3(2), RSMo. This security may be in the form of any of the following:

(A) Cash;

(B) Securities listed by the Securities Valuation Office of the NAIC and qualifying as admitted assets;

(C) Clean, irrevocable, unconditional and evergreen letters of credit issued or confirmed by a qualified United States institution, as defined in section 375.246.3(1), RSMo, effective no later than December 31 of the year for which filing is being made and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation), notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, shall continue to be acceptable as security until

their expiration, extension, renewal, modification or amendment whichever first occurs; and

(D) Any other form of security acceptable to the director and approved by the attorney general. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to subsections (7)(A)—(C) of this rule shall be allowed only when the requirements of section (8), (9) or (10) of this rule are met.

(8) Trust Agreements Qualified Under Section (7).

(A) As used in this section—

1. Beneficiary means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes, and is limited to, the court-appointed domiciliary receiver (including conservator, rehabilitator or liquidator);

2. Grantor means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer; and

3. Obligations, as used in paragraph (8)(B)11. of this rule, means—

A. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;

B. Reserves for reinsured losses reported and outstanding;

C. Reserves for reinsured losses incurred but not reported; and

D. Reserves for allocated reinsured loss expenses and unearned premiums.

(B) Required Conditions.

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as defined in section 375.246.3(2), RSMo.

2. The trust agreement shall create a trust account into which assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the director's permission to use a foreign branch office of that bank as trustee for trust agreements established pursuant to this section. If the director approves the use of that foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in subparagraph (8)(B)4.A. of this rule also must be

presentable, as a matter of legal right, at the trustee's principal office in the United States.

4. The trust agreement shall provide that—

A. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;

B. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

C. It is not subject to any conditions or qualifications outside of the trust agreement; and

D. It shall not contain references to any other agreements or documents except as provided for under paragraph (8)(B)11. of this rule.

5. The trust agreement shall be established for the sole benefit of the beneficiary.

6. The trust agreement shall require the trustee to—

A. Receive assets and hold all assets in a safe place;

B. Determine that all assets are in the form that the beneficiary, or the trustee upon direction by the beneficiary, whenever necessary, may negotiate any assets, without consent or signature from the grantor or any other person or entity;

C. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

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

E. Take immediately, upon written demand of the beneficiary, any steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of these assets to the beneficiary; and

F. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset may withdraw the asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

10. The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.

11. Notwithstanding other provisions of this rule, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, this trust agreement, notwithstanding any other conditions in this rule, may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, for the following purposes:

A. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

B. To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent (102%) of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

C. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to that termination date, to withdraw amounts equal to those obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in section 375.246.3(2), RSMo, apart from its general assets, in trust for those uses and purposes specified in subparagraphs (8)(B)11.A. and B. as may remain executory after withdrawal and for any period after the termination date.

12. The reinsurance agreement entered into in conjunction with a trust agreement may contain, but need not contain, the provisions required by subparagraph (8)(D)1.B. of this rule, so long as the required conditions are included in the trust agreement.

(C) Permitted Conditions.

1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not fewer than ninety (90) days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not fewer than ninety (90) days after receipt by the trustee and the beneficiary of the notice, provided that this resignation or removal shall not be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor, and all assets in the trust have been duly transferred to the new trustee.

2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and from time-to-time to receive payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends either shall be forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

3. The trustee may be given authority to invest and accept substitutions of any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest those funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in subparagraph (8)(D)1.B. of this rule.

4. The trust agreement may provide that the beneficiary, at any time, may designate a party to which all or part of the trust assets are to be transferred. That transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5. The trust agreement may provide that, upon termination of the trust account, all assets not withdrawn previously by the beneficiary, with written approval by the beneficiary, shall be delivered over to the grantor.

(D) Additional Conditions Applicable to Reinsurance Agreements.

1. A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

A. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer and specifying what that agreement is to cover;

B. Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender) and investments of the types permitted by the Insurance Code or any combination of the previously mentioned; provided, that investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health, then that trust agreement may contain the provisions required by paragraph (8)(D)1. in lieu of including those provisions in the reinsurance agreement;

C. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments, endorsements in blank, or transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, whenever necessary, may negotiate any assets without consent or signature from the assuming insurer or any other entity;

D. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

E. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including, without limitation, any liquidator, rehabilitator, receiver or conservator of that company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

(I) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellation of those policies;

(II) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;

(III) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. That account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves; and

(IV) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

2. The reinsurance agreement also may contain provisions that—

A. Give the assuming insurer the right to seek approval from the ceding insurer to withdraw from the trust account any part of the trust assets and transfer those assets to the assuming insurer; provided—

(I) The assuming insurer, at the time of that withdrawal, shall replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

(II) After that withdrawal and transfer, the market value of the trust account is no less than one hundred two percent (102%) of the required amount. The ceding insurer shall not unreasonably or arbitrarily withhold its approval;

B. Provide for—

(I) The return of any amount withdrawn in excess of the actual amounts—required for parts (8)(D)1.E.(I)—(III) or, in the case of part (8)(D)1.E.(IV), any amounts that are subsequently determined not to be due; and

(II) Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to part (8)(D)1.E.(III); and

C. Permit the award by any arbitration panel or court of competent jurisdiction of—

(I) Interest at a rate different from that provided in part (8)(D)1.B.(II);

(II) Court of arbitration costs;

(III) Attorney's fees; and

(IV) Any other reasonable expenses.

3. Financial reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this rule when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an

acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but that reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

4. Existing agreements. Notwithstanding the effective date of this rule, January 1, 1992, any trust agreement or underlying reinsurance agreement in existence prior to January 1, 1991 will continue to be acceptable until December 31, 1991, at which time the agreements will have to be in full compliance with this rule for the trust agreement to be acceptable.

5. The failure of any trust agreement to specifically identify the beneficiary as defined in subsection (8)(A) of this rule shall not be construed to affect any actions or rights which the director may take or possess pursuant to the provisions of the laws of this state.

(9) Letters of Credit Qualified Under Section (7).

(A) The letter of credit must be clean, irrevocable and unconditional, and issued or confirmed by a qualified United States financial institution as defined in section 375.246.3(1), RSMo. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in paragraph (9)(I)1. of this rule. As used in this section, beneficiary means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes, and is limited to, the court-appointed domiciliary receiver (including conservator, rehabilitator or liquidator).

(B) The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for that letter of credit. The boxed section shall be clearly marked to indicate that the information is for internal identification purposes only.

(C) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way

contingent upon reimbursement with respect to the letter of credit.

(D) The term of the letter of credit shall be for at least one (1) year and shall contain an evergreen clause which prevents the expiration of the letter of credit without due notice from the issuer. The evergreen clause shall provide for a period of no less than thirty (30) days' notice prior to expiry date or nonrenewal.

(E) The letter of credit shall state whether it is subject to or governed by the laws of this state or the *Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce* (Publication 400) and all drafts drawn under the letter of credit shall be presentable at an office in the United States of a qualified United States financial institution.

(F) If the letter of credit is made subject to the *Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce* (Publication 400), then the letter of credit specifically shall address and make provision for an extension of time to draw against the letter of credit in the event that one (1) or more of the occurrences specified in Article 19 of Publication 400 occur.

(G) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to section 375.246.3(1), RSMo.

(H) If the letter of credit is issued by a qualified United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in subsection (9)(G) of this rule, then the following additional requirements shall be met:

1. The issuing qualified United States financial institution shall formally designate the conforming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

2. The evergreen clause shall provide for thirty (30) days' notice prior to expiry date for nonrenewal.

(I) Reinsurance Agreement Provisions.

1. The reinsurance agreement, in conjunction with which the letter of credit is obtained, may contain provisions which:

A. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

B. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer, pursuant to the provisions of the reinsurance agreement, may be drawn upon at any time, notwithstanding any other provisions in that agreement and shall be utilized by the ceding

insurer or its successors in interest only for one (1) or more of the following reasons:

(I) To reimburse the ceding insurer for assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of those policies;

(II) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

(III) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (that amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves); and

(IV) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement; and

C. Apply all of the previously mentioned provisions of paragraph (9)(I)1. of this rule without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained in paragraph (9)(I)1. of this rule shall preclude the ceding insurer and assuming insurer from providing for—

A. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to part (9)(I)1.B.(III) of this rule; or

B. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the previously mentioned or, in the case of part (9)(I)1.B.(IV) of this rule, any amounts that are subsequently determined not to be due.

3. When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then that reinsurance agreement, in lieu of subparagraph (9)(I)1.B. of this rule, may require that the parties enter into a trust agreement which may be incorporated into the reinsurance agreement or be a separate document.

(J) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further,



the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

(10) A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

(11) Reinsurance Contract. Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of section (2), (3), (4), (5) or (7) of this rule or otherwise in compliance with section 375.246.1., RSMo after the adoption of this rule unless the reinsurance agreement includes:

(A) A proper insolvency clause which shall be substantially similar to the following:

1. In the event of the insolvency of the company, this reinsurance shall be payable directly to the company, or to its liquidator, receiver, conservator or statutory successor on the basis of the liability of the company without diminution because of the insolvency of the company or because the liquidator, receiver, conservator or statutory successor of the company has failed to pay all or a portion of any claim. It is agreed, however, that the liquidator, receiver, conservator or statutory successor of the company shall give written notice to the reinsurers of the pendency of a claim against the company indicating the policy or bond reinsurance which claim would involve a possible liability on the part of the reinsurers within a reasonable time after that claim is filed in the conservation or liquidation proceeding or in the receivership, and that during the pendency of that claim the reinsurers may investigate that claim and interpose, at their own expense, in the proceeding where that claim is to be adjudicated any defense(s) they may deem available to the company or its liquidator, receiver, conservator or statutory successor. This expense incurred by the reinsurers shall be chargeable, subject to the approval of the court, against the company as part of the expense of conservation or liquidation to the extent of a *pro rata* share of the benefit which may accrue to the company solely as a result of the defense undertaken by the reinsurers;

2. Where two (2) or more reinsurers are involved in the same claim and a majority in interest elect to interpose defense to that claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though that expense had been incurred by the company; and

3. This insolvency clause shall not preclude the reinsurer from asserting any excuse or defense to payment of this reinsurance other than the excuses or defenses of the insolvency of the company and the failure of the company's liquidator, receiver, conservator or statutory successor to pay all or a portion of any claim; and

(B) A provision in which the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give that court or panel jurisdiction, has designated an agent upon whom service of process may be effected and has agreed to abide by the final decision of that court or panel.

(12) All new and renewal reinsurance transactions entered into after January 1, 1991 shall conform to the requirements of the Act and this rule if credit is to be given to the ceding insurer for that reinsurance.

(13) Authority. This rule is promulgated pursuant to the authority granted by sections 375.045 and 375.246, RSMo.

AUTHORITY: sections 374.045, RSMo Supp. 1993 and 375.246.4., RSMo Supp. 1991. This rule was previously filed as 4 CSR 190-II.350. Original rule filed Jan. 8, 1991, effective Jan. 1, 1992. Amended: Filed July 2, 1991, effective Jan. 1, 1992. Amended: Filed Oct. 15, 1992, effective June 7, 1993.*

**Original authority: 374.045, RSMo 1967, amended 1993 and 375.246.4., RSMo 1967, amended 1990, 1991.*

EXHIBIT 1**Application for Approval as Authorized Reinsurer****Instructions**

This application is to be completed by all insurance companies/associations who wish to transact business in the State of Missouri as an authorized reinsurer.

PART 1 Indicate by check mark the appropriate type of application (and if applicable, the calendar year requested).

PART 2 Complete all identifying data as indicated.

PART 3 Check the types and lines of business requested on the schedule.

PART 4 Check the category which applies to your current business.

PART 5 After all previous sections have been completed, the authorized company official must sign in the space indicated.

PART 1—TYPE OF APPLICATION

New Amended Renewal For Year Ending 19 _____

PART 2—IDENTIFYING DATA

Name _____
(Full Name of Insurer)

Home Address Street City State Zip + 4

PART 3—KIND OF REINSURER

Mail Address Street Or P. O. Box City State Zip + 4

Accredited Reinsurer (Chapter 375.246-1-(2))

PART 4—CURRENT BUSINESS

Qualified Reinsurer (Chapter 375.246-1-(3))

Currently licensed to transact insurance or reinsurance business in the state of _____

PART 5—AUTHORIZED OFFICER SIGNATURE

Alien company which has United States branch licensed to transact insurance business in the state of _____

Dated: _____ By: _____
(Name of Officer)

(Title of Officer)



EXHIBIT 2



STATE OF MISSOURI
DEPARTMENT OF INSURANCE

APPOINTMENT OF DIRECTOR TO ACKNOWLEDGE OR RECEIVE SERVICE OF PROCESS

Know All Men by These Presents:

THAT WHEREAS, the _____
a corporation organized under the laws of _____
and thereby authorized to transact the business of _____
Insurance, desires to transact such business within the State of Missouri, pursuant to the laws thereof; and whereas, in and by Section 375.906,
Revised Statutes of Missouri, 1978 it is provided as stated in said section, which is in words and figures as follows:

375.906. Foreign companies to appoint director to receive service - methods - penalty. 1. No insurance company or association not incorporated or organized under the laws of this state shall directly or indirectly issue policies, take risks, or transact business in this state, until it shall have first executed an irrevocable power of attorney in writing, appointing and authorizing the director of the department of insurance of this state to **acknowledge or receive service of all lawful process**, for and on behalf of the company, in any action against the company, instituted in any court of this state, or in any court of the United States in this state, and **consenting that service upon the director shall be deemed personal service upon the company.**

2. Service of process shall be made by delivery of a copy of the petition and summons to the director of the department of insurance, the deputy director of the department of insurance, or the chief clerk of the department of insurance at the office of the director of the department of insurance at Jefferson City, Missouri, and **service as aforesaid shall be valid and binding** in all actions brought by residents of this state upon any policy issued or matured, or upon any liability accrued in this state, or on any policy issued in any other state in which the resident is named as beneficiary, and in all actions brought by nonresidents of this state upon any policy issued in this state in which the nonresident is named beneficiary or which has been assigned to the nonresident, and in all actions brought by nonresidents of this state on a cause of action, other than an action on a policy of insurance, which arises out of business transacted, acts done, or contracts made in this state.

3. In case the process is issued by an associate circuit judge, the same may be directed to and served by any officer authorized to serve process in the city or county where the director of the department of insurance has his office, at least 15 days before the return thereof.

4. **Every instrument of appointment** executed by the company shall be attested by the seal of the company and shall recite the whole of this section, and shall be **accompanied by a copy of a resolution of the board of directors** or trustees of the company similarly attested, showing that the president and secretary or other chief officers of the company are **authorized to execute the instruments on behalf of the company**; and if any company fails, neglects, or refuses to appoint and maintain within this state an attorney or agent in the manner herein described, it shall forfeit the right to do or continue business in this state.

5. Whenever process is served upon the director of the department of insurance, the deputy director of the department of insurance, or the chief clerk of the department of insurance under the provisions of this section, the process shall immediately be forwarded by first class mail prepaid and directed to the secretary of the company, or, in the case of an alien company, to the United States manager or last appointed general agent of the company in this country; provided, that there shall be kept in the office of the director of the department of insurance a permanent record showing for all process served the name of the plaintiff and defendant, the court from which the summons issued, the name and title of the officer serving same, and the day and hour of the service.

NOW, THEREFORE, in accordance with the terms and requirements of the Section set forth above, the said _____ Company
does, by these presents, appoint and authorize the Director of the Department of Insurance of the State of Missouri (by whomsoever such office of Director may be held and exercised under the laws of the State of Missouri), for the purpose mentioned in the Section recited above, to do any and all the **things** in said Section specified in its behalf to be done, by said Director, the Deputy Director, or the Chief Clerk, of the Department of Insurance of the State of Missouri, including receipt of service of process which **shall** be valid and binding, and be deemed personal service upon the company, so long as it shall have any policies or liabilities outstanding in the State of Missouri.

IN WITNESS WHEREOF, the said company (in accordance with a resolution of its Board of Directors duly adopted on the _____
day of _____, 19_____, a certified copy of which appears on reverse
side), hath caused these presents to be subscribed by its President and its corporate seal to be hereto affixed,
attested by its Secretary, at the city of _____,
State of _____ on the _____ day of _____, 19_____.

Attest: _____ PRESIDENT

SECRETARY

COPY OF RESOLUTION

I, _____, Secretary of the

_____ a corporation existing under the laws of _____, do hereby certify that the following is a true and correct copy, from corporate records of said corporation, of a resolution duly adopted by the Board of Directors thereof, at a _____ meeting of said Board, a quorum thereof present and acting, on the _____ day of _____, 19 _____, to wit:

“RESOLVED. That the president and secretary of this company are hereby authorized to execute in behalf of said company, under the corporate seal thereof, a written instrument in accordance with the insurance laws of the State of Missouri appointing and authorizing the Director of the Department of Insurance of the State of Missouri (by whomsoever such office of Director may be held and exercised under the laws of the State of Missouri), for the purpose mentioned in section 375.906 Revised Statutes of Missouri, 1978, to do any and all the things in behalf of this company specified in said section to be done by said Director, and further consenting that service of process as therein referred to shall be valid and binding, and be deemed personal service upon this company so long as it shall have any policies or liabilities outstanding in the State of Missouri.”

And I do further certify that the said resolution has never been rescinded or reconsidered and still remains in force.

GIVEN AND CERTIFIED, at the principal office of said company in the city of _____ State of _____ with the common seal thereof hereto affixed by the undersigned, having custody of the same as secretary of said company, this _____ day of _____, 19 _____.

ATTEST:

_____ Secretary.



EXHIBIT 3

FORM AR-1
Certificate of Assuming Insurer

I, _____, _____
(Name of Officer) *(Title of Officer)*

of _____, the assuming insurer under a reinsurance agreement(s)
(Name of Assuming Insurer)

with one or more insurers domiciled in Missouri, hereby certify that _____
(Name of Assuming Insurer)

(Assuming Insurer):

1. Submits to the jurisdiction of any court of competent jurisdiction in Missouri for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate their disputes if such an obligation is created in the agreement(s).

2. Designates the insurance director of Missouri as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the insurance director of Missouri to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in Missouri reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list of the insurance director at least once per calendar quarter.

Dated _____ By _____
(Name of Officer)

(Name of Assuming Insurer) *(Title of Officer)*

EXHIBIT 4



STATE OF MISSOURI
DEPARTMENT OF INSURANCE
BIOGRAPHICAL AFFIDAVIT

INSTRUCTIONS

Print or type your answers. Complete this biographical affidavit in its entirety. If an item or question does not apply to you, state "none" or "not applicable". Read the definitions before completing this biographical affidavit. Attach additional sheets if the space provided is not sufficient. Original signatures and an oath before a notary are required.

DEFINITIONS

As used in this biographical affidavit, the following terms mean:

"crime", any action brought by a governmental agency or authority which resulted or could have resulted in a fine, imprisonment, probation, parole, or suspended imposition of sentence, except for traffic infractions.

"insurance company", any insurance company, attorney-in-fact of a reciprocal or interinsurance exchange, and any corporation having the exclusive or dominant right to manage a mutual insurance company.

"license" or "licensed", any license or certificate of authority or certificate of registration.

"terminate" or "terminated" or "termination", any voluntary or involuntary revocation, termination, or suspension, whether temporary or permanent.

NAME OF COMPANY		
1. FULL NAME		SOCIAL SECURITY NUMBER
OTHER NAMES USED AT ANY TIME (ALIAS)		
REASON FOR ALIAS	WAS YOUR NAME LEGALLY CHANGED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
REASON FOR NAME CHANGE		
NAME AND LOCATION OF COURT WHERE CHANGE MADE (IF OTHER THAN CHANGE FROM MAIDEN TO MARRIED NAME)		
2. BIRTHDATE	BIRTHPLACE	
3. RESIDENCES FOR THE LAST TEN YEARS STARTING WITH CURRENT ADDRESS. LIST ONLY THOSE ADDRESSES WHERE YOU RESIDED FOR A PERIOD OF AT LEAST SIX MONTHS.		
DATES	ADDRESS (STREET, CITY, STATE, ZIP CODE)	COUNTRY



4. EDUCATION

	DATES	NAME	LOCATION (CITY, STATE)	DID YOU GRADUATE?	DEGREE
HIGH SCHOOL					
COLLEGE					
GRAD STUDIES					

5. PROFESSIONAL ASSOCIATIONS

HAVE YOU EVER BEEN A MEMBER OF ANY PROFESSIONAL ASSOCIATION OR SOCIETY? YES NO

NAME AND LOCATION OF ASSOCIATION OR SOCIETY	DATE MEMBERSHIP CONFERRED	DATE MEMBERSHIP TERMINATED	IF TERMINATED, EXPLAIN

6. OWNERSHIP INTERESTS

(a) Do you own or have beneficial interest in ten percent or more of the voting securities of any corporation or shares of any limited partnership, except for an insurance company? YES NO

NAME OF CORPORATION OR LIMITED PARTNERSHIP	NUMBER OF SHARES	PERCENT OF TOTAL	IF PLEDGED, EXPLAIN

(b) Do you own or have beneficial interest in the voting securities of any insurance company? YES NO

NAME OF COMPANY	NO. OF SHARES	PERCENT OF TOTAL	IF PLEDGED, EXPLAIN

MO 375-0536 (8-92) (1773)

7. OCCUPATIONAL INFORMATION

(a) List occupations for the last ten years, including present occupation.

OCCUPATION, EMPLOYMENT OR BUSINESS	POSITION	DATES	EMPLOYER'S NAME AND LOCATION	REASON FOR LEAVING

(b) List any positions as officer or director of any insurance company including positions currently held unless you have already listed it in 7.(a) above.

NAME OF INSURANCE COMPANY	POSITION	DATES	REASON FOR LEAVING

8. MILITARY SERVICE

HAVE YOU EVER SERVED IN THE MILITARY? <input type="checkbox"/> YES <input type="checkbox"/> NO	BRANCH	SERIAL NUMBER
RANK	DATE OF DISCHARGE	TYPE OF DISCHARGE
IF OTHER THAN HONORABLE, EXPLAIN		

9. LICENSES

HAVE YOU EVER BEEN LICENSED BY ANY GOVERNMENTAL AGENCY OR AUTHORITY? <input type="checkbox"/> YES <input type="checkbox"/> NO			
LICENSE TYPE	ISSUED BY WHAT AGENCY	DATE ISSUED	DATE/REASON FOR TERMINATION

10. CRIMES

HAVE YOU EVER BEEN CHARGED, INDICTED OR CONVICTED OF ANY CRIME? <input type="checkbox"/> YES <input type="checkbox"/> NO				
DESCRIPTION OF CRIME	NAME AND LOCATION OF COURT	DATE	CONVICTED (YES OR NO)	IF YES, DESCRIBE PUNISHMENT

MO 375-0536 (8-92) (1773)



11. Have you, or a firm in which you are or were a member, or a corporation or insurance company of which you are or were an officer, director or major stockholder (10% or more) ever

YES NO

- (a) been charged with any wrongdoing by any governmental authority? YES NO
- (b) been discharged or had a contract of agency terminated by any insurer or employer? YES NO
- (c) been charged in any capacity whatsoever with irregularities in money or any other transaction? YES NO
- (d) compromised liabilities with creditors, been insolvent or been adjudged as bankrupt? YES NO
- (e) been refused or voluntarily withdrawn an application for a license? YES NO
- (f) been fined for other than traffic violations by any state or federal governmental agency or authority? YES NO
- (g) had any judgments which have remained unsatisfied? YES NO
- (h) been involved in any lawsuit as a defendant, other than a lawsuit involving only a claim on an insurance policy? YES NO
- (i) had a fidelity or surety bond refused or revoked or had a claim made against a bond on which you were covered as a principal? YES NO

If the answer to any of the above is "yes", explain _____

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SIGNATURE OF AFFIANT

Personally appeared before me the above named _____ personally known to me, who, being duly sworn, deposes and says that he executed the above instrument, consisting of four pages, and that the statements and answers contained therein are true and correct to the best of his knowledge and belief.

NOTARY PUBLIC EMBOSSEMENT SEAL	STATE OF _____	COUNTY (OR CITY OF ST. LOUIS) _____
	SUBSCRIBED AND SWORN BEFORE ME, THIS _____ DAY OF _____ 19____	
	NOTARY PUBLIC SIGNATURE _____	MY COMMISSION EXPIRES _____
	NOTARY PUBLIC NAME (TYPED OR PRINTED) _____	

USE RUBBER STAMP IN CLEAR AREA BELOW.

20 CSR 200-2.200 Reinsurance—Lloyd’s, London, England

PURPOSE: This rule describes conditions for reinsuring with underwriters at Lloyd’s, London, England. This rule was adopted pursuant to the provisions of section 374.045, RSMo and implements section 375.241, RSMo.

It is permissible to reinsure with underwriters at Lloyd’s, London, England provided that the underwriters must be admitted to do business in some state of the United States or the District of Columbia. Credit will be allowed for premiums ceded in calculating the unearned premium reserve and for unpaid reinsured losses. All companies must retain a reasonable portion of each risk reinsured.

AUTHORITY: sections 374.045, RSMo Supp. 1993 and 375.241, RSMo 1986. This rule was previously filed as 4 CSR 190-II.070. Original rule filed July 27, 1964, effective Aug. 6, 1964. Amended: Filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974.*

**Original authority: 374.045, RSMo 1967, amended 1993 and 375.241, RSMo 1939, amended 1967, 1975.*

20 CSR 200-2.300 Life Reinsurance Agreements

PURPOSE: This rule effectuates or aids in the interpretation of sections 375.246, 375.560, 375.881 and 376.350, RSMo.

(1) Authority. This rule is adopted and promulgated by the director of the Department of Insurance pursuant to section 374.045.1(3), RSMo. This rule effectuates or aids in the interpretation of sections 375.246, 375.560, 375.881 and 376.350, RSMo.

(2) Ceding Insurers.

(A) The Missouri Department of Insurance (MDI) recognizes that life insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

(B) However, it is improper for a licensed insurer, in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding cer-

tain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival. The terms of the agreements referred to in this rule and described in section (4) would violate—

1. Section 376.350, RSMo relating to financial statements which do not properly reflect the financial condition of the ceding insurer;

2. Section 375.246.1., RSMo relating to reinsurance reserve credits, thus resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded; and

3. Sections 375.560.1(5), 375.881.1(3), 375.1160.2(1), 375.1165(1) and 375.1175(3), RSMo relating to creating a situation that may be hazardous to policyholders and the people of this state.

(3) This rule shall apply to all domestic life and accident and health insurers and to all other licensed life insurers who are not subject to a substantially similar rule in their domiciliary state. This rule also shall similarly apply to licensed property and casualty insurers with respect to their accident and health business. This rule shall not apply to assumption reinsurance, yearly renewable term reinsurance or certain nonproportional reinsurance such as stop-loss or catastrophe reinsurance.

(4) Accounting Requirements.

(A) No life insurer subject to this rule for reinsurance ceded shall reduce any liability or establish any asset in any financial statement filed with the division if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

1. Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes and direct expenses including, but not limited to, billing, valuation, claims and maintenance expected by the company at the time the business is reinsured;

2. The ceding insurer is required to reimburse for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years’ losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years’

losses under the agreement upon voluntary termination of in force reinsurance by that ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of this a rule is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty;

3. The ceding insurer can be deprived of surplus at the reinsurer’s option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, shall not be considered to be a deprivation of surplus or assets;

4. The ceding insurer, at specific points in time scheduled in the agreement, must terminate or automatically recapture all or part of the reinsurance ceded;

5. The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies. For example, it is improper for a ceding company to pay reinsurance premiums, greater than the direct premiums collected by the ceding company;

6. The treaty does not transfer all of the significant risks inherent in the business being reinsured. The following table identifies for a representative sampling of products or type of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant shall be consistent with this table:

Risk Categories:

- a=Moribidity
- b=Mortality
- c=Lapse

This is the risk that a policy will voluntarily terminate prior to the recoupment of any statutory surplus strain experienced at issue of the policy.

d=Credit Quality (C1)

This is the risk that invested assets supporting the reinsured business will decrease in



value. The main hazards are that assets will default or that there will be a decrease in earning power. It excludes market value declines due to changes in interest rate.

e=Reinvestment (C3)

This is the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase.

f=Disintermediation (C3)

This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

+ = significant 0=insignificant

RISK CATEGORY						
	a	b	c	d	e	f
Health Insurance—						
Other Than LTC/LTD*	+	0	+	0	0	0
Health Insurance—						
LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium						
Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest						
Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-Par Permanent	0	+	+	+	+	+
Traditional Non-Par Term	0	+	+	0	0	0
Traditional Par Permanent	0	+	+	+	+	+
Traditional Par Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+
Indeterminate Premium Permanent	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+
Universal Life Fixed Premium (Dump-In Premiums Allowed)	0	+	+	+	+	+

*LTC=Long-Term Care Insurance
LTD=Long-Term Disability Insurance

7. The credit quality, reinvestment or disintermediation risk is significant for the business reinsured and the ceding company does not either transfer the underlying assets to the reinsurer or legally segregate these assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the director which legally segregates, by contract or contract provision, the underlying assets; the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediate risk may be held by the ceding company without segregation of these assets:
—Health Insurance—LTC/LTD
—Traditional Non-Par Permanent
—Traditional Par Permanent
—Adjustable Premium Permanent
—Indeterminate Premium Permanent
—Universal Life Fixed Premium
(no dump-in premiums allowed)

The associated formula for determining the reserve interest rate adjustment must use a formula which reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

$$\text{Rate} = 2(I + CG) \\ X + Y - I - CG$$

Where:

- I=the net investment income (Exhibit 2, Line 7);
- CG=capital gains less capital losses (Exhibit 4, Line 10, Column 6);
- X=the current year cash and invested assets (Page 2, Column 1, Line 10A) plus investment income due and accrued (Line 16) less borrowed money (Page 3, Line 22); and
- Y=the same as X, but for the prior year.

8. Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within ninety (90) days of the settlement date.

9. The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured.

10. The ceding insurer is required to make representations or warranties about future performance of the business being reinsured.

11. The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding

insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged.

(B) Notwithstanding subsection (4)(A), an insurer subject to this rule, with the prior approval of the director, may take reserve credit or establish such asset as the director may deem consistent with the insurance statutes or regulations of this state, including actuarial interpretations or standards adopted by the department.

(C) Agreements after May 6, 1993.

1. Agreements entered into after May 6, 1993 which involve the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments, shall be filed by the ceding company with the director within thirty (30) days from its date of execution. Each such filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this rule and any applicable Actuarial Standards of Practice when determining the proper credit in financial statements filed with this department. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statement and to demonstrate that the work conforms to this rule.

2. Any increase in surplus net of federal income tax resulting from arrangements described in paragraph (4)(C)1. shall be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account, Page 4 of the annual statement) and recognition of the surplus increase as income shall be reflected on a net of tax basis in the Reinsurance Ceded line, Page 4 of the annual statement, as earnings emerge from the business reinsured. (For example, on the last day of calendar year N, company XYZ pays a \$20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34% tax rate, the net increase in surplus at inception is \$13.2 million (\$20 million-\$6.8 million) which is reported on the Aggregate write-ins for gains and losses in surplus line in the Capital and Surplus account. \$6.8 million (34% of \$20 million) is reported as income on the commissioners and expense allowances on reinsurance ceded line of the Summary of Operations. At the end of the year N+1 the

business has earned \$4 million. ABC has paid \$.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement would report \$1.65 million (66% of (\$4 million-\$1 million-\$5 million) up to a maximum of \$13.2 million) on the commissions and expense allowance on reinsurance ceded line of the Summary of Operations, and-\$1.65 million on the Aggregate write-ins for gains and losses in surplus line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations.)

(5) Written Agreements.

(A) No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the MDI, unless the agreement, amendment or a letter of intent has been duly executed by both parties no later than the *as of date* of the financial statement.

(B) In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

(C) The reinsurance agreement shall contain provisions which provide that the agreement shall constitute the entire agreement between the parties with respect to the business being reinsured and that there are no understandings between the parties other than as expressed in the agreement, and that any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

(6) Existing Agreements. Insurers subject to this rule shall reduce to zero (0) by December 31, 1994, any reserve credits or assets established with respect to reinsurance agreements entered into prior to May 6, 1993, which, under the provisions of this rule, would not be entitled to recognition of reserve credits or assets; provided, however, that the reinsurance agreements shall have been in compliance with laws or rules in existence immediately preceding May 6, 1993.

*AUTHORITY: sections 375.045, 375.560, 375.881, 376.350, RSMo 1986, 375.246, 375.1165 Supp. 1991, 375.1160 and 375.1175, RSMo Supp. 1992. * This rule was previously filed as 4 CSR 190-11.300. Original rule filed Jan. 26, 1990, effective June 1,*

1990. Amended: Filed Aug. 4, 1992, effective May 6, 1993.

**Original authority: 374.045, RSMo 1967; 375.246, RSMo 1967, amended 1990, 1991; 375.560, RSMo 1939, amended 1967; 375.881, RSMo 1967, amended 1985; 375.1160 and 375.1175, RSMo 1991, amended 1992; 375.1165, RSMo 1991; and 376.350, RSMo 1939.*

20 CSR 200-2.400 Insurance, Reinsurance and Assumption
(Rescinded September 30, 1994)

20 CSR 200-2.500 Reinsurance Requiring Three-Commissioner Hearing
(Rescinded September 30, 1994)

20 CSR 200-2.600 Reinsurance Intermediary License
(Moved to 20 CSR 700-7.100)

20 CSR 200-2.700 Reinsurance Mirror Image Rule

PURPOSE: This rule effectuates or aids in the interpretation of a law related to the business of insurance, section 375.246.5., RSMo.

(1) Credit taken by a ceding insurer for reinsurance ceded to an assuming reinsurer shall be deemed "reinsurance entered into principally for the purposes of deception" within the meaning of section 375.246.5, RSMo, unless the credit taken complies with sections (2) and (3) of this rule.

(2) Mirror Image, Proof.

(A) When reinsurance is effected under subsections 375.246.1, 2 or 3, RSMo, the ceding insurer, other than a life insurer, shall after that be charged on the gross premium basis with an unearned premium liability and a life insurer shall be charged after that with a reserve liability. Both this unearned premium and reserve liability shall represent the proportion of the obligation retained by the ceding insurer. The insurer with which the reinsurance is effected (the assuming insurer) shall be charged after that in like manner with the proportionate share of the obligation assumed by it. Both the ceding and assuming insurers shall together carry the same unearned premium liability or reserve which the ceding insurer would have carried had it not reinsured the risk.

(B) In order to receive any credit for reinsurance ceded, the ceding insurer must be able to show to the satisfaction of the director of the Department of Insurance, the liability amount established by the assuming insurer

with respect to this reinsurance. This showing may be made by any proof deemed reasonable by the director, but this proof must, at a minimum, consist of—at the ceding insurer's option—either a report obtained by the ceding insurer from the assuming insurer as to the gross unearned premium reserve or gross reserve liability held by it or a report obtained by the ceding insurer from the assuming insurer and from each retrocessionaire with respect to the net unearned premium reserve or net reserve liability held by each of them. Each such report shall be:

1. In writing, signed by an officer of the assuming insurer or the retrocessionaire providing it and obtained by the ceding insurer prior to the filing date of the ceding insurer's annual and quarterly statement; and

2. Maintained by the ceding insurer for three (3) years or until the conclusion of the next regular examination conducted by this state's insurance department, whichever is later. If the proof provided fails to meet the standards of subsection (2)(A) of this rule, the ceding insurer will be required to amend its financial statements by making adjustments to its credits for reinsurance as provided in subsections (2)(A) and (C) of this rule and subsections (3)(A) and (D).

(C) If the liability amount established by the assuming insurer, as shown under subsection (2)(B) of this rule, is less than the credit taken by the ceding insurer, as required under subsection (2)(A) of this rule, then this credit taken will be disallowed to the extent it exceeds such liability amount.

(D) Notwithstanding the provisions of this rule, credit taken by a ceding insurer for reinsurance ceded shall not exceed the amount of the reserve the ceding insurer would have set up if it had retained the business.

(3) A ceding insurer shall not be required to comply with section (2), if and only if the ceding insurer can meet one (1) of the following exceptions:

(A) The difference between 1) the life insurer's reserve liability carried together by both the ceding and assuming insurers, and 2) the liability which would have been carried by the ceding insurer had it not reinsured the risk, reflects reasonable differences between the ceding and assuming insurers in interest rate assumptions, morbidity assumptions, mortality assumptions or reserve methodology. The interest rate assumptions, morbidity assumptions, mortality assumptions or reserve methodologies used by the ceding and assuming insurers must comply with the standard valuation law, sections 376.370 and 376.380, RSMo. This exception applies only to subsection (2)(A) of this rule; or

(B) The assuming insurer is organized under or entered through the laws of and regulated by a state or territory which is either accredited by the National Association of Insurance Commissioners (NAIC) under the NAIC's financial accreditation standards review program or certified in writing by the director as meeting standards substantially similar to the NAIC's financial accreditation standards. This exception applies to subsections (2)(A)–(C); or

(C) The credit taken by the ceding insurer does not exceed all funds actually paid to the assuming insurer with respect to the reinsurance of the liability amount against which the credit was taken. This exception applies to subsections (A)–(C) of section (2); or

(D) The difference between 1) the insurer's unearned premium or reserve liability carried together by both the ceding and assuming insurers, and 2) the liability which would have been carried by the ceding insurer had it not reinsured the risk, reflects reasonable differences in reported in-force volumes due to timing differences in reporting between ceding and assuming insurers. The sum of all such differences may not exceed one-half of one percent (0.5%) of the ceding insurer's admitted assets as of December 31 next preceding in order for this exception to apply. This exception applies only to subsection (2)(A) of this rule; or

(E) The assuming insurer provides security to the ceding insurer in an amount not less than the amount of the credit taken by the ceding insurer, provided that:

1. The security and the holder thereof meet the standards of subsections 2 and 3 of section 375.246, RSMo;

2. The qualified United States financial institution that either issues the letter of credit or serves as trustee of the cash or securities held in trust, is not an "affiliate" (as that term is defined in section 382.010(1), RSMo) of the assuming insurer or of the ceding insurer;

3. If the amount of such security is less than the credit taken by the ceding insurer, then this credit taken will be disallowed to the extent it exceeds the amount of the security; and

4. The exception created by this subsection applies to subsections (A)–(C) of section (2).

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Aug. 20, 1993, effective May 9, 1994. Amended: filed July 12, 2002, effective Feb. 28, 2003.*

*Original authority: 374.045, RSMo 1967, amended 1993, 1995.

20 CSR 200-2.800 Assumption Reinsurance

PURPOSE: This regulation implements the provisions of sections 376.405, 376.675 and 376.777.7., RSMo regarding the approval of insurance policy forms and section 375.1287, RSMo regarding assumption reinsurance.

(1) Notice of transfer regarding an assumption reinsurance agreement pertaining to contracts of insurance owned by policyholders residing in the state of Missouri shall be in the form specified in section 375.1287.1(3), RSMo. The response card sent to the policyholder also shall be in the form identical to section 375.1287.1(3), RSMo.

(2) If either the transferring or the assuming insurer is a foreign insurance company and is from a state that has a reinsurance assumption law substantially similar to that of Missouri, then both insurers shall submit an affidavit stating that the transaction is subject to substantially similar requirements in their respective domiciliary states.

(3) A summary in writing shall be submitted setting forth all the factors in section 375.1287.2(5)(a)—(d) and (f), RSMo.

(4) If either the transferring insurer or the assuming insurer is a Missouri domestic, both insurers shall submit the following documentation to the Department of Insurance for approval of the assumption:

(A) Certificate of Assumption;

(B) Copy of Notice of Transfer and Response Card;

(C) Copy of Assumption Reinsurance Agreement and Approval from any domiciliary state other than Missouri;

(D) Ratings from the last five (5) years from two (2) nationally recognized rating services and the meaning of those ratings (if ratings are unavailable for any year of the five (5)-year period, this shall also be disclosed and explained);

(E) Balance sheet as of December 31 for the previous three (3) years and the most recent quarterly financial statement for both the transferring insurer and the assuming insurer;

(F) Terms and type of financing related to the purchase price;

(G) *Pro forma* financial statements reflecting the financial condition of both insurers before and after the proposed transaction as of the effective date of the transaction;

(H) Copy of the insurers' Management's Discussion and Analysis that was filed as a supplement to the previous year's annual statement; and

(I) Explanation of the reason for the transfer.

(5) If either the transferring insurer or the assuming insurer is from a state that does not have a reinsurance assumption law substantially similar to that of Missouri, then both insurers shall submit the following documentation to the Department of Insurance for approval of the assumption:

(A) Certificate of Assumption;

(B) Copy of Notice of Transfer and Response Card;

(C) Copy of Assumption Reinsurance Agreement and Approvals from domiciliary states;

(D) Ratings from the last five (5) years from two (2) nationally recognized rating services and the meaning of those ratings (if ratings are unavailable for any year of the five (5)-year period, this shall also be disclosed and explained);

(E) Balance sheet as of December 31 for the previous three (3) years and the most recent quarterly financial statement for both the transferring insurer and the assuming insurer;

(F) Terms and type of financing related to the purchase price;

(G) *Pro forma* financial statements reflecting the financial condition of both insurers before and after the proposed transaction as of the effective date of the transaction;

(H) Copy of the insurers' Management's Discussion and Analysis that was filed as a supplement to the previous year's annual statement; and

(I) Explanation of the reason for the transfer.

(6) If both the transferring insurer and the assuming insurer are domiciled in states that have assumption reinsurance laws substantially similar to those of Missouri, then both insurers shall submit the following documentation to the Department of Insurance:

(A) Certificate of Assumption;

(B) Copy of the Notice of Transfer and Response Card; and

(C) Copy of Assumption Reinsurance Agreement and Approvals from the domiciliary states of the transferring insurer and the assuming insurer.

(7) With respect to section 375.1285(5), RSMo—

(A) The term certificate shall mean the terms of a group policy as applicable to an individual insured under the group policy; and

(B) A certificate holder shall be provided notice pursuant to section 375.1287, RSMo if



the certificate holder is entitled to maintain the same terms of coverage without change in benefit in the event that the group policy is terminated.

AUTHORITY: section 374.045, RSMo Supp. 1993. Original rule filed: Feb. 16, 1994, effective Sept. 30, 1994.*

**Original authority: 374.045, RSMo 1967, amended 1993.*